



AGENDA - TROY PLANNING COMMISSION MEETING
MONDAY, OCTOBER 11, 2021, 3:30 P.M.
CITY HALL, COUNCIL CHAMBERS

1. Roll Call
2. Minutes - 9-22-2021
3. Historic District Application for Demolition, 112-118 W. Main Street
Owner: 116 West Main LLC
Applicant: 116 West Main LLC - Randy Kimmel
-Remove from Table
-Update provided by City staff
-Commission to make decision
4. Historic District Application, 301 Public Square SE for exterior painting
Owner/Applicant: David Fair, David Fair on the Square
-Commission to make decision
5. Revised Final Record Plan, Troy Christian Schools Planned Development-R
-Owner/Applicant: Troy Christian Schools
-Commission to make recommendation to Council
6. Other

Next Meeting -- Oct. 27, 2021

Note to Commission members:

If you will not be attending, please email or call Sue.

A regular meeting of the Troy Planning Commission was held in Council Chambers, City Hall on Wednesday, September 22, 2021, with Vice-Chairman, Mr. McGarry presiding. ATTENDING: Members – Titterington, Wolke, Westmeyer, Oda, McGarry and Ehrlich; Staff – Development Director Davis, Zoning Inspectors Eidemiller and Bruner; and Engineering Technician Watson.

APPROVAL OF MINUTES: Upon motion of Mr. Titterington, seconded by Mrs. Ehrlich, the minutes of the Sept. 8, 2021 meeting were approved by unanimous vote.

HISTORIC DISTRICT APPLICATION, 123 E. MAIN STREET (HATFIELD HOUSE), PARCEL D08-000820, TO INSTALL A BLACK AWNING: OWNER – HATFIELD PROPERTIES LLC; APPLICANT – CAREY FLANERY. Staff reported: property is zoned B-3, Central Business District; building was constructed 1841; the building is on the National Register; awning to be black; there is no wording on the awning; application meets requirements of minimum clearance of nine (9') above the sidewalk grade with a maximum projection of five (5') from the building; the property owner has provided written permission; and staff recommends approval based on the findings of:

- The proposed awning will meet the City of Troy General Ordinance requirements;
- The proposed awning will not detract from the historic integrity of the building and streetscape.
- The style of awning can be found in other areas of the Historic District.

A motion was made by Mr. Westmeyer, seconded by Mr. Wolke, to approve the historic district application for 123 E. Main Street as submitted, and based on the findings of staff that:

- The proposed awning will meet the City of Troy General Ordinance requirements;
- The proposed awning will not detract from the historic integrity of the building and streetscape.
- The style of awning can be found in other areas of the Historic District. **MOTION PASSED, UNANIMOUS VOTE**

HISTORIC DISTRICT APPLICATION, 1 N. MARKET STREET, PARCEL D08-006440, RUBY'S SALON, FOR EXTERIOR PAINTING: OWNER/APPLICANT – DIANA WRIGHT. Staff reported: property is zoned B-3 Central Business District; the building was built in 1847 by Aaron Tullis and remodeled in 1871 by Joseph Henne; the quadrant in which the building is located is listed on the National Register; application is for Sherwin Williams paint colors:

- a) Primary building color: Pure White (SW: 7005)
- b) Trim color: Ticom Black (SW: 6258)
- c) Accent color: Custom Pink that is made up of Magenta, New Red, and Deep Gold;

The application indicated that the proposed accent color of custom pink is the original hair dryer color; any window signs is not part of the final application, and the black and white checked area shown in the application will be solid black; and staff recommends approval of the proposed exterior paint modification, based on the following:

- The proposed modification does not hide any important features of the building as listed on the OHI form;
- The proposed primary building color can be found throughout the Historic District.

The applicant was preset and confirmed that the pink accent color is the color of the original hair dryers at the salon.

A motion was made by Mr. Titterington, seconded by Mayor Oda, to approve the historic district application for 1 N. Market Street as submitted, based on the exact colors stated in the application (Primary building color: Pure White (SW: 7005); Trim color: Ticom Black (SW: 6258); Accent color: Custom Pink that is made up of Magenta, New Red, and Deep Gold; and based on the findings of staff that:

- The proposed modification does not hide any important features of the building as listed on the OHI form;
- The proposed primary building color can be found throughout the Historic District. **MOTION PASSED, UNANIMOUS VOTE**

HISTORIC DISTRICT APPLICATION, 113 N. MARKET STREET, PARCEL D08-000070; FOR INSTALLATION OF AN 8 SQUARE FT. WINDOW SIGN, J. G. ROOFING AND RENOVATIONS; OWNER/APPLICANT – JONATHAN GEBBIE. Staff reported: property is zoned B-3, Central Business District; building was constructed 1885; the building is not on the National Register; building is permitted 60 square feet of signage with a maximum window sign allowance of 25% per window pane; application is for an 8 square foot window sign that measures 76" x 66" or 33.4 square feet, and would be constructed of blue and green vinyl; and staff recommends approval based on the findings of:

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

DISCUSSION.

-In response to Mr. Titterington, it was stated that the sign has been placed but the numbers at the bottom will be removed.

-In response to Mayor Oda, it was stated that there is a business on the first floor, and residence on the upper floor.

A motion was made by Mr. Titterington, seconded by Mr. Westmeyer, to approve the historic district application for 113 N. Market Street as submitted, including the material and color samples submitted to staff, and based on the findings of staff that:

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

MOTION PASSED, UNANIMOUS VOTE

HISTORIC DISTRICT APPLICATION, 121 W. FRANKLIN STREET, PARCEL D08-001930, REFACING OF EXISTING GROUND SIGN, GLASSHOUSE REALTY GROUP; OWNER – DONACO & JERRY LEWIS; APPLICANT – GLASSHOUSE REALTY GROUP. Staff reported: property is zoned OR-1, Office Residential District; the property owner has provided written permission for the application; application is to reface the existing two-sided sign currently located on the southwest corner of the property; lettering material will be vinyl; sign colors are the following Hex color codes: Blue (#3385A6), Green (#4D7948), Black (#402927); and staff recommends approval based on the findings of:

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

A motion was made by Mr. Wolke, seconded by Mayor Oda, to approve the historic district application for 121 W. Franklin Street as submitted including material, colors (Hex color codes: Blue (#3385A6), Green (#4D7948), Black (#402927), and graphics submitted, and based on the findings of staff that:

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

MOTION PASSED, UNANIMOUS VOTE

HISTORIC DISTRICT APPLICATION, DEMOLITION OF 112-118 W. MAIN STREET: OWNER – APPLICANT 116 W. MAIN LLC – RANDY KIMMEL

REMOVE FROM TABLE. A motion was made by Mr. Titterington, seconded by Mr. Wolke, to remove the application from the table. MOTION PASSED, UNANIMOUS VOTE

Staff had submitted a report as part of the minutes of the September 8 meeting. The Commission set a schedule for comments of those supporting and opposing the demolition, which was reiterated by Mr. McGarry. Mr. McGarry stated that time frames set will be followed, and that redundant comments would not be accepted.

Staff reported:

"BACKGROUND:

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 1989 placed a bronze building plaque at the center entrance that reads, "COURTHOUSES and JAIL – LOG JAILER'S HOUSE 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 sashes. 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(I)(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 \$870,000 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 foot 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 3757.41 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 properly 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.

-In response to Mr. McGarry, staff advised that the action of the Commission is to consider approving the Certificate of Appropriateness of the application and, if approved, staff would request/approve any other required items before the demolition could proceed.

-In response to Mr. Wolke regarding options of the County (based on the County Chief Building Official's orders), staff stated would be up to the County and staff could not speak to that.

SPEAKERS PROPOSING AND OPPOSING THE APPLICATION. At the previous meeting, the Commission approved a schedule regarding speakers.

Derek Muncy, proponent of the application: Mr. Muncy discussed the events since Mr. Kimmel purchased the property, commenting that Mr. Kimmel has purchased four other properties in downtown Troy, has invested in the downtown, and will continue to do so. With this property, demolition is needed as the property is structurally not sound, a January, 2020 tornado caused significant damage, roof trusses have failed over the original courthouse and the roof has failed over the early 1900 addition, the tornado left the structural support compromised, the structure is unsafe and not fit for occupancy, an October 2020 inspection showed further damage from the tornado and walls have clearly shifted, the damage and condition has been substantiated by inspectors, and the owner cannot afford to repair the structure.

-In response to Mr. Wolke, Mr. Muncy commented that the pre-damage market value was \$485,000, he cannot state how that number was determined, but the owner feels he cannot recover what he has spent.

