

City of Detroit

Alton James
Chairperson
Lauren Hood, MCD
Vice Chair/Secretary

Marcell R. Todd, Jr.
Director

CITY PLANNING COMMISSION
208 Coleman A. Young Municipal Center
Detroit, Michigan 48226
Phone: (313) 224-6225 Fax: (313) 224-4336
e-mail: cpc@detroitmi.gov

Brenda Goss Andrews
Damion W. Ellis
David Esparza, AIA, LEED
Gregory Pawlowski
Frederick E. Russell, Jr.
Angy Webb
Henry Williams

TO: City Planning Commission

FROM: George A. Etheridge, Staff

RE: Request of Jerry Pattah, Timothy Pattah and Rodney Gappy to amend Article XVII, District Map 65 of the Detroit Zoning Ordinance (Chapter 50 of the 2019 Detroit City Code) by modifying the existing PD (Planned Development District) zoning classification established by ordinance No. 04-94 and later modified by ordinance No. 30-03, which includes the parcel commonly identified as 7910-7990 W. Outer Drive and is generally bounded by Thatcher Avenue to the north, Harlow Avenue, extended to the east, W. Outer Drive to the south and the Southfield Freeway north service drive to the west. **(RECOMMEND DENIAL)**

DATE: January 8, 2020

The City Planning Commission (CPC) held the statutorily required public hearing on the subject PD modification on August 1, 2019. Subsequent discussions regarding the timeliness and the appropriateness of the request before the Commission have been held regarding the permissibility of either an on-premises business sign or an off-premises advertising sign on the subject property taking into consideration pending changes to both Chapter 4 – Advertising, and Chapter 50 – Zoning, regarding the regulation of advertising and business signage.

On August 2, 2019, per the Commission’s request CPC staff submitted a memorandum to the Law Department requesting their opinion on three pertinent questions relative to the requested PD modification:

1. Can the CPC dismiss, or alternatively indefinitely table, an applicant’s petition because the subject matter of the petition is not ripe for consideration by the CPC?
2. Is it correct that even if the terms for the College Park Commons PD District are modified to accommodate the sign, it could not be permitted if not in compliance with applicable non-zoning sign regulations set forth in Chapter 4 of the City Code? And,
3. If the petition is revised to request operation of the sign solely for off-premises purposes, and the revised petition is ultimately approved, could the sign then display on-premises messages related to businesses located at the College Park Commons? And if so would the Sign be subject to applicable business signage regulations under Chapter 4 of the City Code?

A formal response to these questions has been returned by the Law Department and is attached for your review.

Subsequently, the petitioner has submitted a formal request, dated January 2, 2020 to amend their petition to request an off-premises advertising sign only, rather than a sign which would serve as both an on-premises business sign and an off-premises advertising sign.

BACKGROUND AND PROPOSAL

In April of 2019, the CPC received formal request from Jerry Pattah, Timothy Pattah and Rodney Gappy to amend Article XVII, District Map 65 of the Detroit Zoning Ordinance Chapter 50 of the 2019 Detroit City Code, by modifying the existing PD (Planned Development District) zoning classification established by ordinance No. 04-94 and later modified by ordinance No. 30-03, which includes the parcels commonly identified as 7910-7990 W. Outer Drive, generally bounded by Thatcher Avenue to the north, Harlow Avenue, extended to the east, W. Outer Drive to the south and the Southfield Freeway northbound service drive to the west.

Ordinance No. 04-94 allowed for the construction of a 81,071 square foot retail building on the subject site in 1994. Ordinance No. 30-03 allowed for the construction of an additional 17,752 square feet of retail space. Both ordinances specify that uses allowed on the site be restricted to uses permitted as a matter of right in the B3 (Shopping District) zoning district, and, fast-food and carryout restaurants. The proposed modification seeks to allow for the establishment of a two-sided monopole digital billboard, measuring 70 feet in height with a total of approximately 1,363 additional square feet of signage. The sign is proposed to have a sign face of 672 square feet (14' x 48').

Per the amended petition, the proposed digital billboard is anticipated to function as an off-premises advertising sign only. An advertising sign is subject to the regulatory provisions of Chapter 4 - Advertising.

City of Detroit laws governing off-premises advertising signs are stated in Chapter 50 of the 2019 Detroit City Code. Chapter 4 makes no provisions for variances to be granted.

