

A regular meeting of the Troy Planning Commission was held in Council Chambers, City Hall on Wednesday, September 8, 2021, with Chairman, Mr. Kappers presiding. ATTENDING: Members – Kappers, Titterington, Wolke, Westmeyer, and Oda; Staff – Development Director Davis, Zoning Inspector Eidemiller; and Engineering Technician Watson.

APPROVAL OF MINUTES: Upon motion of Mr. Westmeyer, seconded by Mayor Oda, the minutes of the Aug. 25, 2021 meeting were approved by unanimous vote.

HISTORIC DISTRICT APPLICATION, 224-226 S MARKET STREET FOR INSTALLATION OF GUARD RAIL; OWNER – INNISFREE ENTERPRISES; APPLICANT – LEVEL MB CONSTRUCTION. Staff reported: property is zoned B-3, Central Business District; application is to install a black stainless steel guard rail with aircraft cables on the deck located along the entrance door along the alley; the height will be 3'6" from the top of the deck; and staff recommends approval of the proposed sign based on the findings of:

- The proposed guard rail will meet the City of Troy Sign Code requirements;
- The proposed guard rail will not detract from the historic integrity of the building and streetscape.

A motion was made by Mayor Oda, seconded by Mr. Wolke to approve the historic district application for 224-226 S. Market Street as submitted based on the exact placement and materials stated in the application and based on the findings of staff that:

- The proposed guard rail will meet the City of Troy Sign Code requirements;
- The proposed guard rail will not detract from the historic integrity of the building and streetscape.

MOTION PASSED, UNANIMOUS VOTE

HISTORIC DISTRICT APPLICATION, 103 W. MAIN TO INSTALL A 4 SQUARE FOOT WINDOW SIGN AND SEASONAL FLOWERS ON THE BUILDING EXTERIOR OVER THE DOOR; OWNER – 107 W MAIN LLC, SAM O'NEAL; APPLICANT IVY COURT. Staff reported: property is zoned B-1, Local Retail District; the building was constructed in 1904 and is not on the Historic Register; the proposed sign is 4 square feet; the multi-tenant building is permitted 100 square feet of signage; material will be white vinyl; the season flowers will be an arch over the door top; and staff recommends approval based on the findings of

- The proposed sign and seasonal flowers will meet the City of Troy Sign Code requirements;
- The proposed sign and seasonal flowers will not detract from the historic integrity of the building and streetscape.

A motion was made by Mr. Wolke, seconded by Mr. Westmeyer, to approve the historic district application for 103 W. Main Street as submitted based on the exact size and materials stated in the application (for the sign) and based on the findings of staff that:

- The proposed sign and seasonal flowers will meet the City of Troy Sign Code requirements;
- The proposed sign and seasonal flowers will not detract from the historic integrity of the building and streetscape.

MOTION PASSED, UNANIMOUS VOTE

REVISED FINAL DEVELOPMENT PLAN, TROY CHRISTIAN SCHOOLS PLANNED DEVELOPMENT (PD-R); OWNER – TROY CHRISTIAN SCHOOLS BY GARY WILBUR, SUPERINTENDENT; APPLICANT – STEPHEN BUTLER, COMMUNITY CIVIL ENGINEERS. Staff reported: Council approved the vacation of Arlington Avenue and a minor revision to the General Plan to add boulevards for better traffic flow; this then resulted in a minor revision of accommodating two and internal pedestrian connectivity to the new building to the two parking lots to the south that were also a prior major revision; the minor revision may be approved by the Planning Commission without the submission of the revised general plan to City Council; the Final Development Plan that will follow this minor revision will provide both Engineering and Development Department review of the applicable development standards and requirements for the parking areas including storm water control, traffic flow, access, number of spaces, setbacks, landscaping, and utility easements, etc.; and the final step of the Planned Development process is the approval of the Record Plan by City Council; and Staff recommends that Planning Commission approve the minor revision as the request improves internal traffic flow and pedestrian connectivity.

A motion was made by Mr. Titterington, seconded by Mr. Westmeyer, to approve the Troy Christian Schools Planned Development (PD-R) Revised Final Development Plan as submitted and as recommended by staff.