-Mr. McGarry asked if the boutique hotel is proposed as a reuse plan. Mr. Muncy commented that the owner understood the City did not want a parking lot on the lot, the owner has a contract to sell conditioned upon the demolition of the existing structure, but a boutique hotel would have to be part of a new application for a new building. Regarding bonding and if the owner will provide a bond for assurance of a new building, Mr. Muncy commented that the owner cannot provide a bond for a new building while the current one still stands.

-In response to Mr. Wolke, Mr. Muncy confirmed that a potential buyer will not make a commitment for purchase or a plan while the current building still stands. Mr. Muncy commented that a new building will provide a return on investment, not economically feasible with a renovation; there will be a bond for the demolition, and then an application for a new build.

-Mr. Davis commented that there are issues with timing – the building is under orders of the City and County and for the County to remove the orders the unsafe issues have to be handled.

-Mr. Titterton commented that is not unusual for the Commission to approve a certificate of appropriateness with initial green space as a reuse and then later another reuse plan is submitted.

-Mr. Davis noted that 10 of the 11 demolition applications since 2010 had grade and seed for the initial reuse, with other plans submitted a year or two later.

-Mr. McGarry asked if the City denies the application or takes no action, does that leave CBO in charge and would take away the City authority for reuse? Staff commented that the question may require review of the Law Director.

-Chris Manning, opponent of the application: Ms. Manning stated she represents Troy Historic Alliance; does not believe the building meets the standards for demolition approval; documentation has not been provided for demolition, documentation has not been provided showing present and immediate danger. The public safety needs could have been met by the owner using insurance payments to make repairs, and the Troy-Miami County Public Library (Library) has submitted a proposal for the building and is interested in acquiring the building for some library services.

-Mr. Titterton stated that the Library representative sent an email stating not being interested at this time as there is a contract to purchase the building; that per the County CBO's declaration, staff has had several conversations with him about the poor condition and that is why the City had to put up fencing to protect the public should debris fall.

-Mr. Titterington stated that the Library representative sent an email stating not being interested at this time as there is a contract to purchase the building; that per the County CBO's declaration, staff has had several conversations with him about the poor condition and that is why the City had to put up fencing to protect the public should debris fall.

-Ms. Manning commented that the owner did not take steps to repair the north parapet wall, and if that had been done the fencing could have been removed and the sidewalk opened.

-Derek Muncy, proponent of the application: Regarding the insurance, Mr. Muncy stated that Mr. Kimmel fixed three properties that were damaged but it was not economically feasible to repair this building, coverage on the building was limited at 50% as the building was vacant, damage is more than the parapet wall – walls shifted, roof trusses damaged – and all costs to repair exceed the insurance payment. He also commented that the fence was placed due to danger; the building has been inspected by local businesses with the indication that it would be 3 times the rental cost per square foot if the property was repaired as compared to the rental charged for a new construction.

-Jeremy Tomb, Opponent to Application: Mr. Tomb stated he has the adjacent property and demolition would include part of his building as the walls are not independent, the applicant does not actually know what might be demolished, he questions the authority of the City to approve a demolition that may include part of his building but is not part of the application, and moving forward without assurance of protection of adjacent properties could create a liability issue for the City. Mr. Tomb commented that some concerns were transmitted to the Director of Law and he is awaiting a response.

-Mr. Titterington commented that an approved application to demolish one address does not include adjacent properties and any issues related to common and non-common walls are a civil matter between property owners, and the bond the owner must provide is only related to a reuse plan.

-Mr. Muncy commented that no supporting walls will be removed, there will be no damage to adjacent properties, and painting of the exposed walls above two floors will be done by hand after demolition.

Other comments:

-Mark Stewart, 1486 Cheshire Road – opposes the demolition, does not believe the 2nd qualification for demolition has been met.

-Scott McMiller, 2075 Swailes Road – opposes the demolition, applicant paid for times the value of the building, and rental costs are inflated based on the rent being received for the newly renovated CAS building.

-Lottie Welbaum, Caldwell St., Piqua, - the 4th condition for approval has not been met – that public health confirmed the building has not been declared the property a public nuisance, City does not have jurisdiction, staff had stated they could not support the second standard for demolition.

-Mark Stemmer, 286 Blackfoot Court, of Tri-Tech – Tri-Tech was not afforded access to the adjacent properties when the assessment was made, to the west the property shows separate walls, typically adjacent buildings put in their own walls and the structure should be separate, it does not show the next property is supported by 112 W. Main Street, the walls may be independent, but it could be flashing materials.

-Loraine Wyatt, 118 S. Walnut Street – Mr. Kimmel owns several properties, it is not a community concern if he pays a premium price, the application goes against the spirit of the demolition standards; the Commission should be concerned about the precedent it is setting.

-Nathaniel Green, 122 Race Street – opposes the application, any application for purchase contingent on the demolition should be part of the application for review, the Library offer should be considered.

Terry Purke, 1125 Westridge Drive – he is a local historian, rear portion of the building was constructed in 1841 and served as the County Court House, it is a tangible link to the city's early African American History, the area discouraged Black residents and Black persons had to go to that Court House location to post evidence of being a free person.

-Rachelle Via, Director of the Troy-Miami County Public Library, 1125 Halifax Drive – the Library looked at services they could provide at 112-118 W. Main Street, heard that it was under contract and do not want to interrupt the procedure, but if the Library could occupy the building it could serve as a tech center and there would be other opportunities that would be closer to the current Library location.

-Mrs. Ehrlich asked Ms. Via about the funds for renovation. Ms. Via replied that it would have to be a community effort and the community would have to "put up or shut up"; she also noted that the Board has not been asked to commit to a purchase and renovation, but has about \$3 million to spend, but also has to address issues with maintaining the current Library building from those funds, and she realizes it would not be quick solution.

-Mr. Westmeyer asked Ms. Via about not asking for a contract to purchase. Ms. Via commented that the Library Board cannot just turn on a dime, and would have a lot of work to do; this meeting was scheduled prior to the Board meeting; she did not want to stall the process of the pending sale; and she wishes the Library use had been considered earlier.

-Mr. Titterington commented that the City was only notified of the Library idea last week and the initial demolition application started more than a year ago. He also noted that many have walked through the building and did not proceed, with the Library only coming forward after the orders were issued.

-Judy Tomb, McCurdy Road – it is not the duty of staff to see that Mr. Kimmel makes a nice profit and the City should not be involved in selling to other investors, and it seems that City staff has been deceptive. Gregg Harris, former City employee who resigned, counseled Mr. Kimmel, decided not to tell the Commission about the \$180,000 insurance settlement, there is only parapet and roof damage, and she made an offer to purchase the building.

-Brad Boehringer, 180 Crestwood – this is demolition by neglect, the tornado did not do the damage that has been stated, code enforcement should have made the owner repair the building.

-Michael Fox – he has fond memories of the building that perhaps the Commission does not share, tearing down the building is tearing down memories; the public has not been allowed to go in the building to see it.

-Andrea Keller, Troy Main Street (TMS) Executive Director – the TMS Board stands on the side of historic preservation; she reached out to Heritage Ohio which has concerns about a grass lot as a reuse plan, and noted concerns should the hotel plan fall through.

-Ben Redick, Bruns Realty Group, who has been handling the marketing of the property for the owner - in marketing the building, the owner consulted brokers to get a sale. Regarding the hotel not being part of the reuse is that the proposed buyer has months of work before being able to make a commitment. This property was shown to over three dozen interested parties to commitment, none of whom would commit to purchasing the property.

