

A regular meeting of the Troy Planning Commission was held in Council Chambers, City Hall on Wednesday, January 26, 2022 at 3:30 PM with Vice-Chairman James A. McGarry presiding. ATTENDING: Members – Titterington, Ehrlich, McGarry, Wolke, Oda and Westmeyer – Development Director Davis, Zoning Inspectors Eidemiller and Bruner.

APPROVAL OF MINUTES: Upon motion of Mr. Titterington, seconded by Mrs. Ehrlich, the minutes of the January 12, 2022 meeting were approved by unanimous vote.

DOWNTOWN RIVERFRONT OVERLAY (DR-O) DISTRICT APPLICATION FOR 112-118 W. MAIN STREET; OWNER 116 W MAIN LLC (RANDY KIMMEL) – SECOND READING AND PUBLIC HEARING; HISTORIC DISTRICT APPLICATION FOR 112-118 W. MAIN STREET.

A. DR-O (Downtown Riverfront-Overlay) District Application for 112-118 W. Main Street

Owner/Applicant: 116 W Main LLC

-Public Hearing – related to a new construction having a primary height of 50’ and a height of 53’ for the rear of the structure containing the elevator shaft. The underlying B-3 Zoning District allows for a maximum height of 35’.

Staff Report: The following report was submitted:

“At the January 12, 2022 Planning Commission meeting, an introduction to the requested Downtown Riverfront Overlay (DR-O) for the proposed development at 112-118 W. Main Street was reviewed. The DR-O was requested due to the height of the proposed structure exceeding the maximum allowance of the B-3 Central Business District. The proposed structure height is primarily 50’ with the rear structure height at 53’ due to the elevator shaft. The B-3 Central Business District permits a height of 35’.

As stated in section 1143.25 of City of Troy Zoning Code, Planning Commission shall review all DR-O applications and shall grant, modify, or deny/and or recommend the denial, or modifications of such application based upon the following criteria:

1. To prevent hazards to the health and safety of the public and of all occupants of improved real property.
2. To assure adequate light, air and convenience of access for all properties.
3. To promote the delivery of public services such as utilities, streets, refuse collection, emergency medical services, fire and police protection.
4. To provide for creatively designed single-use and mixed-use Planned Developments, and to preserve their character and vitality through ongoing regulatory supervision.
5. To assure, through an appropriate site plan review that the general, district and supplementary regulations of this Zoning Code are being followed in the design of each new site improvement or redevelopment.
6. To minimize adverse effects on traffic safety caused by development and certain land uses.
7. To minimize adverse effects on the environment resulting from development and certain land uses.
8. To facilitate the efficient and economical development and use of land and public facilities.
9. To allocate to each site development, rather than to the public, the maximum feasible portion of the infrastructure and operating costs which arise as a result of that development.
10. To fairly balance the interest of property owners and occupants in continuing their nonconforming land uses against the community interest in achieving full compliance with this Zoning Code.
11. To protect floodways and flood plains from development which increases the general risk of flooding or puts occupants of the development at risk.
12. To preserve and enhance property values.
13. To protect public and private water supplies, both in quality and quantity.
14. To promote the economic vitality of business and industry.
15. To direct particular land uses to the parcels of land best suited for them physically and in terms of access to highways and public services.
16. To enhance the predictability and profitability of private investments made in the City.
17. To continuously improve the aesthetic character of all parts of the City.

With the creation of the Downtown/Riverfront Overlay District, the intent is for the district to be applied when the conventional zoning requirements are inappropriate or the underlying zoning district is unduly restrictive or prevents the reuse of buildings or properties in downtown Troy. Looking at the surrounding streetscapes, the height request of this structure is compatible to existing nearby structure heights.

Utilizing the criteria intended to justify a DR-O application; you will find the proposed project will have a minimum effect on the environment and neighborhood, as several surrounding structures currently do not meet by the existing height maximum. In addition, the creative reuse of the property, positive economic impact, and improved overall aesthetics resulting from this development will benefit the neighborhood and downtown Troy.