City of Detroit laws governing off-premises advertising signs are stated in Chapter 50 of the 2019 Detroit City Code (Zoning) and by the Planned Development Ordinances that established and modified the PD zoning (Ord. Nos. 4-94, 40-98, and 30-03). The latter point is germane and goes to the center of the petitioner's request. The Commission through the utilization of a PD district has the latitude to recommend flexibility and relax any standard or regulation listed in Chapter 50, Zoning, as long as it is in conformance with the Master Plan of Policies, or not otherwise prohibited.

Ordinance No. 30-03 (College Park PD) includes the following condition: "3.A. That uses allowed on the site be restricted to uses permitted as a matter of right in the B3 (shopping district) zoning district and fast-food and carryout restaurants." The B3 zoning district does not permit off-premises advertising signs on a by-right basis as per Sec. 50-9-84(3) and Sec. 50-6-87.

Sec. 50-6-87 specifies the regulations for advertising signs as a conditional land use in certain districts, and states in part:

Sec. 50-6-87. Advertising signs as a conditional land use in certain districts.

In order to promote greater traffic safety, to enhance environmental aesthetics, and to ensure greater public participation in decisions over the placement of advertising signs in the City of Detroit, advertising signs are hereby designated as a conditional land use in the B2, B3, B4, M1, M2, and W1 Districts. No advertising sign shall be approved by the Buildings and Safety Engineering Department or the Board of Zoning Appeals on appeal, unless all of the findings are made pursuant to the standards in ARTICLE III, DIVISION 7, Subdivision C of this Chapter in addition to the following two (2) advertising sign standards:

- (1) That, based on the recommendation of the Department of Public Works Traffic Engineering Division, the placement of the advertising sign on the zoning lot will not impair the traffic safety of motorists and pedestrians; and
- (2) That, based on the recommendation of the Planning and Development Department, the placement of the advertising sign on the zoning lot will not be detrimental to environmental aesthetics by obstructing views of significant architectural or natural features.

In addition to the B3 District specification, staff notes that advertising signs are prohibited within five hundred feet (500'), measured linearly, of any school site, public playground, or public park. At present there are two high schools located within 150 feet (Old Redford Academy High School) and 260 feet (Cornerstone Health & Technology High School) respectively. Sec. 50-6-77 specifies the spacing requirements for advertising signs from schools, playgrounds, parks, and historic districts, and states in part:

Sec. 50-6-77. Spacing from schools, playgrounds, parks, and historic districts.

Advertising signs shall not be permitted:

- (1) Within five hundred feet (500'), measured linearly, of any school site, public playground, or public park;

Additionally, Freeway advertising signs are limited to 60 feet in height where greater than 40 radial feet away from land zoned residential as specified in Sec. 50-6-48. The proposed sign would be 70 feet in height in direct violation of this provision. Freeway advertising signs are also required to be at least 125 feet from the edge of the traveled roadway (Sec. 61-6-69); the proposed sign would be only 66 feet away from the edge of M-39 (Southfield Freeway).

PLANNING CONSIDERATIONS

Surrounding Zoning and Land Use

The zoning classification and land uses surrounding the subject area are as follows:

- | | |
|--------|---|
| North: | R1; Single-family residential. |
| East: | PD; developed as the Henry Ford walk-in Clinic & Pharmacy – Detroit Northwest. |
| South: | R1; developed as Old Redford Academy High School located within 150 ft of the subject property. |
| West: | R6; developed as Wayne County Community College – Northwest Campus. |

Master Plan Consistency

The subject site is located within the Greenfield area of Neighborhood Cluster 9 of the Detroit Master Plan of Policies. The Future Land Use map for this area shows “Retail Center” for the subject property. CPC staff has submitted a letter to the Planning and Development Department (P&DD) requesting its comments regarding this proposal.

Community Input

Over the course of the past five years, several efforts have been made to erect the proposed digital billboard. A number of consultants have been retained by the petitioners, who have reached out to surrounding institutions, community groups and associations to solicit support. Chiefly among those contacted is the College Park Improvement Association, Greenhouse Apartments, and Fellowship Chapel.

