

PUBLIC NOTICE

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

Tuesday, September 27, 2022
7:00PM – City Hall Council Chambers
Information: 248-658-3320

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES – *Meeting minutes of August 23, 2022 and September 13, 2022*

COMMUNICATIONS

CITIZEN COMMENTS

OLD BUSINESS

NONE

NEW BUSINESS

1. **Outdoor Seating:** Discussion of ordinance language to allow outdoor seating accessory to a permitted use as a permitted use
2. **DDA Guidelines:** Discussion of ordinance language related to the implementation of the DDA Design Guidelines
3. **Vape Shops:** Discussion of an ordinance amendment to regulate the location of vape shops
4. **Election of Officers/Committee Liaisons**

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. The City of Berkley will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon four working days notice to the city. Individuals with disabilities requiring auxiliary aids or services should contact the city by writing or calling: City Clerk, ADA Contact, Berkley City Hall, 3338 Coolidge, Berkley, Michigan 48072, (248) 658-3300.

You can watch the meeting on Channel 10 for both Comcast and WOW, at <http://www.youtube.com/CityofBerkley> or <http://www.berklemich.org/livestream>.

THE REGULAR MEETING OF THE BERKLEY CITY PLANNING COMMISSION WAS CALLED TO ORDER AT 7:00 PM, AUGUST 23, 2022 AT BERKLEY CITY HALL BY CO-CHAIR LISA KEMPNER.

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: Shiloh Dahlin Julie Stearn
Greg Patterson Lisa Hamameh
Lisa Kempner Matteo Passalacqua

ABSENT: Joe Bartus

ALSO, PRESENT: Kristin Kapelanski, Community Development Director
Ashley Merz, City Staff

Motion by Commissioner Patterson to excuse the absence of Commissioner Bartus. Motion supported by Commissioner Stearn.

Voice Vote to approve the absence of Commissioner Bartus.

AYES: 6
NAYS: 0
ABSENT: Bartus

MOTION CARRIED

APPROVAL OF AGENDA

Motion by Commissioner Dahlin to approve the agenda supported by Commissioner Patterson.

Voice vote to approve the agenda

AYES: 6
NAYS: 0
ABSENT: Bartus

MOTION CARRIED

APPROVAL OF THE MINUTES

Motion by Commissioner Hamameh to approve the minutes of regular Planning Commission meeting on July 26, 2022 and supported by Commissioner Patterson.

Voice vote to approve the meeting minutes on July 26, 2022.

AYES: 6
NAYS: 0
ABSENT: Bartus

MOTION CARRIED

COMMUNICATIONS

Michigan Association of Planning Magazine
Email correspondences concerning Vinsetta Garage

CITIZEN COMMENTS

NONE

OLD BUSINESS

NONE

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NEW BUSINESS

1. PSP-14-22 3860 Twelve Mile Road – America’s Stamp Stop Addition: The applicant, Todd Schaefer of America’s Stamp Stop, 3860 Twelve Mile Road, Parcel # 25-07-358-039 on the north side of Twelve Mile, between Prairie Avenue and Cummings Avenue, is requesting site plan approval for a second floor residential addition and façade update to the existing building.

Community Development Director Kapelanski stated the applicant is proposing a second story for residential use, restriping of parking, adding a bike rack, along with some facade updates.

Applicant presentation

Todd Schaefer
13651 Manhattan St
Oak Park, MI 48237

The Applicant, Mr. Schaefer reviewed the project and presented material samples along with Catie Schmitz the Architect from JSN Architecture.

The Commissioners discussed the floor plan, building code use groups and screening of rooftop units

Citizen Comments

NONE

The Commissioners discussed this property would be an improvement and a good use of the property.

Motion to approve PSP-14-22 3860 Twelve Mile Road – America’s Stamp Stop Addition by Commissioner Patterson with reference to the Staff Letter findings, the materials and architects presented do meet the standards, exterior lighting can be reviewed administratively in the final site plan with approval from DPW, Fire Marshall and Community Development Director. Supported by Commissioner Hamameh.

AYES: Kempner, Patterson, Stearn, Passalacqua, Dahlin, Hamameh
NAYS: 0
ABSENT: Bartus

MOTION CARRIED

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2. PSP-10-22 Vinsetta Garage Eaton and Oxford Parking Lots: The applicant, Union Joints, owner of Vinsetta Garage is requesting site plan approval for the construction of two parking lots on the north side of Eaton Road, west of Woodward Avenue, Parcel # 25-17-428-033 and on the north side of Oxford Road, west of Woodward Avenue, Parcel #'s 25-17-431-022 and -23 to serve the existing Vinsetta Garage restaurant.

Community Development Director Kapelanski introduced the application explaining it is governed by a Consent Judgment determining the terms of the development and the purview of the Planning Commission. The Planning Commissions scope in the consent judgment is to determine whether the Site Plan is consistent with the Judgment and with the standards of the Zoning Ordinance. She also reviewed the standards the Planning Commission could review.

The Commissioners asked Community Development Director Kapelanski about alternative layouts, and the number of parking spaces.

Applicant Presentation

Tom Kalas
31350 Telegraph Road Suite 201
Bingham Farms MI, 48025

The Applicant, Mr. Kalas proposed the layout of the parking lots and the intentions of the parking lots for Vinsetta Garage. Mr. Kalas also stated how they came about the number of parking spaces while in consent judgment. He further noted the site amenities including bike parking, landscaping and screen walls.

Co-Chair Kempner assessed the Carlisle & Wortman suggestions and questions, asking the applicant if they will agree to these recommendations:

- Consider amending the landscape plan to include native species: yes
- Consider reconfiguring Eaton to add more buffer along the western property line: no because of existing lot configuration
- Consider reconfiguring Oxford: no, safety issues
- Consider increasing the height of the wall along Oxford to a minimum of 5 feet: no

Landscape Architect - James Eppink

Mr. Eppink further explained the masonry wall and why it is proposed at 4ft.