REQUESTED ACTION:

Based upon the criteria used to determine the merits of the DR-O application, it is requested that Planning Commission provide a positive recommendation to City Council for the proposed DR-O application for the proposed development, based upon the following:

- The proposed development is new construction in the Historic District and while the new building is a product of its own time, it is compatible to the current and surrounding developments without exactly duplicating it; and
- The proposed development reflects a conscious effort to respect the architecture of the existing historical building in material, scale, proportion and style; and
- The proposed development improves the aesthetic character of the city; and
- The proposed request will enhance property values; and
- The proposed request provides a creatively designed development that preserves the character and vitality;
- The proposal follows the Comprehensive Plan and historic district requirements set forth by the Zoning Code if the DR-O is applied.”

Public Hearing:

At 3:35 p.m., Vice-Chairman McGarry declared open the Public Hearing on the DR-O application, related to a new construction having a primary height of 50’ and a height of 53’ for the rear of the structure containing the elevator shaft. The underlying B-3 Zoning District allows for a maximum height of 35’. The following commented:

-Ben Sutherly, President of Troy Historic Preservation Alliance, 110 ½ W. Main Street, in regard to the height of a replacement structure, asked for clarification and asked if the DR-O application denied would the Commission or Council allow demolition of the current building to proceed anyway if the appeal before the courts is unsuccessful.

-Mr. Titterington suggested the question has nothing to do with the DR-O application; a stay exists on the current building; and this application is only based on the appeal denied.

-Mr. Sutherly continued by asking that the matter be tabled as it is premature to consider it as an appeal on demolition is before the courts, that part of the appeal to the court is based on the rescue plan not meeting the zoning code, and he believes the court should make a ruling before the Commission considers the application.

-Mr. McGarry advised Mr. Sutherly that the comments were not related to the application.

-Mr. Sutherly continued that the questions were related and further requested that the Commission table the matter to avoid multiple appeals.

-Jeremy Tomb, Attorney, stated he is representing Cheryl Cheadle, an adjoining property owner who is present, representing adjoining property owner Evil Empire LLC, and representing Ben Sutherly and the Troy Historic Preservation Alliance, and he wished the record to reflect their presence. He stated the Commission bifurcated the proceedings to have the height issue first, that he is objecting to the proceedings as the Commission does not have the authority to consider the application, and the application should be tabled.

-Bradley Boehringer, 105 Crestwood Drive, stated he does believe the issue should be bifurcated because what is being considered is predicated on the building being demolished and a new building constructed and the demolition is now before the Court of Common Pleas, and does not believe the application be considered even if the Court permits the demolition, as Council has enacted a 180 day moratorium on demolitions in December, and the Commission is considering a decision on a building that may not be built without regard to Council's legislation.

-Mark Stemmer, 2864 Blackhorse Court, structural engineer for the owner, commented in looking at the reuse, in order to provide information detailing the reuse, he needs to know how tall the building can be so planning can occur and the owner define the reuse plan.

There being no further comments, at 3:45 p.m., Vice-Chairman McGarry closed the Public Hearing.

Recommendation to City Council regarding the DR-O Application:

A motion was made by Mr. Westmeyer, seconded by Mrs. Ehrlich, that the Troy Planning Commission has reviewed the application to apply the Downtown/Riverfront Overlay District to the property located at 112-118 West Main Street; that the Commission finds that the criteria under which the Planning Commission shall review said applications, as set forth in Section 1143.25(q) (1) (c) of the Zoning Code, is met by this application and, therefore, the Troy Planning Commission formally recommends that the application to apply the Downtown/Riverfront Overlay District to the property of 112-118 West Main Street (Parcel No. D08-001270) be approved as submitted.

MOTION PASSED, UNANIMOUS ROLL CALL VOTE

- B. Historic District Application for 112-118 W. Main Street, subject to the Court determining that the demolition of the current structure is to proceed.** Exterior alterations including but not limited to building façade, windows, setback, height, roof, historic plaque location, and exterior lighting.