While the College Park Improvement Association has been asked to provide a letter of support in this regard, there is a split among the membership as it relates to this proposal. Staff has attended a number of meetings where the proposed digital sign was discussed, and has articulated previous objections and obstacles associated with this request.

To date, all of the written documentation submitted by the petitioner indicating community support is for support of additional on-premises business signage to help bolster activity at the College Park Commons.

Site Plan

Despite the deficiencies in the proposal, CPC staff has reviewed the proposed plans as submitted by the petitioner in conjunction with the criteria as set forth in the Zoning Ordinance under Sec. 50-3-206 “*Modification of approved final site plans.*” There are five (5) determining factors which distinguish a minor from a major modification the PD.

- (1) A change in the character of the development

Staff is of the opinion that the proposed change to erect a 70 foot monopole with a two-sided 672 square foot digital billboard would change the character of the development by drastically changing the aesthetics of the site. The current PD District established by Ordinance No. 04-94 allows only those uses permitted by-right in the B3 (Shopping District) zoning classification. The land use of “billboard” is not permitted by-right in the B3 zoning classification.

- (2) An increase in the ratio of gross floor area to zoning lot area in excess of five percent (5%)

The developer proposes to develop a footprint approximately 16 square feet, which would not meet this criterion.

- (3) An increase in coverage by structure, unless justified by changes in other factors

As previously stated, the development of a 16 square foot area would not increase the total development footprint.

- (4) A reduction in approved open space or off-street parking and loading space unless justified by change in other factors

The proposed development would not result in the loss of any off-street parking spaces.

- (5) The creation of or increase in injurious effects to adjacent or contiguous land uses.

It is anticipated that the proposed development will contribute to light pollution in a residential neighborhood and affect the aesthetics of the community. Staff notes that no traffic study was conducted by the Department of Public Works – Traffic Engineering Division as required under the current provisions of Chapter 4 – Advertising.

Additionally, no recommendation in support of this request has been issued by the Department of Public Works – Traffic Engineering Division as required under the current provisions of Chapter 4 – Advertising.

Sec. 50-6-89. – Signs and billboards near freeways; states in part:

“No display sign or display structure requiring a permit under Chapter 8, Article II, of this Code, Building Code, shall be erected in the following situations or with the following features:

- (1) Within 125 feet of the edge of the traveled roadway of any freeway, or interchange ramps between freeways used by traffic facing the display side of such sign or structure, or within 25 feet of the right-of-way line of any freeway which, for the purpose of this section, shall be the property line separating abutting privately owned property from the freeway or service drive, street or alley immediately adjacent thereto, whichever distance is greater, when the display matter can be seen by traffic traveling on the freeway or interchange ramp, except that these distances shall not apply to signs which pertain to the business of the occupants of the building upon which the sign is mounted, where in the opinion of the Department of Public Works Traffic Engineering Division, such sign would not be in conflict with the intent and purposes of this section...”

PD ordinance conditions and modifications

The April 1994 ordinance which established the PD District and authorized the construction of the Shopping Center was approved with seven conditions. Among the conditions approved is condition no. 1(a), which states in part:

“installation of signage along the Southfield Freeway Service Drive at Thatcher Avenue indicating “No Right Turn to Through Traffic” and placement of signage along the freeway service drive between McNichols and West Outer Drive indicating directions to the shopping center.”

Staff would note that this condition was never acted upon by either the previous or current owner. The petitioner indicated in their initial application that the primary reasoning behind this request is to draw business to their location. Way-finding markers and signage at the street level are encouraged in this regard.

To date, staff has received no objections to the proposed PD modification via mail, however one call in opposition to the proposed change in use has been received.

CONCLUSION

It is the opinion of the CPC staff that given the applicant's deficiencies as outlined above, this request is contrary to the spirit and intent of the authorizing ordinance, which established this development in a primarily residential neighborhood. Given the proposed development's inconsistencies with the regulatory setback requirements of Chapter 50 pertaining to billboards and their proximity to schools, as well as, to freeways, and traveled right-of-ways, and the proposed excess height and square footage of the proposed billboard, it is staff determination that this request for the major modification of the PD should be denied.

Attachment

cc: Katy Trudeau, Deputy Director P&DD
Karen Gage, P&DD
Russell Baltimore, P&DD
David Bell, Director, BSEED
Lawrence Garcia, Corporation Counsel