

PUBLIC NOTICE

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

Tuesday, May 28, 2019
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 April 23, 2019*
COMMUNICATIONS
CITIZEN COMMENTS
ORDER OF BUSINESS

1. **ORDINANCE AMENDMENT**: PROPOSED LANGUAGE TO PERMIT CHILDCARE CENTERS AS A SPECIAL USE IN THE LOCAL BUSINESS DISTRICT (LB) AND OFFICE DISTRICT (O-1).

Attachments: [Office District-Special Uses Amendment](#)
[Local Business District-Special Uses Amendment](#)
[LARA Requirements-Childcare Centers](#)
[PA116 of 1973 As Amended](#)

2. **PUBLIC HEARING**: PUBLIC HEARING TO RECOMMEND REPEAL OF SEC.138-132

Attachment: [Public Hearing Notice](#)

3. **ORDINANCE REPEAL**: RECOMMENDATION TO REPEAL SEC.138-132

Attachments: [Sec.138-132 GRADING](#)
[CH.26-ARTICLE XII](#)

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, APRIL 23, 2019 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
 Lisa Kempner Greg Patterson Matt Trotto
 Kristen Kapelanski Tim Murad Michele Buckler

ALSO PRESENT: Tim McLean, Community Development Director
 Ross Gavin, City Council Liaison
 Matt Baumgarten, City Manager
 Matt Koehn, Public Safety Director
 Matt Vetter, Schafer Construction
 Mark Kellenberger, Eig14t Development
 Several members of the public

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APPROVAL OF AGENDA

It was moved by Commissioner Kempner to approve the Agenda with one addition under Communications and supported by Commissioner Patterson.

AYES: Buckler, Kempner, Murad, Patterson, Richardson, Shadle, Smith, Trotto, Kapelanski
NAYS: None

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APPROVAL OF MINUTES

It was moved by Commissioner Murad to approve minutes from March 26, 2019 and supported by Commissioner Patterson.

AYES: Kempner, Murad, Patterson, Richardson, Shadle, Smith, Trotto, Buckler, Kapelanski
NAYS: None

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COMMUNICATIONS

E-mail correspondence to the Planning Commission regarding the proposed Design Overlay District.

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CITIZEN COMMENTS

N/A

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4. PRESENTATION: CAPITAL IMPROVEMENTS PLAN

City Manager Baumgarten gave a brief overview of the Capital Improvements Plan. The Plan had very minor revisions from the version presented in March. Mr. Baumgarten indicated that the CIP would be presented to City Council in budget sessions on May 13-14.

Commissioner Richardson asked about accounting methodology.

Mr. Baumgarten responded that staff looked at the payback on energy projects. He also stated that staff is trying to develop a revolving loan fund.

Commissioner Richardson stated he would like to see green features on City buildings.

Commissioner Trotto asked how actual expenditures compared to what was presented in last year's CIP.

Mr. Baumgarten stated that it is detailed in the Comprehensive Annual Financial Report (CAFR).

Commissioner Trotto asked if it would be possible to include this information in the next CIP.

It was moved by Vice Chair Smith to approve the proposed Capital Improvements Plan as submitted and supported by Commissioner Richardson.

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

NAYS: None

5. SITE PLAN REVIEW: SP-03-19—DEPARTMENT OF PUBLIC SAFETY, 2395 TWELVE MILE RD.

Community Development Director McLean provided a summary of the site plan.

Matt Vetter, Schafer Construction stated that the Department of Public Safety is proposing a 12' expansion to the existing truck bay facing Twelve Mile Rd. In addition to expanding the truck bay, the existing overhead door would be replaced.

Vice Chair Smith asked how the expansion would affect side setbacks.

Mr. McLean responded that by ordinance in the Office District, there is no minimum side yard setback requirement for interior lots. However, the expanded truck bay would be set back 25' from the property line.

Vice Chair Smith asked if there was a chance of Public Safety vehicles blocking the sidewalk while parked outside of the truck bay.

Public Safety Director Koehn stated the parked vehicles would be closer to the sidewalk but would not block pedestrian access.

It was moved by Vice Chair Smith to approve SP-03-19 as written and supported by Commissioner Patterson.

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

NAYS: None

6. ZONING MAP AMENDMENT: PROPOSED DESIGN OVERLAY DISTRICT

Community Development Director McLean provided a recap of the process to recommend approval of the proposed Design Overlay District. Amending the zoning map is a companion piece to that recommendation.

Chair Kapelanski opened the Public Hearing at 7:49PM

Kurt Hite, Robina: Stated that he likes some of the Design Guidelines. However, he stated he was not in favor of creating a Design Overlay District. Mr. Hite spoke about problems with the lane reduction project on Coolidge. He also referenced discussions on Form Based Codes in 2016. Mr. Hite stated he believes a Design Overlay District is not consistent with the 2017 Master Plan update.