- Mrs. Ehrlich asked if the historical society has been contacted regarding purchasing the building. She was advised that no offer was made. Mr. Redick commented that it was too big of a project.
- Mr. Wolke asked about the value of the land if vacant, and was advised that the asking price plus demolition is \$500,000-\$600,000.
- Mrs. Ehrlich asked if the historical society has been contacted regarding purchasing the building. She was advised that no offer was made. Mr. Redick commented that it was too big of a project.
- Mr. Wolke asked about the value of the land if vacant, and was advised that the asking price plus demolition is \$500,000-\$600,000.
- Christy Shell, 1205 Hillcrest Drive, President of the Board of Troy Community Works - noted that a number of properties have been improved in downtown Troy and she encourages ways to make that happen for this building, Mr. Kimmel is not taking the role of making something happen for the building like other property owners have. She asked that time be allowed for the Library to work to purchase the building.
- Tim Miller, 123 S. Plum – it is possible to see paintings on the wall inside the building, it is not good that the fence has remained so long.
- Mr. Wolke asked Mrs. Tomb about her offer to purchase and what she would do with the building. Mrs. Tomb responded that if Mr. Kimmel would give her the insurance check, she would pay \$125,000 and then renovate the building. She further commented that Mr. Kimmel overpaid for the building, as it had previously sold for \$125,000. Mr. Davis commented that the appraised value after the tornado was \$440,000. Ms. Tomb questioned why tear down a building with that value.
- Mr. Titterington asked for a discussion on the questions about property maintenance. Staff commented that staff was advised by the County CBO and the Law Director to keep the fence up; after the demolition was application was taken off the agenda months ago the City looked into solutions to save the building including loans and grants with some prospective buyers, but the total project costs were too high; the City's property maintenance authority is limited to the exterior and the County handles interior matters.
- Mr. Westmeyer asked if Mrs. Tomb would give \$125,000 to the Library to assist with the purchase, with Mrs. Tomb advising she was not aware of the Library plan.
- Mr. Muncy stated that the \$125,000 purchase price of the building was at a Sheriff's Sale.
- Carol Kerber, 326 S. Plum Street, challenged Mr. Kimmel to donate the building so that interested parties could raise repair funds. She said that if Mr. Kimmel donates the building to the Library she will provide seed money for the renovation.
- Scott McMiller offered to donate making the parapet repairs.
- Mayor Oda – She understand the property was for sale before the tornado; she does not understand why members of the audience want the City to tell a private owner what he can do with his property; the demolition process has been over two years; the fence is in place because the County advised it should remain; any major history of the building was lost in 1990 when the building was no longer a courthouse and the front façade was changed and replaced; and no one had made an offer to purchase the building. Members of the audience commented that the Commission determines what the owner of a property can do with the historic district applications considered.
- Paul Lauzau, 123 Countryside Drive – he is the financial person for the Library Board, he understands why people may not be able to make the finances work if the plan is to renovate and rent; the Library would be a public use that makes sense because the building would be owner-occupied.
- Shane Carter, LeFevre Road – stated concern about the comment of the Mayor regarding the history of the building being lost, that history did not die in 1900, the Troy area is where African American persons came because they could feel safe, and this building is the location where they came to register that they were free.
- Randy Kimmel - one of the offers was for owner occupied but the project was not economically feasible, he did not ask for the tornado and that damage; prior to the tornado he had some permits; starting over after the tornado is not economically feasible without a big donor.
- Diane Miley, 223 S. Oxford Street, asked if the columns are still in place behind the façade, and was told they are not. Ms. Miley asked if it would be possible to tear down part of the building back to where the old courthouse stood. Mr. Kimmel stated that has not been looked at, but would not appear to be economically feasible.
- Mr. Westmeyer stated he appreciated the Library's discussion, but the County has established a time schedule to address the building.
- Mrs. Ehrlich commented that those in a historic society have to be in a financial position to address properties.
- Ms. Manning commented that the Historical Alliance is a new organization and does not yet have funds, but wants to have historic buildings for people to enjoy as historic properties help bring people to Troy.
- Mark Stewart – it was said that the former Trinity Episcopal Church was to be torn down, and it is now being restored.
- Regarding allowing more time, Mr. Titterington stated there is a purchase contract and with that contract in place it would be at least 3 months before another contract can be considered, and there are pending County orders on the building.
- Sonia Holycross – commented that there needs to be diligence to cultivate history whether this building remains or not.
- Mr. Wolke commented he would like to hear from the Law Director regarding the allegations of Mr. Tomb (re his adjoining property), and moved to table the decision on this application pending that information. Motion seconded by Mr. Titterington.

MOTION TO TABLE PASSED BY UNANIMOUS VOTE.

OTHER: Mr. Davis advised that the roof on the Agave & Rye business -Northwest corner of Public Square – is being replaced with a like roof, which does not require historic district review.

There being no further business, the meeting adjourned at 5:51 p.m. upon motion of Mr. Westmeyer, seconded by Mr. Titterington.

Respectfully submitted,

Chairman

Secretary

MEMORANDUM

TO: City of Troy Planning Commission Members

FROM: Development Staff

DATE: October 11, 2021

SUBJECT: Historic District Review – 301 Public Square SE

PROPOSAL:

David Fair, Owner of David Fair on the Square, is requesting a historic review from the Planning Commission to consider the exterior modification of paint on the building located at 301 Public Square SE. The property is zoned B-3, Central Business District.

The Ohio Historic Inventory (OHI) form describes the building as a three-story brick building with Italianate Commercial elements. The building was erected in 1904. Alterations include new transoms signboard, display windows, doors and replacement windows on the upper floors. The building is on the National Register. The SE Public Square streetscape includes three exposed brick facades located at 2 E. Main Street, 221 SE Public Square, and 301 Public Square SE.

DISCUSSION:

The applicant is proposing the exterior paint modifications with the following Sherwin Williams paint colors:

- a) Primary building color: Oakmoss (SW: 6180)
- b) Trim color: Relaxed Khaki (SW: 6149)
- c) Accent color: Enduring Bronze (SW 7005)

The front façade of the building had exposed brick on the second and third floors, however, was primed without Planning Commission approval. Staff notified the property owner to cease exterior activity until Planning Commission approval. Staff have also identified the presence of synthetic caulking in between the mortar joints. The Secretary of Interior Standards for the Treatment of Historic Properties state “applying paint or other coatings such as stucco to masonry that has been historically unpainted or uncoated to create a new appearance is not recommended; and repointing with a synthetic caulking compound is not recommended”. The front façade of the building also includes stepped brick around the windows that have been painted. The flat façade with exposed brick allows for the character defining features to stand out in comparison to the remainder of the building.

Staff concurs with the Standards for Rehabilitation that applying paint or other coatings should not be applied to the original exposed brick. Staff encourages the Planning Commission to require removal of the paint of the front façade to restore and protect the exposed brick using the gentlest means possible per the Secretary of Interior Standards.

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 those requirements.

RECOMMENDATION:

Staff recommends denial of the proposed exterior paint modification, based on the following:

- The proposed modification detracts from the historic integrity of the building and district;
- The Secretary of Interior Standards for the Treatment of Historic Properties do not recommend paint or other coatings on masonry that have been historically unpainted.
- The paint conceals character defining features of the building.



Previous

100 South Market Street, Troy, OH 45373-7303



Current

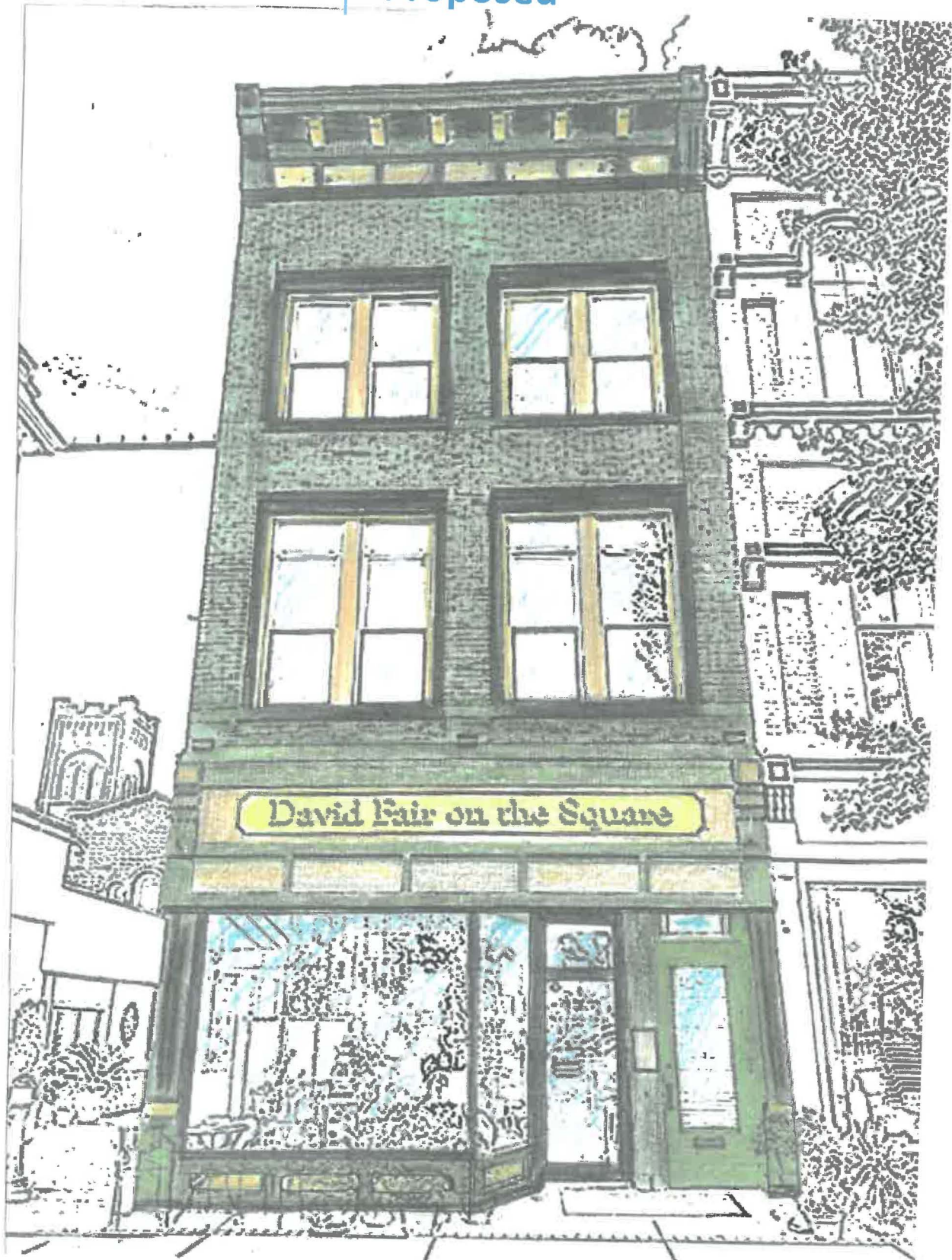
100 South Market Street, Troy, OH 45373-7303