MOTION PASSED, UNANIMOUS VOTE

FINAL PLAT AND DEDICATION OF RIGHT-OF-WAY FOR LIBERTY MEADOWS – SECTION ONE; OWNER – LIBERTY LOT SALES LLC; APPLICANT – JEFF PUTHOFF, CHOICE ONE ENGINEERING. Staff reported: The plat is located on Troy-Urbana Road, east of Hunters Ridge Drive; the Final Plat of Section One is in general conformance with the Preliminary Plan approved by the Planning Commission. Other details reviewed are:

- o Section One encompasses 23.640 acres. There are 31 building lots (12.146 acres), four drainage lots (7.326 acres), and the dedication of 3.561 acres of right-of-way to be dedicated (Liberty Bell Way, Freedom Way, Wyatt Road, and Trump Court).
- o The zoning is R-3-B, Single-Family Residential District, with a minimum lot size of 12,000 square feet, with actual lot sizes ranging from 12,000 square feet to 26,920 square feet.
- o Fees-in-lieu of dedicated green space have been accepted for this development and will be collected with each new housing permit.

Staff recommended approval with the condition that the recommendation not be forwarded to Council after the escrow agreement and stormwater construction drawings were received and approved, and that has been completed.

A motion was made by Mr. Wolke, seconded by Mr. Titterington, that the Planning Commission recommends to Troy City Council that the final plat of Liberty Meadows – Section One be approved, including the dedication of right-of-way, subject to the finalization of the escrow agreement and stormwater construction drawings.

MOTION PASSED, UNANIMOUS VOTE

DEDICATION OF RIGHT OF WAY FOR WACO HISTORICAL SOCIETY; OWNER/APPLICANT – WACO HISTORICAL SOCIETY. Staff reported that the City Engineer has approved a replat for Waco along 1865 S. County Road 25A and this requires the dedication of additional right-of-way if 0.514 acres of part of IL 9305 and 9306, along S. County Road 25 A and Dye Mill Road.

Mr. Wolke asked if Waco is splitting off the area of the replat to sell, and was advised that is the case.

A motion was made by Mayor Oda, seconded by Mr. Westmeyer, that the Planning Commissioners recommends that Troy City Council accepts the dedication of additional right-of-way along 1865 S. County Road 25A, along S. County Road 25A and Dye Mill Road.

MOTION PASSED, UNANIMOUS VOTE

HISTORIC DISTRICT APPLICATION FOR CERTIFICATE OF APPROPRIATENESS, DEMOLITION 112-118 W. MAIN**STREET; OWNER/APPLICANT – 116 W MAIN LLC, RANDY KIMMEL.** Staff reported:

"The applicant requests a Certificate of Appropriateness from the Troy Planning Commission regarding the demolition of a three-story commercial building that is 17,500 square feet located at 112-118 West Main Street. The owner has provided an application, a narrative justifying the reasons for seeking demolition, and supporting documents. The property is zoned B-3 Central Business District and is located in the middle of the block between S. Plum Street and S. Cherry Street. (Aerial Map & Building Pictures Attached).

There is no Ohio Historic Inventory (OHI) form for this building. The building is not listed on the National Register. There are OHI forms for the adjacent buildings (110 and 122 W. Main) and across the street (Masonic Temple). Staff has reached out to the state Ohio History Connection and they also were unable to find any record of a building survey. A building marker placed at the top of the building indicates the Independent Order of Odd Fellows, along with a second marker located just above the 1st level that dates the building at 1902. Additionally, the Troy Historical Society in 1969 placed a bronze building plaque at the center entrance that reads, "COURTHOUSE and JAIL – LOG JAIL built here 1808. LOG JAILER'S HOUSE built beside it in 1810. A second floor over both served as Troy's SECOND COURTHOUSE 1811-24. Troy's FOURTH COURTHOUSE—Two-Story, Greek Revival, brick building with columns in front and a belfry. Erected 1841, used until 1888. Rear part still intact." Apart from these building markers, there is little to no documentation except from the evaluation reports of the structural engineer and contractor indicating the multiple renovations (over the years within the buildings that include: alterations to the first-floor facade and storefront windows and removal of window hashes. Obvious damage to the decorative cornice and separation of front facade to the building envelope (Structural report attached).