Charles Tyrrell, Columbia: Stated that he is opposed to the Design Overlay District. He stated that zoning overlays are traditionally smaller than what is being proposed. Mr. Tyrrell stated that changes can be made to the ordinance through conventional zoning.

Ann Novitsky: Stated that she believes the Design Overlay District would be an overreach by the DDA Director and Community Development Director. Ms. Novitsky stated she is opposed to the Design Overlay District.

Wendi Zabramski, Gardner: States that she is appalled by the Design Overlay District. She also stated she believes the DDA Director is overreaching on the Coolidge land reduction project.

Donna Bishop: Stated she owns a business on Twelve Mile Rd. She believes that the portion of Twelve Mile Rd where her business is located has been ignored by the DDA relative to beautification efforts. Ms. Bishop stated that the Design Overlay could be cost prohibitive for small businesses. She stated she was not in favor of the Design Overlay District.

Brian Ziffin, Twelve Mile Rd: Stated he was not in favor of the Design Overlay District. He stated that if this had been in place prior to opening his business, he may have reconsidered whether or not to open in Berkley. Mr. Ziffin referenced problems with the DDA on new signage.

Chair Kapelanski closed the Public Hearing at 8:05PM.

DISCUSSION

Chair Kapelanski reminded everyone that this agenda item pertains specifically to amending the zoning map and not the specifics of the Design Overlay District. A recommendation to City Council on the proposed District has been adopted.

Commissioner Kempner expressed concern that any rezonings should be consistent with the Master Plan. Ms. Kempner stated she believes the Design Overlay District is inconsistent with the Master Plan.

Chair Kapelanski responded that there is still underlying zoning for those districts that specify principal and special uses. She also stated that the Design Overlay District is relative to design standards, not uses.

Commissioner Richardson stated that there are no changes to permitted uses in the Design Overlay language.

Commissioner Kempner stated there is confusion about uses in the Design Guidelines.

Commissioner Buckler stated that ordinance language on the underlying zoning is clear. Ms. Buckler stated that the Design Guidelines are not changing permitted or special uses. She stated that the Design Overlay is part of the progression to make gradual changes along with the Downtown Master Plan and City Master Plan.

Commissioner Murad stated that without an overlay district, it would be a very lengthy process to incorporate the proposed language into the various zoning districts.

Commissioner Shadle stated that the zoning map amendment is consistent with the Planning Commission's recommendation on the proposed Design Overlay District.

It was moved by Commissioner Patterson to recommend that City Council adopt the proposed zoning map amendment as presented and supported by Commissioner Trotto.

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

NAYS: Kempner

7. DISCUSSION: USES IN LOCAL BUSINESS DISTRICT & OFFICE DISTRICT

Community Development Director McLean provided a summary of written communication from a developer regarding potential changes to uses in the Local Business District (LB) and Office District (O-1). The developer has asked that the Planning Commission consider text amendments to the zoning ordinance to allow for childcare centers as a principal permitted use or special use in those districts. Mr. McLean asked the Planning Commission to weigh in on whether or not to move forward with potential amendments.

Mark Kellenberger of Eig14t Development discussed his meetings with Mr. McLean regarding changes to the ordinance to allow for childcare facilities in those districts.

Vice Chair Smith stated that over the years the Planning Commission had discussed opportunities for senior housing and that childcare facilities is an underserved need. Mr. Smith stated that he would be in favor of amending the ordinance to allow for childcare facilities.

Chair Kapelanski stated that she agreed with comments made by Vice Chair Smith. Ms. Kapelanski stated that she believes childcare facilities would be a less intrusive use in the Local Business District and Office District than in residential districts.

Commissioner Richardson asked if the developer had any specific designs in mind. Mr. Richardson also asked about outdoor recreation areas.

Mr. Kellenberger responded that he would be looking into opportunities for outdoor recreation for a childcare facility.

Commissioner Richardson asked about safety concerns.

Mr. Kellenberger responded that under State licensing requirements there are safety standards. Mr. Kellenberger stated that he would favor a safety standard in an ordinance that would not increase traffic density.

Chair Kapelanski asked about State requirements.

Mr. Kellenberger responded that states can vary on outdoor recreation requirements, but that an outdoor recreation area is required in Michigan.

Commissioner Murad stated that there is a daycare facility in Royal Oak that is located next to a parking garage.

Commissioner Trotto commented that the State of Michigan has stringent requirements and that any ordinance change should defer to those standards.

Chair Kapelanski stated she would be in favor of zoning text amendments in the Local Business and Office District to allow childcare facilities as a Special Use.

Commissioner Kempner stated she was in favor of changes as a Special Use.

Commissioner Buckler stated she was in favor of changes as a Special Use.

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LIAISON REPORTS

Mr. Trotto stated that he could not attend the DDA meeting but that there was discussion on the After Hours event and the DDA budget.

Mr. Patterson discussed the budget for the Parks & Recreation Committee.