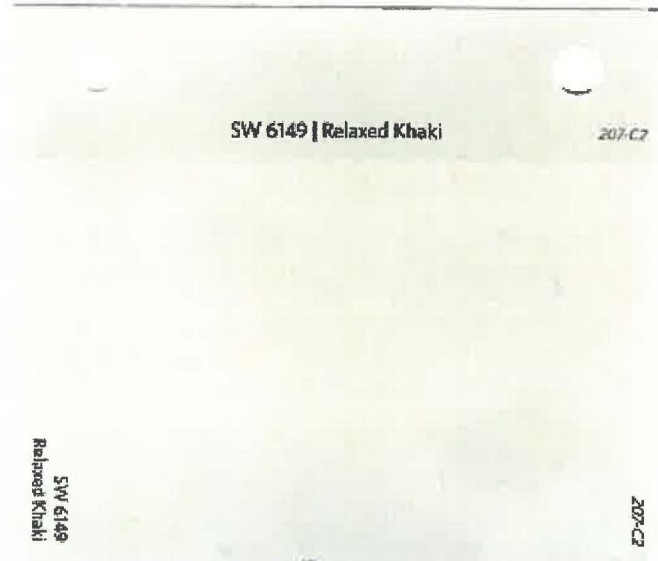
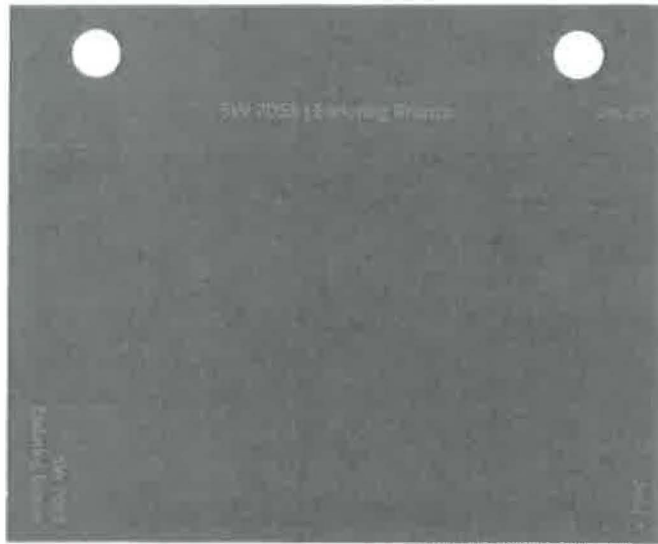
Current

100 South Market Street, Troy, OH 45373-7303

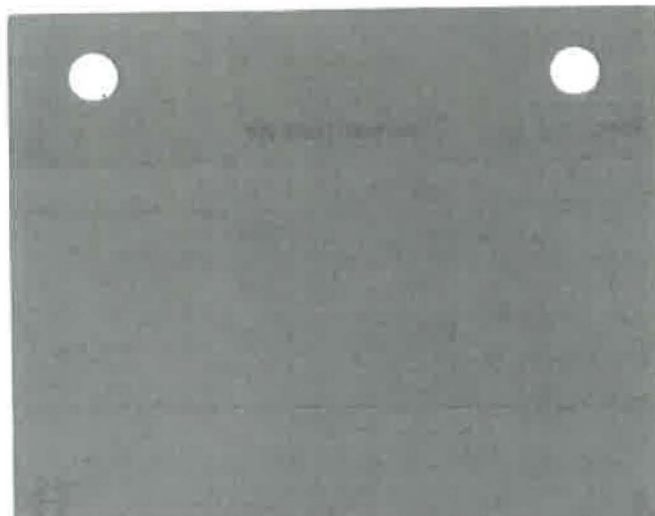
Proposed



100 South Market Street, Troy, OH 45373-7303



SW 6180
OAKNESS
→
COPY IS
DARKER THAN
ACTUAL





OHIO HISTORIC INVENTORY

1. No.		2. County Miami		4. Present Name(s) Studio 301/David Fair & Co.		☐ Coded	
3. Location of Negatives City of Troy Devel. Dept				5. Historic or Other Name(s) Koerner Building			
6. Specific Address or Location 301 S.E. Public Square		16. Thematic Association(s) Commercial		28. No. of Stories 3		29. Basement? Unknown ☐ Yes ☐ No ☐	
6a. Lot, Section or VMD Number		17. Date(s) or Period 1904		17b. Alteration Date(s) 1913		30. Foundation Material Concrete	
7. City or Village Troy		18. Style or Design N/A		☐ High Style ☐ Elements		31. Wall Construction Brick Bearing	
8. Site Plan with North Arrow		18a. Style of Addition or Element(s) N/A		19. Architect or Engineer		32. Roof Type & Material Flat/Unknown	
9. U.T.M. Reference Quadrangle Name Troy		19a. Design Sources		20. Contractor or Builder		33. No. of Bays Front 2 Side 8	
10. Zone Eastling ☐ Northling ☐ Building ☒ Object ☐		21. Building Type or Plan Commercial		22. Original Use, if apparent Commercial		34. Exterior Wall Material(s) Buff Brick	
11. On National Register? Yes ☒ No ☐		23. Present Use Commercial		24. Ownership Public ☐ Private ☒		35. Plan Shape Rectangular	
12. N.R. Potential? Yes ☐ No ☐		25. Owner's Name & Address, if known David Fair 305 E. Franklin Troy, OH		26. Property Acreage		36. Changes (Explain in #42) Addition ☐ Altered ☒ Moved ☐	
13. Part of Estab. Yes ☒ No ☐		27. Other Surveys in Which Included		28. Building Dimensions 30 x 50		37. Window Type(s) ☐ 6 over 6 ☐ 2 over 2 ☐ 4 over 4 ☒ Other 1/1	
14. Hist. Dist? Yes ☐ No ☐		15. Name of Established District (N.R. or Local) Troy Historic District		38. Endangered? Yes ☐ No ☒		39. Chimney Placement None	
42. Further Description of Important Interior and Exterior Features (Continue on reverse if necessary) Three story brick building with Italianate Commercial elements. The building features old bulkhead and columns in the storefront and a tin ceiling in the recess. The brick has been sandblasted. Alterations include new transoms, signboard, display windows, doors and replacement windows on the upper floors. CDF: include the bulkhead, columns and bracketed cornice.				43. History and Significance (Continue on reverse if necessary) Placard on the building indicates "The Koerner Building built in 1915 by August and Veronika Koerner/restored 1996 by David & Maria Fair". Courthouse research indicates that the building was built in 1904 by Sallie Morris. The Koerner's bought it in 1912 and made additions and improvements to it one year later.			
44. Description of Environment and Outbuildings (See #52) Downtown commercial core area				45. Prepared by J. Darbee/N. Reechie			
45. Sources of Information Field observation City of Troy Miami Co. personal property				47. Organization F. Conaway & Assoc.			
				48. Date Recorded in Field 5/97			
				49. Revised by 50a. Date Revised			
				50b. Reviewed by			



PHOTO

MEMORANDUM

TO: City of Troy Planning Commission Members

FROM: Austin Eidemiller, Zoning Inspector

DATE: October 11, 2021

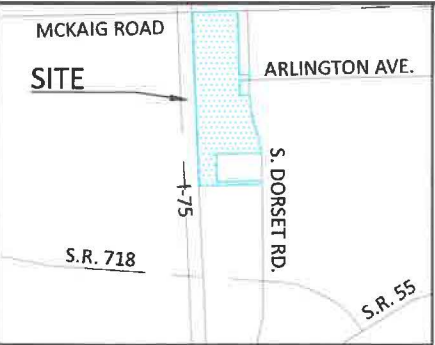
SUBJECT: Record Plan – Troy Christian Planned Development - PDR

Attached is a copy of the Record Plan for the Troy Christian Planned Development located at 700 S. Dorset Road.

