PUBLIC NOTICE

CITY OF BERKLEY, MICHIGAN
REGULAR MEETING OF THE CITY PLANNING COMMISSION

Tuesday, January 26, 2021
7:00PM – VIRTUAL ELECTRONIC MEETING
Information: 248-658-3320

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL
APPROVAL OF AGENDA
APPROVAL OF MINUTES – Meeting of December 15, 2020, Work Session January 5, 2021

COMMUNICATIONS

CITIZEN COMMENTS

ORDER OF BUSINESS

1. **PUBLIC HEARING. TO-01-21: Projections.** Matter of Conducting a Public Hearing for proposed zoning text amendment to modify Section 138-192 related to Projections and provide clarity on the regulations.

2. **PUBLIC HEARING. TO-02-21: Exterior Appliances.** Matter of Conducting a Public Hearing for proposed zoning text amendment to adopt Division 1.5 Exterior Appliances in order to provide regulations on exterior appliances on residential and commercial properties.


LIAISON REPORTS

COMMISSIONER / STAFF COMMENTS

ADJOURN

Notice: Official Minutes of the City Planning Commission are stored and available for review at the office of the City Clerk. If you would like to attend the electronic Planning Commission meeting, follow the link below or call the telephone number.

Join Zoom Meeting: https://berkleymich.zoon.us/j/93323204434
Dial by Phone: 1-312-626-6799
Meeting ID: 933 2320 4434
THE REGULAR MEETING OF THE BERKLEY CITY PLANNING COMMISSION WAS CALLED TO ORDER AT 7:04 PM, DECEMBER 15, 2020 VIA ELECTRONIC MEETING BY VICE CHAIR MARTIN SMITH.

The minutes from this meeting are in summary form capturing the actions taken on each agenda item. To view the meeting discussions in their entirety, this meeting is broadcasted on the city’s government access channel, WBRK, every day at 9AM and 9PM. The video can also be seen, on-demand, on the city’s YouTube channel: https://www.youtube.com/user/cityofberkley.

PRESENT:
Joe Bartus, Berkley Michigan
Lisa Kempner, Berkley Michigan
Greg Patterson, Berkley Michigan
Julie Stearn, Berkley Michigan
Mark Richardson, Berkley Michigan
Martin Smith, Berkley Michigan

ABSENT:
Kristen Kapelanski – Personal Commitment
Matt Trotto – Out of Town

ALSO, PRESENT:
Erin Schlutow, Community Development Director
Ross Gavin, City Council Liaison
Stan Lisica, Chief Innovation Officer
Jennifer Finney, DDA Director

Commissioner Kempner motioned to excuse Chair Kapelanski and Commissioner Trotto from the December 15, 2020 meeting, based on the above noted reasons for absence. Motion supported by Commissioner Patterson

AYES: Dahlin, Kempner, Patterson, Stearn, Bartus, Smith
NAYS: None
ABSENT: Kapelanski, Trotto

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APPROVAL OF AGENDA
It was moved by Commissioner Bartus to approve the Agenda supported by Commissioner Kempner.

AYES: Kempner, Patterson, Stearn, Bartus, Dahlin, Smith
NAYS: None
ABSENT: Kapelanski, Trotto

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APPROVAL OF MINUTES
It was moved by Commissioner Stearn to approve the minutes from the regular Planning Commission meeting on November 24, 2020 and supported by Commissioner Patterson.

AYES: Patterson, Stearn, Bartus, Dahlin, Kempner, Smith
NAYS: None
ABSENT: Kapelanski, Trotto

It was moved by Commissioner Patterson to approve the minutes from the Work Session on December 1, 2020. Motion supported by Commissioner Stearn.

AYES: Stearn, Bartus, Dahlin, Kempner, Patterson, Smith
NAYS: None
ABSENT: Kapelanski, Trotto
COMMUNICATIONS
None

CITIZEN COMMENTS
Vice Chair Smith read instructions for public to submit comments during the virtual meeting.
None.