Mr. Murad stated that the Chamber was in the process of planning for Art Bash. He also referenced the Street Art Festival on June 8.

Mr. Richardson stated that the Environmental Committee was continuing to work on the Energy Efficiency Plan. He stated that the Bike Corral would be operated by the Environmental Committee during Art Bash. He also stated there would not be an April meeting.

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STAFF/COMMISSIONER COMMENTS

Mr. McLean informed the Planning Commission that a Request for Proposals (RFP) had been issued for the City Master Plan.

Mr. Smith inquired about unpermitted work being done at a building on Eleven Mile Rd.

Mr. McLean responded that the City was aware of it and that stop work orders had been posted.

With no further business, the meeting was adjourned at 9:02PM.

MEMORANDUM

MAY 21, 2019

TO: CITY OF BERKLEY PLANNING COMMISSION
FROM: TIMOTHY MCLEAN, COMMUNITY DEVELOPMENT DIRECTOR
RE: REPORT FOR THE PLANNING COMMISSION MEETING, MAY 28, 2019

1. ORDINANCE AMENDMENT: PROPOSED LANGUAGE TO PERMIT CHILDCARE CENTERS AS A SPECIAL USE IN THE LOCAL BUSINESS DISTRICT (LB) AND OFFICE DISTRICT (O-1).

During the April meeting, Planning Commissioners provided feedback and direction regarding the potential for text amendments to the zoning ordinance regarding the use of childcare facilities in the Local Business District (LB) and Office District (O-1). There was a consensus among Planning Commissioners that childcare centers as a special use could be considered.

Amendments to special uses in the LB and O-1 districts have been prepared. Nursery schools, day nurseries and child care centers would be allowed as special uses in the LB and O-1 districts. In addition to the requirements for a special use, an applicant would have to be licensed by the Michigan Department of Licensing and Regulatory Affairs (LARA). Facilities would have to meet minimum standards required by LARA. Also, applicants, their staff, and facilities would be required to meet the minimum standards established by the *Michigan Child Care Organizations Act PA116 of 1973, As Amended*.

ATTACHMENTS:

[Office District-Special Uses Amendment](#)
[Local Business District-Special Uses Amendment](#)
[LARA Requirements-Childcare Centers](#)
[PA116 of 1973 As Amended](#)

2. PUBLIC HEARING: PUBLIC HEARING TO RECOMMEND REPEAL OF SEC.138-132.

ATTACHMENT:

[Public Hearing Notice](#)

3. ORDINANCE REPEAL: RECOMMENDATION TO REPEAL SEC.138-132-GRADING

City staff has been working with engineering consultants from Hubble, Roth, & Clark (HRC) and Senior Building Administrator Jim Wright of McKenna Associates on potential changes to the standards for residential grading and stormwater management.

Existing standards for residential grading require that a property is graded to direct surface water away from residential dwellings. Also, grading must developed to prevent surface water from draining from a new development onto adjacent properties. In theory, a parcel is re-graded as part of a new residential construction and the new grading prevents water from flowing onto neighboring properties and is directed

into the street where it drains into a storm sewer catch basin. The existing standard solves the problem of stormwater runoff and drainage for new builds, but it has created considerable problems for adjacent properties. Consequently, over the years, the existing standards have caused disturbances in the historic flow of surface water which has resulting in flooding of a number of properties adjacent to new residential construction.

The new standard requires that a residential new build may not increase the amount of surface water runoff onto adjacent properties. Essentially, the proposed new standard would allow for a continuation of existing flows. The intent of the proposed changes is to alleviate instances of flooding of properties adjacent to new residential construction. It also requires a builder to manage any increased flow in surface water on that property.

New standards for residential grading and stormwater management would require additional information to be included on building plans. That information includes:

- A detailed grading plan and topographic survey.
- For the existing structure or vacant parcel, a calculation that estimates the annual amount of rainwater and frequency of runoff. Estimates will be based upon on local soil conditions, land cover, and historic rainfall records.
- For the new construction, a calculation that estimates the annual amount of rainwater and frequency of runoff. Estimates will be based upon local soil conditions, land cover, and historic rainfall records.
- Detailed plan indicating how any additional water flow will be managed.
- Sealed “As Built” drawings must be submitted to the Building Department when construction has been completed.

The new standards have gone through two readings before City Council and were approved at the regularly scheduled meeting on May 20, 2019. Per discussions with City staff and consultants, the new standards will be added in a new article to *Chapter 26: Buildings & Building Regulations*. Standards for grading would be moved out of *Chapter 138: Zoning*. Part of the process to adopt the new standards in Chapter 26 is the repeal of *Sec.138-132-Grading*. At this time, it is my recommendation that the Planning Commission consider a motion to recommend that City Council repeal Sec.138-132.

ATTACHMENTS:

[Sec.138-132 GRADING](#)

[CH.26-ARTICLE XII](#)