The planned development process requires three steps for approval. The first step is the General Plan (Revised), which was previously approved by Planning Commission and City Council (O-43-2021). The second step is the Final Development Plan, which must be approved by Planning Commission before the final and third step of approving the Record Plan.

RECOMMENDATION:

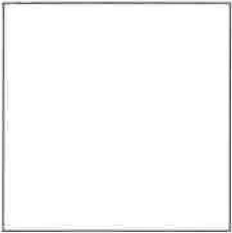
Staff recommends that Planning Commission provide a positive recommendation to City Council to accept the proposed Record Plan as they are in general accordance with the approved General Plan with the condition that Subdivision Regulations Final Plat Notes 1123.04 (b)(c) is added to the final plat prior to going to City Council.



RECORD PLAN OF INLOT _____

BEING A REPLAT OF INLOT 11393, INLOT 4955, INLOT 4956, AND
PART VACATED ARLINGTON AVENUE
SECTION 29, TOWN 5, RANGE 6E,
MIAMI COUNTY, CITY OF TROY, OHIO

VOLUME _____, PAGE _____
MIAMI COUNTY RECORDER'S
RECORD OF PLATS



FEE _____

PROPERTY:

BEING A REPLAT OF THE TRACTS CONVEYED TO TROY CHRISTIAN SCHOOLS, INC. AS FOLLOWS:

ALL OF INLOT 4955 CONVEYED IN 20210R-05533 AND BEING 0.178 ACRES
ALL OF INLOT 4956 CONVEYED IN 20200R-16262 AND BEING 0.201 ACRES
PART VACATED ARLINGTON AVENUE SHOWN IN PLAT BOOK 29, PAGE 9 AND BEING 0.144 ACRES
ALL OF INLOT 11393 CONVEYED IN 20200R-01108 AND BEING 24.862 ACRES BY SURVEY.

CITY OF TROY COUNCIL

AT A MEETING OF THE COUNCIL OF THE CITY OF
TROY, OHIO. HELD THIS _____ DAY OF _____, 202
THIS PLAT WAS APPROVED BY ORD. _____

MIAMI COUNTY RECORDER

BY DEPUTY RECORDER

APPROVED AND TRANSFERRED:

_____, 202

AUDITOR

BY DEPUTY AUDITOR

MAYOR

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

OWNERSHIP:

WE, THE UNDERSIGNED REPRESENTATIVES OF TROY CHRISTIAN SCHOOLS, INC. HEREBY APPROVE THIS REPLAT COMBINING OUR
PARCELS INTO ONE NEW LOT,

NAME

SIGNATURE

NAME

SIGNATURE

LIEN HOLDER:

WE, THE UNDERSIGNED BEING THE LIEN HOLDER OF THE
LAND INCLUDED IN THIS PLAT, DO HERREBY CONSENT TO
THE EXECUTION OF SAID PLAT AS SHOWN HEREON.

LIEN HOLDER

WRIGHT-PATT CREDIT UNION, INC.

PRINTED NAME OF AUTHORIZED REPRESENTATIVE

NOTARY:

STATE OF OHIO, COUNTY OF MIAMI, S.S:
BE IT REMEMBERED THAT ON THIS _____ DAY
OF _____, 202 BEFORE ME, A NOTARY
PUBLIC IN AND FOR THE STATE OF OHIO, PERSONALLY
CAME _____, AND
ACKNOWLEDGED THE SIGNING AND EXECUTION OF THE
REPLAT TO BE THEIR VOLUNTARY ACT AND DEED. IN
TESTIMONY WHEREOF, I HAVE SET MY HAND AND
OFFICIAL SEAL ON THE DAY AND DATE WRITTEN.

NOTARY PUBLIC IN AND FOR THE STATE OF OHIO
MY COMMISSION EXPIRES _____

CERTIFICATION

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY
ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE
MINIMUM STANDARD DETAIL REQUIREMENTS FOR BOUNDARY
SURVEYS, CHAPTER 4733, O.A.C. AND WAS PREPARED WITHOUT
THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO ANY
FACTS REVEALED BY SUCH.

KENNETH W. BOUTWELL
PROFESSIONAL SURVEYOR S-8211

PREPARED BY:

PRISM SURVEYS, LLC
1584 FAIRGROUND ROAD
XENIA, OH 45385
937-431-4755
INFO@OHIOSURVEYORS.COM

NOTARY:

STATE OF OHIO, COUNTY OF MIAMI, S.S:
BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 202 BEFORE ME, A NOTARY PUBLIC IN AND FOR
THE STATE OF OHIO, PERSONALLY CAME _____, AND ACKNOWLEDGED THE SIGNING AND EXECUTION
OF THE REPLAT TO BE THEIR VOLUNTARY ACT AND DEED. IN TESTIMONY WHEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL ON
THE DAY AND DATE WRITTEN.

NOTARY PUBLIC IN AND FOR THE STATE OF OHIO
MY COMMISSION EXPIRES _____

CITY OF TROY PLANNING COMMISSION

AT A MEETING OF THE PLANNING COMMISSION OF THE CITY OF TROY, OHIO, HELD THIS _____ DAY OF _____, 202 THIS REPLAT AND THE COMBINING OF TWO PARCELS INTO ONE LOT WAS REVIEWED AND
APPROVED.

CHAIRMAN

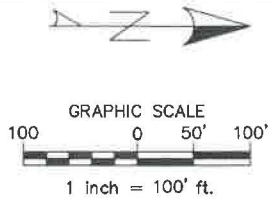
SECRETARY

RECORD PLAN OF INLOT

BEING A REPLAT OF INLOT 11393, INLOT 4955, INLOT 4956, AND
PART VACATED ARLINGTON AVENUE
SECTION 29, TOWN 5, RANGE 6E,
MIAMI COUNTY, CITY OF TROY, OHIO

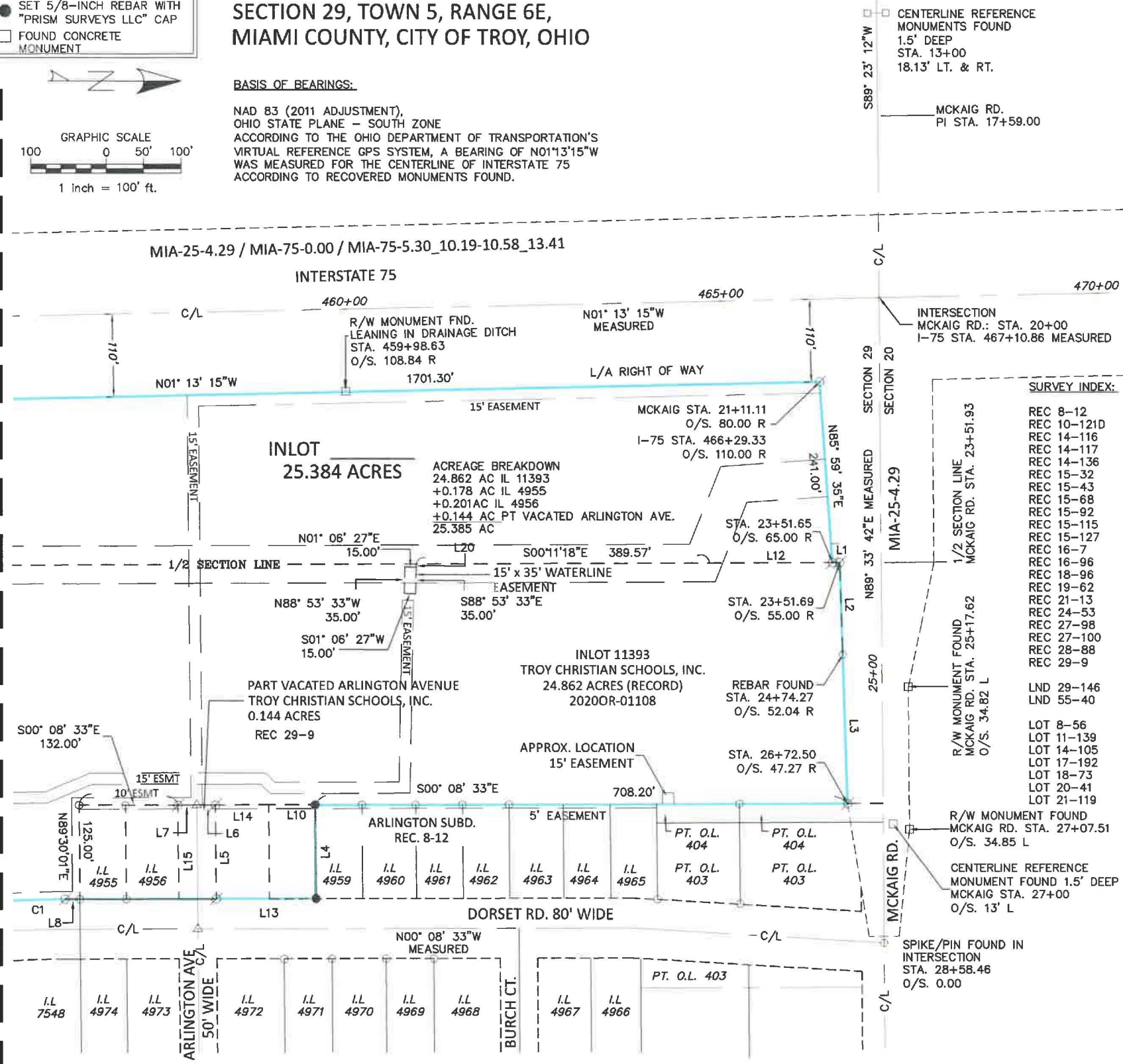
VOLUME ____, PAGE ____
MIAMI CO. RECORDER'S
RECORD OF PLATS

