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TO: City Planning Commission

FROM: Christopher Gulock, AICP, Staff

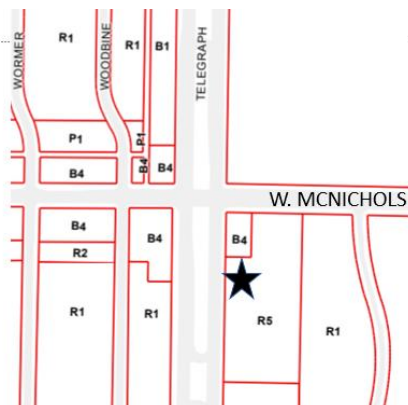
RE: **The request of the Telegraph Musical Co, LLC and the Detroit City Planning Commission staff to rezone 16890 and 16920 Telegraph Road and 23861 and 23871 West McNichols Road from a R5 (Medium Density Residential) zoning classification to a B4 (General Business) zoning classification**

DATE: October 1, 2021

On October 7, 2021, the City Planning Commission (CPC) is scheduled to hold a public hearing on the request of the Telegraph Musical Co, LLC (TMC) and the City Planning Commission staff to amend Article XVII, Section 50-17-75, District Map No. 73 of the 2019 Detroit City Code, Chapter 50, Zoning, to show a B4 (General Business District) zoning classification where a R5 (Medium Density Residential District) zoning classification is currently shown at 16890 and 16920 Telegraph Road and 23861 and 23871 West McNichols Road. The subject rezoning request is generally located on the east side of Telegraph south of West McNichols. The location of the proposed rezoning is indicated as the shaded area on the attached public hearing notice.

BACKGROUND AND REQUEST

The east side of Telegraph, south of West McNichols, is zoned R5 except for the existing gas station at the corner, 23891 Telegraph, which is zoned B4. The existing zoning map for this area is shown below.



TMC is the owner of 16890 Telegraph Road – highlighted in red on the map below. This site presently contains a one-story vacant commercial building formerly occupied by a nightclub called The Jazz Club. The Jazz Club LLC, a related party, has been working since 2016 to redevelop the site as a medical marijuana caregiver center and retail space.



Site background information for 16890 Telegraph, in part provided by the petitioner, includes the following:

Land Use History of the Site

- 1940 - 16890 Telegraph and surrounding land on east side of Telegraph south of W. McNichols was originally zoned R1 (Single-Family Residential)
- In 1949, the corner gas station at 23891 W. McNichols was rezoned from R1 to B2 (35 foot Height – Business)
- During the 1950s, the subject land at 16890 Telegraph and surrounding was changed from R1 to RM4, referred to at the time as (50 Foot Height – Multiple Dwellings)
- November 20, 1961 - the Detroit Board of Zoning Appeals (BZA) granted permission to erect a 1-story cocktail lounge and restaurant at 16890 Telegraph in the then RM4 district
- 1968 – the adjacent gas station changed from B2 to B4, and 16890 Telegraph and surrounding land changed from RM4 to R5

Recent Land Use History of the Site

- April 29, 1997 - the BZA granted permission to add to 16890 Telegraph an arcade to an existing Class C bar
- March 2015, at the request of the Jazz Club LLC, the Detroit Buildings, Safety Engineering, and Environmental Department (BSEED) issued a building permit for the change of use of the property from a nightclub to retail sales
- March 2016, the Jazz Club LLC applied to BSEED for a medical marijuana dispensary including license, site plan application, and building permit application
- March 2016, BSEED denied application due to proximity to a drug-free zone - the Rouge Valley Parkway
- October 2017, the Jazz Club LLC (the plaintiffs) appealed to the BZA which affirmed BSEED’s decision that the subject property was located in a drug-free zone
- March 2018, the plaintiffs appealed to Circuit Court and the Court affirmed the BZA’s decision

- January 2020, the Court of Appeals reversed the Circuit Court’s decision, concluding that a greenway does not qualify as a drug-free zone and remanded the case back to the Circuit Court
- April 2021, Wayne County Circuit Court ruled the City will proceed on the appellant’s application for land use approval