DISCUSSION:

The property was purchased by 116 West Main LLC (Randy Kimmel) in February of 2018. For a time, the building went through planning phases to preserve and redevelop the property and was marketed for lease. In January 2020, a tornado hit the building and did extensive damage to the roof system and structural integrity of the whole building. The owner concluded after a series of inspections and evaluations from the Miami County Chief Building Official (CBO), the building contractor and a structural engineer, that renovation was not possible both economically and due to the time constraint to resolve the unsafe conditions. The owner hired Bruns Realty Group to lease or sell the building, but was unable to find a viable tenant or buyer.

In September of 2020, the property owner submitted a demolition application for the property. Below is a timeline of events that occurred after the original demolition order was submitted:

- October 14, 2020, the Planning Commission reviewed the demolition request from applicant and owner Randy Kimmel regarding 112-118 W. Main Street. After providing background and discussion of the Standards for Demolition for Removal of the Troy Zoning Code, city staff had found that 2 of the 4 criteria were met for Planning Commission to consider demolition. Staff concluded with recommending demolition and acceptance of a surface parking lot reuse plan. Planning Commission tabled the request to allow interested parties to contact the Commission before the next meeting and to allow a representative of the structural engineer and building inspector to attend.
- October 28, 2020, the Planning Commission removed the application from the table. The Commission noted that they had received a large number of emails. City staff indicated the property owner's structural engineer would do a more in-depth analysis and the city would engage a second firm, Woolpert, to provide a peer review. At the request of the applicant, the Commission tabled the application and discussed the process for a future meeting where the applicant and the opposition would each present their case. Commission unanimously passed a motion that stated the presentations would start with the applicant given five minutes and then the primary opposition given five minutes to present. Then both the applicant and the opposition would have three minutes each for a second presenter.
- December 23, 2020, the application remained tabled at the request of the applicant. Chairman Kappers noted that each member of the Commission should have received a copy of the Woolpert peer review of the Tri-Tech Engineering report regarding the building, and suggested that they review the report (Attached).
- January 19, 2021, the CBO, edited the original adjudication order to show that some repairs are needed but it is not in imminent danger of collapse. The edits removed the verbiage stating "or it shall be razed" to the "building cannot be occupied until the repairs are made". This was a result of the 3rd party engineering report with peer review comments.
- February 23, 2021, Planning Commission revisited the demolition application. It was stated that Troy Development Council secured a purchase agreement on the property and spent a significant amount of time with the property owner to evaluate two options in addition to the demolition application:

Option A. With the building being available for sale, the Troy Development Council (TDC) attempted to purchase the building contingent upon more detailed estimates as well as securing financing to make the necessary repairs to stabilize the building. The TDC also factored in the exterior facade repairs and first floor interior renovations for tenant occupancy. The City of Troy offered financial options to help off-set repair and renovation costs. Ultimately TDC was unable to obtain the financial commitments required to meet the basic cost estimates for the improvements, making the option to purchase and repair cost infeasible. Cost estimates for first floor occupancy level renovations were approximately two million above the stabilization costs.

Option B. The property owner considered a large loan from the city that would have funded basic structural repairs to stabilize the building. However, the building owner was unable to secure future first floor tenants, which is needed to make a proforma work to fund the renovation costs and is a condition by the City for a loan.

The applicant submitted a letter prior to the meeting asking that any public dialogue be delayed until the commission meeting of March 24, 2021 to give the owner time to consider options. This item was tabled as requested.

- March 24, 2021, Planning Commission accepted the retraction of the demolition application as a second purchase agreement was entered into. The purchase agreement was extended through June 2021 to allow for the purchaser to complete independent inspections and evaluations of the structure. The City provided financing options to help offset the cost of the exterior facade repairs and interior renovations, however, the purchaser revoked their purchase agreement due to the large repair and renovation costs, which were priced at \$4.1 million.
- July 9, 2021, the Miami County Department of Development edited the Adjudication Order to state "Unsafe conditions related to public safety must be resolved within 45 days. Unsafe conditions related to occupants inside structure must be resolved before occupancy."
- July 13, 2021, the City of Troy Development Department issued Orders to Repair Structure and listed multiple issue that required corrective action or an action plan to remedy the cited issues. The order provided for a 30-day compliance period.
- August 13, 2021, the City of Troy Development Department received and approved an extension request from the property owner through September 1, 2021.
- September 1, 2021, the property owner submitted a Demolition Application regarding the structure at 112-118 W. Main Street.