- REBAR FOUND
- △ MAGNETIC SURVEY NAIL SET
- ⊗ FOUND 5/8-INCH REBAR WITH "PRISM SURVEYS LLC" CAP
- SET 5/8-INCH REBAR WITH "PRISM SURVEYS LLC" CAP
- FOUND CONCRETE MONUMENT



BASIS OF BEARINGS:
NAD 83 (2011 ADJUSTMENT),
OHIO STATE PLANE - SOUTH ZONE
ACCORDING TO THE OHIO DEPARTMENT OF TRANSPORTATION'S
VIRTUAL REFERENCE GPS SYSTEM, A BEARING OF N01°13'15"W
WAS MEASURED FOR THE CENTERLINE OF INTERSTATE 75
ACCORDING TO RECOVERED MONUMENTS FOUND.

MATCHLINE - SEE SHEET 3



INTERSTATE 75 AND MCKAIG ROAD LOCATION NOTE:
THE OHIO DEPARTMENT OF TRANSPORTATION PROVIDED FIELD NOTES, PLATS AND CENTERLINE REFERENCE MONUMENT REPORTS FOR INTERSTATE 75 AND MCKAIG ROAD. MONUMENTS WERE RECOVERED AND MEASURED. THE CENTERLINE OF EACH ROAD WAS SURVEYED INDEPENDENTLY. THE STATIONS, OFFSETS AND BEARINGS SHOWN HEREON ARE ACCORDING TO THE MEASUREMENTS OBSERVED DURING THIS SURVEY.

AN ODOT CENTERLINE BEARING OF NORTH 01°13'00" WEST IS SHOWN OF RECORD ON THE RIGHT OF WAY PLAN. A BEARING OF NORTH 01°13'15" WEST WAS MEASURED DURING THIS SURVEY BASED ON THE RECOVERED MONUMENTS.

A BEARING OF NORTH 89°33'40" EAST IS SHOWN OF RECORD ON THE ODOT RIGHT OF WAY PLAN. A BEARING OF NORTH 89°33'42" EAST WAS MEASURED DURING THIS SURVEY BASED ON THE RECOVERED MONUMENTS.

DORSET ROAD RIGHT OF WAY ALIGNMENT:
REBAR WERE SEARCHED FOR ALONG BOTH SIDES OF DORSET ROAD BETWEEN MCKAIG ROAD AND S.R. 718. REBAR FOUND AND MEASUREMENTS TO THE CENTERLINE ALIGNMENT OF DORSET ROAD ARE SHOWN. THESE MEASUREMENTS WERE CHECKED AGAINST CURB SPLIT MEASUREMENTS. THE FIELD ALIGNMENT OF DORSET ROAD DIFFERS FROM THE RECORD ALIGNMENT IN REC. 14-117.

SURVEY INDEX:

- REC 8-12
- REC 10-121D
- REC 14-116
- REC 14-117
- REC 14-136
- REC 15-32
- REC 15-43
- REC 15-68
- REC 15-92
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- REC 21-13
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- REC 27-98
- REC 27-100
- REC 28-88
- REC 29-9
- LND 29-146
- LND 55-40
- LOT 8-56
- LOT 11-139
- LOT 14-105
- LOT 17-192
- LOT 18-73
- LOT 20-41
- LOT 21-119

Line Table		
Line #	Bearing	Length
L1	N00°11'18"W	10.00'
L2	N88°10'55"E	122.61'
L3	N88°10'55"E	198.29'
L4	N89°30'01"E	125.00'
L5	S89°30'01"W	125.00'
L6	S00°08'33"E	25.00'
L7	S00°08'33"E	25.00'
L8	S00°08'33"E	19.78'
L10	S00°08'33"E	62.00'
L12	N00°11'18"W	164.00'
L13	S00°08'33"E	132.00'
L14	S00°08'33"E	70.00'
L15	S89°30'01"W	165.00'
L20	N89°48'42"E	4.30'

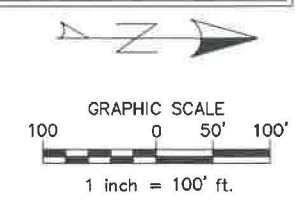
Curve Table	
CURVE 1	
RADIUS=1240.00'	
DELTA=14°56'33"	
L=323.39'	
BEAR=S07° 36' 50"E	
CHD=322.47'	

ALL EXISTING PARCEL / LOT LINES AND ANY EASEMENTS ALONG THESE LINES LOCATED WITHIN THE BOUNDARIES OF THIS REPLAT AS SHOWN, SHALL BE VACATED BY THE FILING OF THE REPLAT.

SHT. 2
OF 3

PREPARED BY:
PRISM SURVEYS, LLC
1584 FAIRGROUND ROAD
XENIA, OH 45385
937-431-4755
INFO@OHIOSURVEYORS.COM

○ REBAR FOUND
△ MAGNETIC SURVEY NAIL SET
○ FOUND 5/8-INCH REBAR WITH "PRISM SURVEYS LLC" CAP
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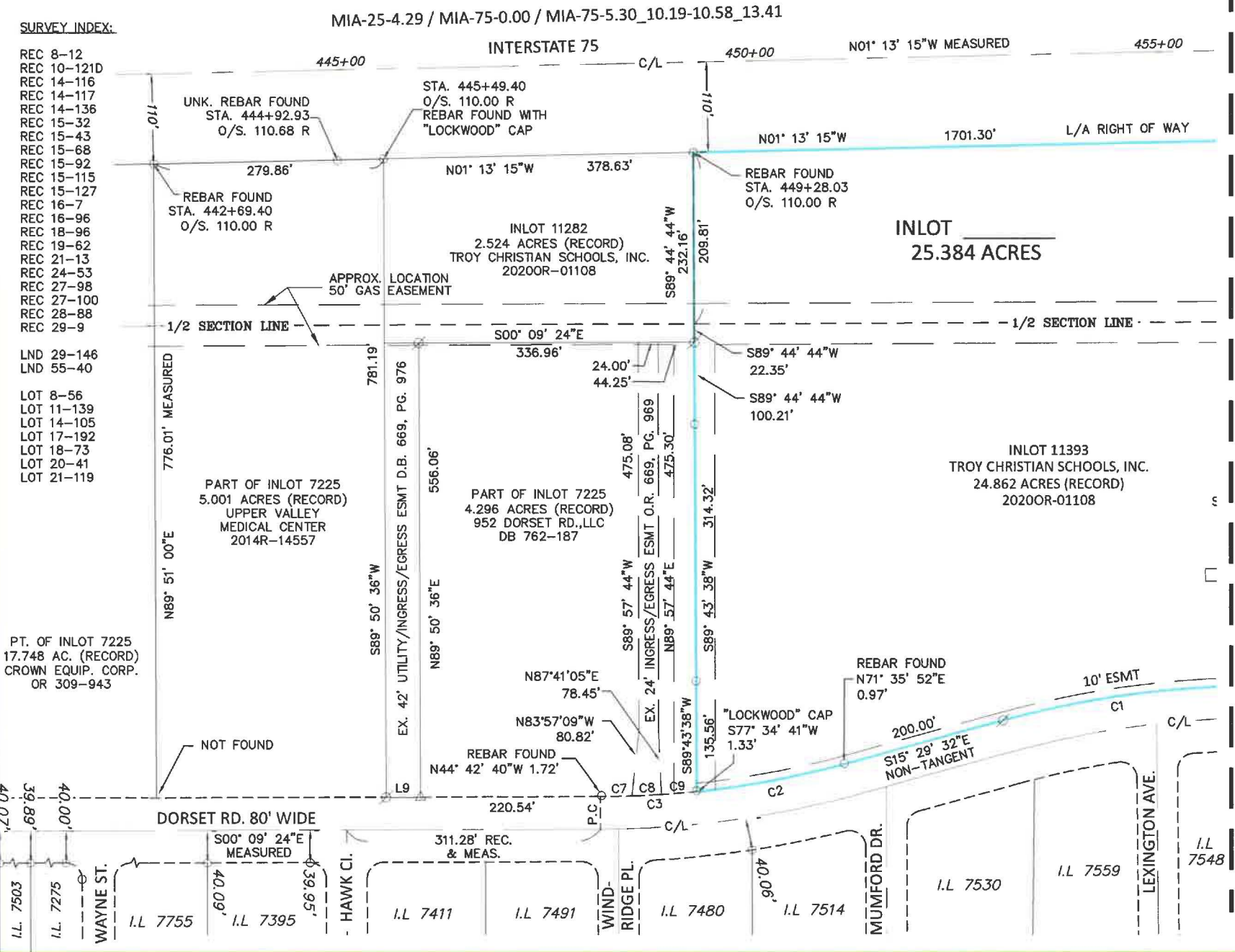
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MATCHLINE - SEE SHEET 2