1. MEETING DATES: Matter of reviewing and approving meeting dates for 2021 calendar year.

Commissioner Kempner motioned to approve the meeting dates for 2021 calendar year. Motion supported by Commissioner Patterson.

YES: Bartus, Dahlin, Kempner, Patterson, Richardson, Stearn, Smith
NAYS: None
ABSENT: Kapelanski, Trotto

2. DISCUSSION: Discussion of projections into setbacks.

Community Development Director provided a summary of the discussion and the ordinance updates that were discussed at the previous month’s meeting.

Commissioners discussed egress windows and if they should be considered as part of this conversation.

Commissioner Smith noted that window wells do not have a visual impact on surrounding properties and sees no issue with them in the side yard.

Commissioner Stearn inquired about impeding drainage in the side yard.

Commissioner Kempner noted that this is not the first issue of digging close to adjacent property line.

Commissioner Patterson noted that drainage is an issue that needs to be addressed.

Commissioner Bartus noted that window wells and egress windows should be discussed in a separate section.

Commissioner Richardson asked about the MI Building Code.

Commissioner Kempner noted that developer is responsible to fix any damage but ordinances should prevent that from happening.

Commissioners agreed that window wells should be discussed, but it does not belong in this section. Commissioners also discussed the safety of residents, drainage, open porches.
Planning Commission directed City staff to set the public hearing for the regularly scheduled January meeting.

3. **DISCUSSION:** Discussion of regulations for exterior appliances.

Community Development Director Schlutow provided an update on the ordinance language related to exterior appliances.

Commissioners discussed the language related to replacing the exterior appliances and directed staff to provide clarity on the process.

Commissioners discussed screening for replacing a unit.

Planning Commission directed City staff to set the public hearing for the regularly scheduled January meeting.

*Liaison Reports*

Commissioner Kempner noted that the Master Plan Steering Committee meeting is meeting the following day.

Commissioner Stearn was not able to attend the Chamber of Commerce meeting for the month.

*Staff/Commissioner Comments*

Commissioners wished everyone Happy Holidays and thanked city staff for the Holiday Parade.

AYES: Dahlin, Kempner, Patterson, Richardson, Stearn, Bartus, Smith
NAYS: None
ABSENT: Kapelanski, Trotto

With no further business, the meeting was adjourned at 8:04pm.
THE WORK SESSION OF THE BERKLEY CITY PLANNING COMMISSION WAS CALLED TO ORDER AT 7:00 PM, JANUARY 5, 2021 VIA ELECTRONIC MEETING BY CHAIR KRISTEN KAPELANSKI

PRESENT:
Joe Bartus, Berkley Michigan
Kristen Kapelanski, Berkley Michigan
Greg Patterson, Berkley Michigan
Mark Richardson, Berkley Michigan
Julie Stearn, Berkley Michigan
Lisa Kempner, Berkley Michigan
Martin Smith, Berkley Michigan

ABSENT:
Matt Trotto

ALSO, PRESENT:
Megan Masson-Minock, Carlisle Wortman Associates
Erin Schlutow, Community Development Director
Ross Gavin, City Council Liaison

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CITIZEN COMMENTS

Chair Kapelanski read instructions for public to submit comments during the virtual meeting.

None.

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Commissioners and city staff each shared something that they were excited about or recent best moment.

Megan Masson-Minock went over the Greenfield Residential Guidelines. Commissioners noted concern about the number of lots that would have to be combined for the type of development designed, as well as the location on Greenfield. Commissions asked if the Greenfield Residential Guidelines and proposed design could be incorporated on other corridors, such as Eleven Mile Rd.

Megan Masson-Minock asked Commissioners to review the sample character images for townhouse development and state which they thought would work best for Berkley. She provided details on which designs the Master Plan Steering Committee preferred or disliked. Commissioners discussed designs that they felt would work in Berkley, specifically those that fit into a single family residential neighborhood.