STANDARDS FOR DEMOLITION OR REMOVAL:

Section 1143.22(f)(10)(B)(1) requires that demolition permits shall not be issued unless accompanied by an approved certificate of appropriateness and a certificate of appropriateness may only be approved if clear evidence that two or more of the following conditions exist:

- I) The structure has incurred extensive damage to its basic structural elements such as the roof, walls, and foundation requiring substantial reconstruction and presenting an immediate danger to the public safety as declared by the Chief Building Official.
- II) The structure is listed as non-qualifying or is not consistent with other structures in the historic district in terms of historic character, architectural style, construction material, height, setback or mass.
- III) The square foot cost of meeting the minimum building code would exceed the square foot market value of similarly used and improved structures in the historic district.
- IV) The structure is contributing and has been declared a public nuisance and its removal will not adversely affect the architectural or historic integrity of the streetscape.

When reviewing these standards:

- I) The CBO issued an Adjudication Order on September 28, 2020 declaring "Unsafe conditions must be resolved within 60 days of receipt of this letter or the building shall be razed." The CBO posted notice that the building is dangerous and unsafe and barricades remain around the building keeping the public at a safe distance. The CBO edited the Adjudication Order on January 19, 2021 stating "Unsafe conditions must be resolved before structure can be occupied." The CBO edited the Adjudication Order on July 9, 2021 stating "Unsafe conditions related to public safety must be resolved within 45 days. Unsafe conditions related to occupants inside structure must be resolved before occupancy." Staff contacted Mr. England who stated that the aftermath of the tornado compromised the structural supports of the building. Being an old-style building, the masonry walls are structural, which shifted from the storm, pulling floor joists out of their pockets. Additionally, he observed rot that has set into the joists over decades of leaks coming into the building. Mr. England stated that Miami County Building Department oversees five counties, and in the last five years he has placarded only four buildings as unsafe, with this being one of them. Staff concludes that this standard has been met.

- II) The front of the property is fairly consistent with other structures in the historic district in terms of historic character, architectural style, construction material, height, setback and mass. Built in a similar era of the adjacent buildings (122 W. Main St. built in 1897) and (110 W. Main St. built in 1910), the I.O.O.F building of 1902 was joined with previous structures, including the remnant south section of the fourth courthouse. Other than the building plaques from the Historical Society in 1969, there is little to no formal documentation filed as to the historical significance. The number of alterations to the principal 1902 building on W. Main Street may deem it as non-qualifying for the National Register, although no OHI form indicates it as qualifying or non-qualifying. In November of 2020, from the State Historic Preservation Office, a letter indicating that the property appears to qualify for nomination to the National Register of Historic Places as a contributing resource. Because historical documentation is incomplete or missing, staff is unable to determine that the standard is met or not met.
- III) The third standard requires the square foot cost of meeting the minimum building code would exceed the square foot market value of similar structures in the historic district. The information provided by Bruns General Contracting, shows a cost of \$659,788 to minimally meet the building code standards to be safe. Coupled with the acquisition costs of \$485,000, the price per square foot is \$67.34 (Exhibit B). The most similar commercial building nearby is the Masonic Temple, which was purchased for \$670,000 and is in stable condition. That square foot value comes to \$23.81 square feet. The applicants argue that the minimum repair costs far exceed the square feet market value of similar structures. They estimate substantial additional costs on top of the \$659,788 number, once repairs are initiated and more damage is discovered. In addition to the estimates provided by Bruns, the applicant has provided an economic hardship breakdown in his narrative regarding the need to generate double the market rate in order to achieve profitability and positive cash flow. In participating in both purchase contract discussions, staff feels the repair costs far exceed the value of the property after two purchase contracts were revoked due to independent estimates. Staff concludes that this standard has been met.
- IV) The fourth standard requires the structure to be declared a public nuisance with no adverse impact on the historic integrity of the streetscape. The property has been posted as unsafe to the public, making it a public nuisance. According to Chapter 3767.41 of the Ohio Revised Code, Buildings found to be "public nuisance" means "a building that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment." Staff concludes that this part of the IV standard has been met.

The second criteria consider whether removal will result with an adverse effect on the architectural or historic integrity of the streetscape. It is difficult to determine the level of any adverse effect, when the building is deemed unsafe, and knowing it is tied to multiple building structures unseen from the street. However, the removal of the building with a three-story mass along Main Street will change the visual streetscape and relationship to the adjacent buildings. Staff is unable to support this second part of the fourth standard.