Mr. Davis asked to provide some clarification before reviewing the report:

1. This is not an act on the demolition, it is a certificate of appropriateness for a new building.
2. Chairman Kappers had asked if the awning would be permanent, and it will be permanent, affixed to the building.
3. Chairman Kappers had asked about the awning material, which will be canvas.
4. Mr. Tomb had provided the Commission with an email regarding the appropriateness of considering the application while there is a judicial stay on the property before the court; staff contacted outside counsel and was advised to proceed unless the applicant wished to withdraw or table the application, and the applicant does not want to withdraw or table the application.
5. Regarding a comment that this is an incomplete application as it does not address behind the building; there is now a wall and paved courtyard behind the building, which will be removed and green space installed.
6. Regarding the bond, Mr. Tomb raised a question on the calculation for the bond, it was found that the calculation was in error and prior to the meeting, the applicant provided at \$2 Million Bond, which exceed the amount of bond required.

Staff Report: The following report was submitted:

“PROPOSAL:

The applicant requests the Planning Commission to review the proposal for a four-story new structure at 112-116 W. Main Street. The property is zoned B-3, Central Business District and is located in the middle of the block on the south side of W. Main Street between S. Cherry and S. Plum Street.

DISCUSSION:

The following is a breakdown of the proposed exterior features that are being requested. The project is subject to the historic review process by the Planning Commission and the approval of a Downtown Riverfront Overlay District:

- **Facade:** The exterior of the proposed building predominately consists of brick masonry Belden Bricks "Harvest Blend" with cast stone cornices and cast stone lintels "Portland 01". The ground floor consists of three entry points protected by Sunbrella Shade Fabric awnings "Black 4608-0000". Six brick columns will present a recessed look that is consistent with surrounding buildings in the historic district. Brick is the most common form of building material in the historic district and the darker color brick is appropriate to many of the larger buildings along W. Main Street and blends in with the surrounding facades while making the contributing features more visible.



- **Windows:** The proposed windows on the first-floor consist of aluminum clad storefront windows covered with a fabric awning. The second and third-floor windows are aluminum clad wooden windows "Classic white finish" with cast stone lintels "portland 01" and a cast stone sill below the window. The fourth-floor windows on the north elevation are aluminum clad wooden windows "Classic white finish" with circular cast stone lintels "portland 01". The building introduces different styles of windows all of which can be found throughout downtown and complement the existing building window style.



- **Setback:** The proposed building will have no front setback from W. Main St. and contains no side yard setback, and a 112' rear yard setback. The B-3 Central Business District does not require or establish minimum setbacks.
- **Height:** The building height is 53' from the grade to the top elevation of the elevator shaft at the highest elevation. The Zoning Code allows for a maximum height in the B-3 district as 35'. The Zoning Code allows for a DR-O height amendment in Section 1143.25. Surrounding buildings to the north and east are approximately the same size in height as the proposed building.
- **Roof:** The roof will consist EPDM or TPO rubber membrane, which is similar to many roofs in the downtown area. The roof will not be visible from the street level.
- **Exterior Lighting:** The proposal includes six gooseneck [Arliss Matte Black Outdoor Barn Light](#) on the first level of the building. The lights will be black and match the complementing color of the fabric.

The applicant will be present at the meeting to answer any additional questions on materials and architectural style of the proposed building.

Compatibility with the Historic District:

The application was reviewed for compatibility in scale, massing, proportion and façade treatment to the existing historic district. The existence of other area buildings with common exterior features shared by the proposed project indicates a conscious effort to blend in the general character of the neighborhood. The colors are neutral and the dark brick is a common theme throughout downtown. In addition, the proposed material consists of brick and stone, which again, is a common occurring theme throughout the historic district.

The building itself complements the block that it is proposed to be built within by mimicking the current structure in size and window style. In addition, the building is setback at the property line consistent with each building on the block. Attached is the proposed rendering compared to the current existing structure.

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 if a DR-O is applied.

RECOMMENDATION:

Staff recommends approving the proposed plan, based on the following:

- The proposed alteration does not detract from the historic integrity of the building;
- The proposed alterations restore the building and façade more to the original design than what's existing, while staying compatible with the surrounding streetscape environment;
- The proposed materials and colors are in keeping with the existing colors and the architectural style found throughout the Historic District.
- The DR-O application is approved, allowing for the height to exceed 35'. “

Discussion:

-Mr. Wolke noted that he had had asked that Mr. Kappers review the application and provide comments; staff answered the questions of Mr. Kappers regarding the canopy material and permanence; Mr. Kappers asked if the lintels would be limestone; and Mr. Kappers commented that the building does seem appropriate for the site.