Megan Masson-Minock went over the Eleven Mile Corridor existing conditions and a conceptual rendering for Eleven Mile. She asked Commissioners to determine what would be appropriate for the corridor and which would not fit. Commissioners discussed the elements of the rendering that they liked and that would fit in the community, including parking, landscaping and setbacks. Commissioners noted concern about murals, as the city does not have a mural program yet, as well as landscaping standards on Eleven Mile that would fit with what Oak Park is doing across the street.

The Commission discussed opportunity for additional community engagement. Commissioners noted the importance of back and forth discussion, as well as outreach to get the public to attend a work session. Commissioners discussed other options for virtual community engagement to get as many people to attend as possible. Commissioners also discussed opportunities for people to provide feedback if they are unable to attend a zoom discussion, such as a survey.

Planning Commission reviewed the Future Land Use draft text, based on the discussion at the previous meeting. Commissioners provided additional feedback.

Megan Masson-Minock updated the PC on the upcoming chapters that will be on the agenda for discussion at future meetings, including systems, transportation.

Meeting ended at 9:32pm.
MEMORANDUM

To: Berkley Planning Commission
From: Erin Schlutow, Community Development Director
Subject: PUBLIC HEARING - Projections into Setbacks on Residential Dwellings #5
Date: January 21, 2021

The Zoning Ordinance permits projections into rear and side yard setbacks, as stated below:

Section 138-192. – Projections

Projections may extend into a required side yard setback not more than two inches for each one foot of width of such setback; and may extend or project into a required front or rear yard setback not more than three feet. Such projections shall not have a foundation and shall be above grate at least 12 inches. The total of all projections into a given yard shall not exceed 30 percent of that wall’s surface area.

In nonresidential districts, where no front yard setback is required, a projection may extend into the right of way three feet provided that it is at least 11 feet above the sidewalk. The total of all projections into a given right of way shall not exceed 30 percent of that wall’s surface.

The Ordinance does not distinguish between different kinds of projections, such as cantilevers, awnings, chimneys, etc. Some communities give different projection allowance for cantilevers and chimneys.

Current Practice for Chimney Projections into Side Yards

As noted in our previous discussions, a former Building Official interpreted and determined projections only apply to extensions of the livable space within a dwelling. It was determined that chimneys are not considered extensions of the livable space and are therefore exempt from building envelope calculations.

This standard was reviewed in 2017, after there was concern from local residents that new construction was violating the standard for projections. After investigating the issue at length, the following information was provided to local residents detailing the City’s practice and explanation of projection calculations.

“This has been the practice for the building department since 1950 to consider a chimney ancillary to any home featuring a fireplace. Those fireplaces that utilize natural gas still require the same such spacing as a traditional, log burning fireplace. As such they are measured based on a requirement of the amount of capacity needed to function property and separate from that of a projection intended to expand upon the floor space of the interior of the home. Since this is a past practice it ought to be re-examined from time-to-time to ensure it still serves the community well.”
PUBLIC HEARING for Projections on Residential Dwellings

At the December 15, 2021 meeting, the Planning Commission directed staff to set the public hearing for zoning ordinance text amendment on Projections.

After the Public Hearing, the Planning Commission shall make a recommendation to the City Council. The Planning Commission may recommend approval, approval with conditions, denial, or may table the item to continue discussions at a later meeting.

If you have any questions, please do not hesitate to contact me.

Thank you.
Sec. 138-192. - Projections.

Projections may extend into a required side yard setback not more than two inches for each one foot of width of such setback; and may extend or project into a required front or rear yard setback not more than three feet. Such projections shall not have a foundation and shall be above grade at least 12 inches. The total of all projections into a given yard shall not exceed 30 percent of that wall's surface area.

Projections without foundations may include box fireplaces, bay windows, and other types of cantilevers, including second story cantilevers.

Projections with foundations, such as brick or masonry fireplaces, shall be permitted to extend not more than two inches for each one foot of width of setback, and not more than three feet into the required front or rear yard setback.