Line Table		
Line #	Bearing	Length
L9	S00°09'24"E	42.00'

Curve Table		Curve Table	
CURVE 1 RADIUS=1240.00' DELTA=14°56'33" L=323.39' BEAR=S07°36'50"E CHD=322.47'		CURVE 7 RADIUS=1160.00 DELTA=01°53'57" L=38.45 BEAR=N01°06'23"W CHD=38.45	
CURVE 2 RADIUS=1160.00' DELTA=09°06'22" L=184.36' BEAR=S 10°31'24" E CHD=184.17'		CURVE 8 RADIUS=1160.00' DELTA=01°45'54" L=35.73' BEAR=N02°56'18"W CHD=35.73'	
CURVE 3 RADIUS=1160.00' DELTA=05°48'49" L=117.70' BEAR=N03°03'49"W CHD=117.65'		CURVE 9 RADIUS=1160.00' DELTA=02°08'58" L=43.52' BEAR=N04°53'44"W CHD=43.52'	

PREPARED BY:

PRISM SURVEYS, LLC
1584 FAIRGROUND ROAD
XENIA, OH 45385
937-431-4755
INFO@OHIOSURVEYORS.COM

SHT. 3
OF 3

MEMORANDUM

TO: City of Troy Planning Commission
FROM: Development Staff
DATE: October 11, 2021
SUBJECT: Tavern Building - 112-118 W. Main Street

I wanted to provide you with updated information that has been received since the last Planning Commission meeting held on September 22, 2021. The list of updates includes: legal opinion from the City of Troy Law Director regarding a certificate of appropriateness application; statement from the Director of the Miami County Development Department; information regarding the interest of the Troy-Miami County Public Library in the property; and information verifying the validity of the current purchase contract on the building.

Legal Opinion:

The Planning Commission members requested Grant Kerber, City of Troy Law Director, to provide a legal opinion regarding the application for a certificate of appropriateness regarding the property located at 112-118 West Main Street. The opinion authored by the Law Director has been attached to this memo (exhibit A).

Miami County Department of Development:

On Wednesday, October 6, 2021, Richard Osgood, Miami County Department of Development Director, emailed city staff with the following request:

"Please help communicate to the public, city staff, and planning commission that Adjudication Order #0017 does not require demolition to comply with the order. The building is deemed unsafe only as related to occupancy of the building, meaning in order for the building official (Rob) to issue certificate(s) of occupancy for all or part(s) of the building, appropriate construction documents must be submitted and approved, required inspections must be passed, and final approval of occupancy issued."

The email authored by the Miami County Department of Development Director has been attached to this memo. (exhibit B)

Since that email, I have spoken to Mr. Osgood, who has confirmed that the building is unsafe and an immediate danger to the public safety requiring the need for sidewalk barricading and eviction of all tenants.

Troy-Miami County Public Library:

Attached is an email from Rochelle Via, Director, stating it is the intent to submit a purchase offer on the building. I have confirmed with the owner's representative that an offer, which is substantially less than the asking price, has been received. (exhibit C)

Purchase Contract:

Attached is a letter submitted by the owner's broker stating that the purchase contract is valid and binding. Further, that contract includes a 180-day due diligence period which continues in force. (exhibit D)

Additional information may be forwarded to you prior to Monday's Planning Commission meeting. In the meantime, I am available for questions and can be contacted by email at tim.davis@troyohio.gov.



Exhibit A
Grant D. Kerber
Director of Law
215 W. Water Street
Troy, OH 45373
Telephone: (937) 339-1500
Email: grant.kerber@troyohio.gov
www.troyohio.gov

September 30, 2021

Troy Planning Commission
100 S. Market
Troy, Ohio 45373

Re: Application to Demolish 112-118 West Main Street

Dear Members,

It is my understanding that I have been requested to provide a legal opinion regarding the application for a certificate of appropriateness to permit the demolition of the property located at 112-118. Given that this property is located within the confines of the Historic Preservation Overlay District, the applicant must first obtain a certificate of appropriateness from the Troy Planning Commission. When considering an application for a certificate of appropriateness for a proposed demolition of a building in the Historic Preservation Overlay District, Troy Code Ordinance 1143.22(f)(10)(B) establishes the standards that the applicant must satisfy by clear evidence and reads as follows:

(10) STANDARDS FOR DEMOLITION OR REMOVAL

- A. Demolition of an historic or contributing property or architectural feature constitutes an irreplaceable loss to the quality and character of a listed property or district. No person shall demolish any structure or architectural feature in a listed property or district until a certificate of appropriateness of such demolition has been authorized by the Planning Commission and issued by the Zoning Administrator.
1. An application for a certificate of appropriateness must be made to the Zoning Administrator setting forth the intent to demolish such structure or architectural feature together with a written statement that such structure or feature is not historically or architecturally significant or otherwise worthy of preservation and the reasons the applicant is seeking to demolish the same.



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- B. A demolition permit shall not be issued unless accompanied by an approved certificate of appropriateness. The Planning Commission may only approve a certificate of appropriateness if:
1. The applicant has given 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.
 2. The applicant has submitted a rescue plan that mitigates any adverse effects of the proposed removal upon the property, the streetscape, and the historic district through:
 - (I) New construction that is consistent with the Architectural Design Standards and which contributes to the architectural or historic integrity of the historic district.
 - (II) Exterior rehabilitation or restoration of the remaining structure that is consistent with the architectural design standards and which contributes to the architectural or historic integrity of the streetscape.
 - (III) Landscaping the parcel consistent with the Architectural Design Standards, providing for its care as common space for the benefit of the general public and relocating the remaining structure in an



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appropriate setting or preserving of the salvageable architectural materials.

- (IV) Posting a performance bond with the Zoning Administrator sufficient to insure completion of the reuse plan or has requested and received a waiver of these requirements from the Planning Commission.
 - (V) If no alternatives or mitigation is possible and the undertaking's benefits in relation to the significance of the property justify demolition as an acceptable loss, the Planning Commission may consider other appropriate reuse plans.
3. If seeking to demolish an entire structure or major portion thereof, the applicant shall also submit with the application, definite plans for reuse of the site, evidence of commitment for funding of the new project, a time frame for project initiation and completion and an assessment of the effect such plans will have on the character and integrity of the listed property or district.
- (I) The Planning Commission will be guided in the decision thereon by balancing the historic, architectural and cultural value of the structure or architectural feature and the purposes of this Section and of the Section pertinent to the subject property against applicant's proof of any unusual and compelling circumstances or substantial economic hardship in retaining the structure or architectural feature and the merit of the replacement project.
 - (II) Upon the Planning Commission's determination that any such structure or architectural feature is not historically or architecturally significant or otherwise worthy of preservation, a certificate of appropriateness will be issued. The applicant may then apply for and be issued a demolition permit.

(11) CRITERIA TO DETERMINE SUBSTANTIAL ECONOMIC HARDSHIP.

All of the following criteria shall be considered by all applicants and forwarded to Planning Commission to determine existence of a substantial economic hardship:



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- A. Denial of a certificate will result in a substantial reduction in the economic value of the property.
- B. The square foot cost of meeting the minimum building code would exceed the square foot market value of similarly used and approved structures in the historic district as verified by a certified architect or engineer.
- C. No reasonable alternative exists consistent with the architectural standards and guidelines for the property.

(12) CRITERIA TO DETERMINE UNUSUAL AND COMPELLING CIRCUMSTANCES.

All of the following criteria shall be considered by all applicants and forwarded to Planning Commission to determine existence of unusual and compelling circumstances:

- A. The property has little or no historical and architectural significance.
- B. The property cannot be reasonably maintained in a manner consistent with the pertinent architectural standards and guidelines.
- C. No reasonable means of saving the property from deterioration, demolition or collapse other than applicant's proposal exists.