-Mr. Stemmer stated the lintels would be made of cast stone, Cementous material to look like natural stone.

-Mr. Titterington asked about the area behind the building which Mr. Davis discussed, and Mr. Davis advised that the garage would be removed and what is now the courtyard will be greenspace – seed and straw

-There was a question regarding public comments. Mr. Titterington advised that the prior subject required a public hearing, and that the Commission does not generally consider public comments.

Request that Email be part of the Record:

-Mr. Tomb asked that his email be part of the record of the Commission meeting of this date. A motion was made by Mr. Titterington, seconded by Mr. Wolke, that Mr. Tomb's email be a part of the record of the January 26 Planning Commission Meeting.

MOTION PASSED, UNANIMOUS VOTE

Objection:

-Mr. Tomb indicated his objection as the action of the Commission is giving conditional approval on the conditional approval of the BZA, and the Ordinances do not provide for conditional approval. Mr. McGarry advised that the objection was noted.

Decision of the Planning Commission regarding the Historic District Application:

A motion was made by Mayor Oda, seconded by Mr. Westmeyer, that the Historic District Application for 112-118 W. Main Street be approved as submitted.

MOTION PASSED, UNANIMOUS VOTE

There being no further business, the meeting adjourned at 3:58 p.m. upon motion of Mr. Westmeyer, seconded by Mr. Titterington and approved by unanimous voice vote.

Respectfully submitted,

____Chairman

____Secretary

Mr. PT /wolke

Ob for rec

BZA gave inst – you are giving cond appro to the bzp cond approval and asked that the record reflect his objection as it his opoin
the commission does ord does not give condition

based on but not limited to the exact colors, materials, windows, lighting, doors as contained in the application, and based on
the findings of staff that

- The proposed alteration does not detract from the historic integrity of the building;
- The proposed alterations restore the building and façade more to the original design than what's existing, while staying compatible with the surrounding streetscape environment;
- The proposed materials and colors are in keeping with the existing colors and the architectural style found throughout the Historic District.
- The DR-O application is approved, allowing for the height to exceed 35'

There being no further business, the meeting adjourned at 3:58 p.m. upon motion of Mr. Westmeyer, seconded by Mr. Titterington and approved by unanimous voice vote.

Respectfully submitted,

Chairman

Secretary

Ben Suherly Tro His pres all 110 ½ W amin
In regard to approval of ht of proposed replae strudt, if ht rejectedb PC or Council woud City allow demo to proceed anyway if appeal before courts is unsuccessful, what approval or reject mean for hist dt.
PT do not know what with isse, stay is before court,
Ben reject dro public deserves to have clarity as to what means,

Troy his pre all ask appl be tabled, inapprop and prematuere to consider ht of repl bld because this is one of the isses beforecommon pleas ct as resce plan failed, etc. det bym bza.
Contention on appeal that rescue plan
Jim – issue is where or not torn down it is a matter of dr o allowing
Ben concern tht PC approves that would become other routes for appeal and do not want multiple items before court and court dec before making a formal decision.height

Jeremy Tomb, bifurdated, put
Bradley Boehringer, do not think bifurcated, you are consider what is under appeal to ct of common pleas. Even so there is mor and how make dec on something tht may not be built, if fails in ourt not honor moratoriumh
Pt about the heigh
Prediated on the previousl build
No regard for legils

Mark Stemer,
Reuse needs to be defined to move forward
Need to know how tall it can be before we can design and plan to move forward

Ed move / Sandy

Stay as appeal, spoke with outside Council and advised to proceed unless aplic withdraw or table , and applicant does n ot want to do either
Income appnow – behind the building, courtyard remoed and green space; it is area of 100'

Calc for bond orig bond 1.5M for cos=st; new bond \$2 mi rec priopr to meeting
PC did not indicate readog of detail

Wolke , oppor for kappers,

Read of kapper
Approp for site

Pt one of the clar of behind the building, area south of geenspace seed and straw, compare to what is there,
Tim – garage that runs south would not exist and all else green space
par
Jim mk – lintles – cast stone

Stemmer – material is ast done, cementojs base concete to look like natural stone

Asked about public comments - pt no general
Last was by the zoning code on dro

Mayor –

Jeremy want to make sure comments in email ar