In nonresidential districts, where no front yard setback is required, the Planning Commission may permit a projection to extend into the right of way three feet provided that it is at least 11 feet above the sidewalk if the Planning Commission determines the public health, safety, and welfare will not be adversely affected. The total of all projections into a given right of way shall not exceed 30 percent of that wall's surface area.
MEMORANDUM

To: Berkley Planning Commission
From: Erin Schlutow, Community Development Director
Subject: PUBLIC HEARING - Exterior Appliances on Residential and Commercial Properties #5
Date: January 21, 2021

Over the past several years, the Berkley Planning Commission and Zoning Board of Appeals have discussed the standards and appropriate locations for exterior mechanical equipment on residential properties in the community; specifically, generators and air conditioning units.

The Planning Commission has determined that generators and air conditioning units are to be classified as Exterior Appliances, subject to regulations separate from accessory structures.

PUBLIC HEARING for Exterior Appliances on Residential and Commercial Properties

The proposed ordinance has been discussed and reviewed over the course of several meetings.

At the December 15, 2021 meeting, the Planning Commission directed staff to set the public hearing for zoning ordinance text amendment for Exterior Appliances.

After the Public Hearing, the Planning Commission shall make a recommendation to the City Council. The Planning Commission may recommend approval, approval with conditions, denial, or may table the item to continue discussions at a later meeting.

If you have any questions, please do not hesitate to contact me. Thank you.
Division 1.5. Exterior Appliances

Sec. 138-71. Purpose

The purpose of this division is to promote the public health, safety and welfare by regulating the manner and location of exterior appliances on residential and commercial properties in the city. For purposes of this division, the following definitions shall apply.

Sec. 138-72. - Definitions

Air Conditioning Unit: The central air conditioning system located on the exterior of a building including a compressor, fan, condenser coil, evaporator coil and a refrigerant.

Power Generator: A stationary device, such as a reciprocating internal combustion engine or turbine that serves solely as a secondary source of mechanical or electoral power whenever the primary energy supply is disrupted or discontinued during power outages or natural disasters. A power generator may operate during power interruptions or during regularly scheduled testing.

Exterior Appliance: Mechanical equipment located on the exterior of a residential or commercial building. Such types of equipment shall include air conditioning condenser unit, emergency power generators, and any noise producing mechanical system components located at the exterior of a building. Exterior appliances specific to swimming pools are subject to the regulations in Section 138-59.

Sec. 138-73. - Location

Exterior appliances are prohibited from being located in the front yard or within a recorded easement or right-of-way that would prohibit, hinder or disrupt utilities, drainage, access, etc.

(a) Residential.
   1. Power Generators and other exterior appliances shall be located in the rear yard at least six (6) feet from side property line.
   2. Air Conditioning Units may be permitted in the side yard under the following conditions:
      a. The unit must be at least 18 inches from side property line;
      b. The unit must be at least 12 feet from adjacent dwelling;
      c. The unit must be screened on at least three (3) sides by opaque fencing or landscaping, measuring at least four (4) feet in height from grade.
         1. The principal structure may be considered one side of screening.
         2. Screening must be provided from street view and facing the closest adjacent property.
         3. Chain link fencing is not permissible as a screening material for exterior appliances.

(b) Nonresidential.
   1. At Grade.
      a. Exterior appliances shall be at least five (5) feet from a property line.
      b. Power Generators shall be enclosed in a sound-attenuating enclosure, if located adjacent to residential property.
      c. Exterior appliances shall be screened on at least three (3) sides with opaque fencing or landscaping, measured at least four (4) feet in height from grade.
         1. The principal structure may be considered one side of screening.
2. Screening must be provided from street view and facing the closest adjacent property.
3. Chain link fencing is not permissible as a screening material for exterior appliances.

2. **Rooftop.**
   a. Exterior appliances located on the rooftop of commercial buildings shall be screened so as to not be visible from street level. Screening materials shall be consistent with the color, materials, design and aesthetic of the building.

3. The Planning Commission may modify location of the exterior appliances on non-residential properties during site plan review, if the applicant can demonstrate an alternative location does not negatively impact adjacent properties, pedestrian or vehicular traffic.