Section 1143.22(11) provides criteria to determine substantial economic hardship. The applicant believes they meet these criteria due to:

- 1) That the square foot cost of meeting the minimum building code and requirements of the Ohio Building Code, Section 109 exceeds the market value of the property. Beyond the initial storm damage repair costs, the needed improvements to lease the space would require rents well above market value for Downtown Troy.
 - 2) No reasonable alternative exists consistent with the architectural standards and guidelines due to the costs of repairs and the time constraints to make the repairs for reuse of the building.
- Section 1143.22(12) gives criteria for unusual and compelling circumstances which the applicant believes they meet based on:
- 1) The property has little or no significant historic and architectural significance and is listed as non-qualifying for the National Register.
 - 2) The applicant has demonstrated that the property cannot be reasonably maintained in a manner consistent with the pertinent architectural standards and guidelines.
 - 3) Similarly, no reasonable means of saving the property exists due to the above market value costs associated with the remediation and repair needed to stabilize the building.

REUSE PLAN:

Planning Commission may consider other appropriate reuse plans under Section 1143.22(10)(B)(2)(V), "when no alternatives or mitigation is possible and the undertakings benefits in relation to the significance of the property justify demolition as an acceptable loss."

The applicant has submitted a reuse plan that results with a lot suitable for development and marketed as premium downtown development land by property compacting the site with fill and seed and straw. The applicant states special caution will be taken during the demolition process to sections of the building that adjoin neighboring structure. Demolition will be performed by hand and in some cases with small-scale equipment. It is noted that extensive structural investigation has been completed in order to understand the scope of work necessary to prevent damage to the neighboring structures.

This application has been reviewed for compliance with all requirements of the zoning code except for the additional design standards imposed by the historic district regulations and has been found to comply with same.

RECOMMENDATION:

Staff recommends approval for the demolition of the existing structure as proposed, with the condition that a performance bond is posted with sufficient funds to insure completion of the demolition and reuse plan. This finding is based upon the following:

- o The property meets the criteria listed in the Historic Preservation Overlay District, Section 1143.22(f)(10) demolition standards;
- o The property is not listed on the National Register or OHI form;
- o The building has been declared unsafe to the public;
- o The applicant has demonstrated substantial economic hardship for the repair costs due to tornado storm damage making the building economically obsolete;
- o A minimal reuse plan has been submitted."

DISCUSSION.

-Mr. Titterington asked regarding staff waiting two weeks after the time for compliance, with the response that staff was advised there may be another party interested in purchasing the property, and the first meeting of the Commission to consider the application would not until the meeting this date.

-Mr. Titterington asked about the fence remaining up so long, with staff commenting that it was determined to allow the fence to remain as long as the property had been under contract.

-Mr. Kappers stated the re-use plan seems to be a non-use plan, that owner is only offering to plant grass seed.

-Mr. Kappers commented that this property has received a lot of discussion and he believes there should be a time for public comment prior to the Commission making a decision. There was discussion about a time frame for comments. Mr. Wolke noted that previously, prior to the application being withdrawn, the Commission had set time limits for comments by those both supporting and opposing the demolition and had suggested those to speak for the opposition if those opposed could not designate speakers. He also asked about redundant comments should that start to happen if the Commission allowed open comment. Mr. Kappers stated he would stop comments that were repetitive or not relevant and that would include comments of "in favor of" or "not in favor of". Mr. Kappers also asked that staff contact those who had agreed to speak representing the opposition previously to see if each was still willing to be a designated primary and secondary speaker.

A motion was made by Mr. Westmeyer, seconded by Mr. Titterington, to table the application for 112-118 W. Main Street until the next meeting, and that the Commission would allow comments of 5 minutes by one designated primary speaker for both favoring and opposing the application, 3 minutes by a designated secondary speaker for both favoring and opposing the application, and 2 minutes for a one-time comment of others favoring or opposing the application, with the Chair to stop a speaker should he deem the comments to be repetitive.

MOTION PASSED, UNANIMOUS VOTE

There being no further business, the meeting adjourned at 3:49 p.m. upon motion of Mr. Titterington, seconded by Mr. Westmeyer.

Respectfully submitted,

_____ Chairman

_____ Secretary