Ultimately, the Planning Commission serves in a quasi-judicial function. It determines if the facts presented by the applicant satisfy at least two criteria as set forth above. Additionally, TCO 1143.22 sets forth additional requirements upon applicants. This involves the adequacy and sufficiency of the revise plan and mitigation of the site/structure. I could provide you with my personal opinion in this regard but that would be inappropriate. The Planning Commission must independently evaluate all evidence placed before it and attach such weight to this as it deems appropriate.

At the recent Planning Commission meeting, concerns were raised about potential damage to adjacent buildings. From my review of the meeting and application, no clear testimony was provided about ownership of the walls shared or adjacent to the neighboring buildings. As you know, the building proposed to be demolished is a large three-story building. In the past, it was not uncommon for adjacent property owners to erect buildings that shared a common wall. Today, such a practice would certainly involve the parties signing a formal party wall agreement. In such an agreement, the



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parties would set forth the mutual duties and obligations concerning the use, ownership, repairs, and maintenance of the shared wall. In the absence of such an agreement, common law establishes the rights, duties and ownership of a party wall.

The issue of a common or party wall becomes important with regard to the scope of the certificate of appropriateness. In the event that it is approved, the building described in the application, 112-118 West Main Street, may contain walls that are “co-owned” by a neighboring property owner. Additionally, the neighboring property owners may have rights to the use of parts of the building sought to be demolished. In the event that the Planning Commission finds by clear evidence that the proposed demolition is appropriate, such certificate should not extend to any part of the building in which the neighboring property owners possess legal rights.

Given the possibility that 112-118 West Main Street may share a wall(s) neighboring properties, if a certificate of appropriation is approved, the record should state that such certificate does not extend to, or authorize, the demolition or removal of any party or common wall. Even with the Planning Commission issuing a certificate of appropriateness, the applicant may have other duties imposed by contract or law to its neighboring property owners. These could include notice provisions and/or duties to repair, weatherproof, or otherwise remediate any shared wall. Furthermore, the demolition of this building will expose walls. The exposed walls could potentially present safety concerns or aesthetic issues. The Planning Commission may desire to impose conditions upon the condition/appearance/remediation of any walls exposed due to demolition.

1143.22(f)(10)(b)(2) requires that an applicant seeking demolition of a structure in the historic overlay district submit a rescue plan that mitigates any adverse effects upon the property, streetscape, and the historic district. The applicant has stated that “special care will be taken throughout the demolition”. However, the application has not set forth what remediation efforts will be taken to address the newly exposed walls of the adjoining buildings. To prevent issues such as weather exposure to newly exposed walls and/or unsightly conditions, the applicant should be required to set forth, in detail, its intentions in this regard and the Planning Commission should make this a requirement of any certificate of appropriateness. Further, the applicant should set forth how it intends to comply with its obligations to neighboring property owners.

In the event that a certificate of appropriateness is issued, the Zoning Administrator is required to secure a bond in an amount sufficient to insure completion of the reuse plan. So long as the Zoning Administration uses reasonable judgment to justify the amount of the bond. I see no liability issues for the City. If granted, I will provide guidance to assist in determining a sufficient bond amount.



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Turning to assertions that the City could be liable for issuing a demolition permit, I see little concern in this regard. The Planning Commission should weigh the factors set forth in 1143.22 and determine if the reuse and mitigation plans are adequate and sufficient. If granted, the City will not be mandating demolition. It would only be authorizing the demolition as discussed herein. The City should demand a complete reuse plan and make reasonable efforts to secure the appropriate bond amount.

In summary, the Planning Commission should evaluate the application applicant has given clear evidence to determine if demolition is permissible. The Planning Commission shall also determine if the applicant has provided a reuse plan that adequately mitigates any adverse effects of the demolition.

As always, I am available for any questions on an individual bases.

Sincerely,

Grant D. Kerber
TROY CITY LAW DIRECTOR

GDK/pm

From: Richard Osgood <ROsgood@MiamiCountyOhio.gov>
Sent: Wednesday, October 6, 2021 3:52 PM
To: Tim Davis
Cc: Wade H. Westfall; Rob England; Nancy Burr; Charlotte Colley
Subject: FW: Tavern Building Adjudication
Attachments: 118 W Main Adj order Edited July 21.pdf

Good afternoon, Tim,

Please help communicate to the public, city staff, and planning commission that Adjudication Order #0017 does not require demolition to comply with the order. The building is deemed unsafe only as related to occupancy of the building, meaning in order for the building official (Rob) to issue certificate(s) of occupancy for all or part(s) of the building, appropriate construction documents must be submitted and approved, required inspections must be passed, and final approval of occupancy issued.

I watched the Planning Commission hearing on YouTube (the first hour) and heard mention of “unsafe building” as criteria for approval of a Troy demolition permit. I want to repeat that “Unsafe Building” in the context of Adjudication Order #0017 is for re-occupancy only, and not requiring the building to be razed. The second speaker (the woman who’s name I forget) made this same clarification.

Please feel free to invite me, Rob, or both of us to any future public meetings with this item – or any other similar item – on the agenda. We are very happy to participate and help resolve any confusion.

With appreciation,

Richard Osgood, Director
Miami County Department of Development
937-440-5455
<https://www.miamicountymomentum.com/>





MIAMI COUNTY DEPARTMENT OF DEVELOPMENT

Serving Darke, Mercer Shelby & Auglaize Counties

Richard Osgood
Director

Adjudication Order #0017

Ohio Building Code, Section 109
09/28/2020

Date:

Project:

Edited 7/9/2021

Owner/Owner's Authorized Agent:

UNSAFE BUILDING
112-118 W MAIN ST
Randy Kimmel
TROY, OHIO 45373

Please see items on Non-Compliance below.

Item#	OBC Section	Issue of Non-Compliance	Action required
1	109.4 108.6.3	Unsafe Building / Vacate building until orders are lifted or resolved per the CBO.	Unsafe conditions related to public safety must be resolved within 45 days. Unsafe conditions related to occupants inside structure must be resolved before occupancy. Rob England 937-440-8121

You have a right to appeal this decision. If you choose to appeal, this letter is to be used as an adjudication order pursuant to OBC Section 109. Please notify our office of your appeals board request. You have the right to be represented by counsel, present arguments or contentions orally or in writing, and present evidence and examine witnesses appearing for or against you. in order to appeal, you must file a request within 30 days of the mailing of this notice to:

The Ohio Board of Building Appeals P.O. Box 4009
6606 Tussing Road
Reynoldsburg, Ohio 43068-9009
Phone (614) 644-2616

If an appeal is waived, failure by the owner to respond to the order to comply per OBC 109.4 could result in prosecution as provided for in section 3791.04 of the Ohio Revised Code.

Building Official:

Rob England BO, Cert # 425

HOME. GROWN. GREAT.

web www.miamicountyohio.gov
visit Hobart Center for County Government
510 W. Water St., Suite 120 • Troy, Ohio 45373
phone 937.440.8121
fax 937.440.8124

Sue Knight

From: Rachelle Via <rvia@tmcpl.org>
Sent: Thursday, October 07, 2021 8:58 AM
To: Sue Knight
Subject: RE: Next PC Meeting

Troy-Miami County Public Library Board of Trustees voted 5-0 to make an offer on the Randolph Building at 112-118 W. Main St., Troy. Ben Redick should be receiving the offer today or tomorrow at the latest.

The library would use the building to expand on its current services creating meeting rooms with teleconferencing capabilities; a computer lab; a makerspace; and an entrepreneurs center for local business owners.

Please share with the planning commission members.

Rachelle Via
Director | Troy-Miami County Public Library
419 W. Main St., Troy, Ohio 45373
937 703 4275 | rvia@tmcpl.org | tmcpl.org





3050 Tipp-Cowlesville Road • Tipp City, OH 45371
Phone 937-339-2300 • FAX 937-339-8051 • www.brunsrealty.com

October 7, 2021

Tim Davis, Director of Planning and Zoning
City of Troy
102 S. Market St.
Troy, OH 45373

RE: Contract to Purchase on 112-118 W. Main St., Troy, OH

Tim,

I wanted to send this letter clarifying the status of the property located at 112-118 W. Main St. as it appeared to me that some individuals may have been confused. In early September we entered into a valid, binding purchase contract for the property. That purchase contract includes a 180-day due diligence period which is still in force as of the date of this letter. As you may or may not know real estate brokers in Ohio are governed by a Canon of Ethics and rules within the Ohio Revised Code that prohibit us from transmitting false or misleading information to clients and to the public.

I hope this information helps clear up any misunderstandings that anyone may have had with regards to the status of the property referenced above.

Best Regards,

Benjamin Redick, Principal Broker