**Sec. 138-74. – Restrictions.**

Generator testing shall be permitted Monday – Friday, 9:00am – 6:00pm.

**Sec. 138-75. – Non-Conforming Exterior Appliances.**

Non-conforming exterior appliances include appliances that were lawfully installed but are no longer in compliance with the provisions of this chapter.

Non-conforming exterior appliances may be continued, maintained and replaced provided there is no increase or enlargement of the area occupied or devoted to such use.

If the structure that is served by a non-conforming exterior appliance is damaged or partially destroyed by less than 50 percent of its market value, the exterior appliance may be restored and its previous use continued. If the structure that is served by a non-conforming exterior appliance is damaged or partially destroyed by 50 percent or more than 50 percent of its market value, then any restoration or new construction must comply with all current building and zoning codes.

**Sec. 138-76. – Permits required.**

Permits are required for the installation of exterior appliances.
MEMORANDUM

To: Berkley Planning Commission
From: Erin Schlutow, Community Development Director
Subject: 2020 – 2021 Work Plan Discussion
Date: January 21, 2021


The annual report is provided to Planning Commission and City Council as a summary and status update of planning activities for the previous fiscal year. This includes site plans, special land uses, rezoning, and zoning text amendments. Additionally, the annual report included projects that we hoped to accomplish in the 2020 – 2021 fiscal year.

As we begin calendar year 2021, we are also at the halfway point for fiscal year 2020, and this is an opportunity to review what we have accomplished, what we would like to focus on for the remainder of FY 2020 and what we want to plan for CY 2021.

This discussion does not eliminate or replace the Annual Report, which will be provided to you later this year.

2020 WORK PLAN

As a refresher, below are the projects that were outlined in the 2020 Work Plan. The projects are in various stages of progress, so I have provided a brief summary of our current situation.

1. Update Community Master Plan. The City of Berkley has been working throughout the COVID pandemic on updating the Master Plan. The community engagement strategy was modified significantly, as we were no longer able to meet in person and transitioned to exclusively virtual outreach. This has included a survey, social media polls, webinars, drop-in zoom discussions, stakeholder focus groups, and more. The shift in the engagement strategy caused delays in the process, and it is expected final adoption to occur Spring 2021.

2. Redevelopment Ready Community Certification. City staff has begun the process to become certified and has completed the RRC Self-Evaluation Form from the Michigan Economic Development Corporation (MEDC). Based on the checklist, City staff is working to address the deficiencies identified in City processes and procedures. One of the major components that
needs to be addressed is the Master Plan, which is currently underway. Some of the minor components are in process administratively. This includes a development guide with a flowchart, updating all permit and planning applications, and more.

3. Zoning Ordinance Technical Review. Once the Master Plan has been adopted, it is crucial that we comprehensively review the Zoning Ordinance to ensure compatibility with the MP and to make sure there aren’t any holes or inconsistencies that should be addressed. City staff has brought discussion items to the Planning Commission for review throughout the year, as warranted.

FY 2020 and CY 2021 WORK PLAN

We will continue to work on the 2020 Work Plan and incorporate the below Goals and Objectives for CY 2021.

1. Sign Ordinance. Over the past year, it has been noted that there are some areas of the Sign Ordinance that needs tweaking. Most importantly, it is critical to bring the Ordinance into compliance with recent Supreme Court decisions, specifically Reed v. Gilbert. This will be a time-consuming undertaking that will involve coordination with the business community, PC, CC, city staff, and the city attorney.

2. DDA Guidelines and Overlay District. The DDA Guidelines and Overlay District have long been on hold due to a variety of reasons. With changes in city and DDA staff, we are excited to bring this topic back to the table. It will involve a considerable outreach and education strategy with the business community. We have started these discussions internally and hope to start engaging with the public end of February.

The Community Development Department is excited to continue working with the Planning Commission, DDA, City Council and other community groups to serve Berkley residents.

Thank you.