Since Jazz Club’s request, dating back to 2015, it was regularly noted in BSEED, BZA, and court documents that the subject site was zoned B4. Upon further review, in June 2021, BSEED informed the Jazz Club that the land was in fact zoned R5 which does not allow medical marijuana caregiver centers or provisioning centers. The Jazz Club and its legal counsel indicate that it has a very strong case for equitable estoppel based on its reliance upon the affirmative statement of the City with respect to B4 zoning classification of the property. In order to resolve the issue, the TMC is now requesting that 16890 Telegraph be rezoned from R5 to B4 to allow the reuse of a portion of the subject building for a medical marijuana provisioning center facility and use of the remainder of the building with a compatible use, likely retail.

EXPANDED REQUEST

Land at 16920 Telegraph

Land at 16920 Telegraph Road, north of the subject Jazz Club and south of the gas station, is also zoned R5 and currently developed with the Telegraph Motel. Motels are a conditional land use in both R5 and B4. CPC staff is proposing that this land be added to the subject request and be rezoned to B4 as well. This would create a similar zoning pattern on the east side of Telegraph south of W. McNichols, creating a contiguous zoning of B4 with the gas station at 23891 Telegraph, the motel at 16920 Telegraph, and the subject Jazz Club at 16890 Telegraph. CPC staff contacted the owner of the motel, Mr. Shri Sai Ram, to discuss the proposal. Mr. Ram indicated he would need to discuss the proposal with his legal counsel, in order to decide whether he supported rezoning the motel from R5 to B4.

Land at 23861 & 23871 W. McNichols

Additionally, land on the south side of W. McNichols just east of the gas station is presently zoned R5 and developed with vacant land at 23871 W. McNichols (which appears to be owned by the Detroit Land Bank) and 23861 W. McNichols which is developed with Cleveland Trucking Inc. Logistics & Excavating. CPC proposed that these two parcels be rezoned from R5 to B4as well, in order to create a B4 commercial node at the intersection of Telegraph and W. McNichols. The map below shows the three recommend added parcels outlined in blue.



Since adding properties for consideration, CPC staff inquired with BSEED regarding the permits on record regarding the 23871 and 23861 W. McNichols. The only permits on record appear to indicate 23871 W. McNichols was previously used for offices, but demolished in 1988. 23861 W. McNichols was used for offices via BZA variance in 1961 and as a medical office in 1985. It is unclear to CPC staff how a trucking distribution center is operating at the subject site. As a result, CPC staff has asked BSEED to investigate.

PLANNING CONSIDERATIONS

Surrounding Zoning and Land Use

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

North: R1; across W. McNichols, developed with Grand Lawn Cemetery
East: R1; developed with single-family housing (referred to as the River Block Neighborhood Association)
South: R5; developed with apartment buildings
West: B4 and R1; across Telegraph, developed with a restaurant and single-family housing

Zoning Classifications

The pertinent zoning district classifications are described as follows:

R5 – Medium Density Residential District

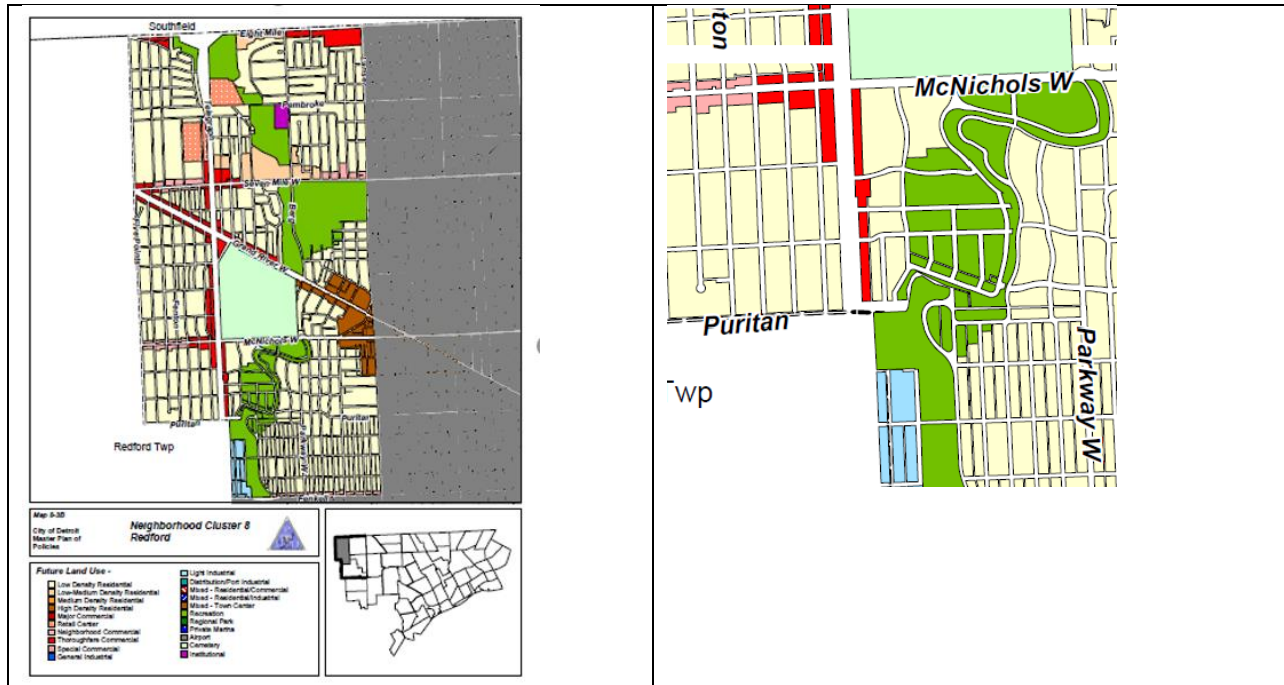
This district provides for a range of residential development from the single-family detached dwelling to medium-density multiple-family dwellings. The primary use in this district will be the rental apartment structure. In addition to permitted residential uses, certain specified non-residential uses which can be properly blended into this district may be permitted. R5 does allow some limited commercial uses as conditional, such as motels. Uses such as offices not more than 3,000 square feet are conditional.

B4- General Business District

This district provides for business and commercial uses of a thoroughfare-oriented nature. In addition to these uses, other businesses, which may benefit by drawing part of their clientele from passing traffic are permitted. Additional uses, which may be successfully blended with permitted by-right uses, are conditional.

Master Plan Consistency

The subject site is located within the Redford Area of Neighborhood Cluster 8 of the Detroit Master Plan of Policies. The Future Land Use map for this area shows Thoroughfare Commercial (TC) for the along the east side of Telegraph south of McNichols. CPC staff has requested that the Planning and Development Department (P&DD) comment regarding the consistency of this proposal with the City's Master Plan. The subject Master Plan area is shown below.



Community Input

The subject rezoning is located within City Council District 1. To date, CPC staff has not received any feedback regarding the rezoning. CPC staff has informed the office of the District 1 Council Member. The petitioner, TMC, indicates, now and as part of its previous BZA review, it has done extensive outreach to the surrounding area. CPC staff reached out to the adjacent River Block Neighborhood Association to the east, but has yet to make contact.

Asa noted earlier, CPC staff has reached out to Mr. Shri Sai Ram who owns both the Telegraph Motel at 16920 Telegraph north of the Jazz Club and the Telegraph Apartments at 16866 Telegraph just south of the Jazz Club.

CPC staff has also reached out to the Detroit Land Bank Authority to determine whether or not it still owns the vacant parcel at 23871 W. McNichols.

Attachments: Public hearing notice
Application for zoning change

- cc: Antoine Bryant, Director, PDD
- Katy Trudeau, Deputy Director, PDD
- Karen Gage, PDD
- Greg Moots, PDD
- David Bell, Director, BSEED
- James Foster, BSEED
- Lawrence Garcia, Corporation Counsel
- Charles Raimi, Deputy Corp Counsel
- Kimberly James, Law Department