- Consider reducing the number of light poles: yes
- Reduce the light levels at the southern property line to 0.0-foot candles: yes

Commissioner Passalacqua confirmed the number of parking spaces for Vinsetta asking the applicant if they were committed to limiting the employees not parking in the neighborhood. Mr. Kalas stated that he does not see this as a current issue, especially with post COVID operations.

Commissioner Hamameh questioned the masonry wall height and the safety concerns. Mr. Kalas explained the wall could be imposing but amenable. There was also discussion on landscaping including the plants and wall.

Co-Chair Kempner inquired about the snow removal in the parking lots.

Citizen Comments

Robert Robinette, 1021 Oxford - Stated that noise and sound are his concern. He also stated his concern with the 4ft wall, and would like to see a 5ft wall for headlight screening.

Jonas Reimer, Harvard - Stated that we should completely get rid of all minimum parking requirements, encouraging more cycling and walking making Berkley a people centered city. Residents should walk or bike to restaurants instead of driving. These spaces could be rezoned for housing or businesses.

Sean Sweda, 1047 Eaton - Stated that he is concerned that the Planning Commissions power is being subtracted. He went on to further quote previous City Council Meetings and the City Attorney that supports his argument.

Diane Cicchini, 1035 Oxford - Continued Sean's summary of meeting minutes and recommended the Planning Commission take full authority of plan. She also expressed her frustrations from the noise on Woodward.

Tara Hayes, 1021 Oxford - Asked the Planning Commissioners to withhold approval until every aspect of this project has been precisely detailed on the site plans. She also expressed she felt the Planning Commission did not read the full packet. She also provided a history of Vinsetta not complying, expressing the need for the site plan to have internal improvements and all comments in the letters included in the site plan.

Gabrielle Sweda, 1047 Eaton - Expressed her concern of shortchanging the neighborhood side of the parking lot with landscaping instead of the landscaping facing another parking lot. She also expressed to the Planning Commission to table this today and consult with the city attorney if they have any doubts.

Commissioner Hamameh stated that she would like to see an engineered alternative with parking layouts, and require a 5ft wall along Oxford, adding more landscaping, and reducing light poles.

Commissioner Patterson agrees with what Commissioner Hamameh had to say, and prefers more landscaping and buffering.

Commissioner Dahlin would like to see the background on the number of spaces that were determined, and to see the 5ft wall.

Commissioner Stearn would like to see the 5ft wall and additional landscaping.

Commissioner Passalacqua agrees with everything that has been stated by previous comments

Co-Chair Kempner would like to see more landscaping in the Oxford parking lot, the 5ft wall

The Commission discussed the possibility of making Oxford Parking Lot a One-Way, referencing the ordinance

There was discussion with the applicant about the alternative sketches with the parking lot, the number of parking spots, and landscaping.

Pat McWilliams, Kieft Engineering.

Mr. McWilliams addressed the dimensional layouts of the alternative drawings and the parking lot layout that was decided upon.

Commissioners discussed with the applicant about parking of employees and parking agreements.

There was further discussion on different configurations, landscaping, the possibility of a one-way with reference to the ordinance, and the 5ft wall along Oxford.

Motion by Commissioner Hamameh to approve application PSP-10-22 Vinsetta Garage Eaton and Oxford Parking Lots subject to the following conditions:

- The burning bush to be replaced with native species of same size and growth pattern
- A minimum 5ft wall height along both Oxford and Eaton for each lot
- A reduction of the number of light poles and lighting to comply with the standards in the ordinance and the consent judgment. As far as the number of light poles defer to administration to make that determination
- Revise the island on the Oxford lot so that the drive on the West side meets ordinance minimum with requirement
- The applicant provides the required cut sheets for staff review prior to final approval of the site plan
- The applicant reduces the light levels at the southern property line of the Oxford lot to 0.0-foot candles
- Compliance with all the items noted in the DPW August 19 2022 correspondence, and HRC August 18 2022 review letters, and final site plan approval from DPW, HRC, Fire Marshal and the Community Development Director

Motion Supported by Commissioner Passalacqua

AYES: Kempner, Stearn, Dahlin, Hamameh, Passalacqua

NAYS: Patterson

ABSENT: Bartus

MOTION CARRIED

3. ANNUAL COMMUNITY DEVELOPMENT REPORT: Review of the FY2021 Annual Community Development Report and FY2022 Work Plan.

Community Development Director Kapelanski summarized this is a requirement of the state planning act and one of the items we submit to work towards the Redevelopment Ready Certification. This details the activity of the department for the year, and details the work plan for the following year.

Motion by Commissioner Stearn to distribute the 2021 Annual Community Development Report and 2022 Work Plan to submit to City Council. Motion supported by Commissioner Patterson.

AYES: Patterson, Stearn, Dahlin, Kempner, Hamameh, Passalacqua

NAYS: 0

ABSENT: Bartus

MOTION CARRIED

LIAISON REPORT

Co- Chair Kempner stated that DDA did not have quorum

COMMISSIONER COMMENTS

Co-Chair Kempner thanked the residents who came to speak during the meeting

Commissioner Patterson encouraged residents to send emails to the Planning Commission, because they are read.

STAFF COMMENTS

Community Development Director Kapelanski notified the Planning Commission of the special meeting on September 13th and the Regular meeting on September 27th.

City Hall will be closed the week after Labor Day if there is anyone watching who wants to submit plans or permits, try to get them in before they will be accepted via drop box.

ADJOURNMENT

Motion to adjourn by Commissioner Patterson supported by Commissioner Hamameh.

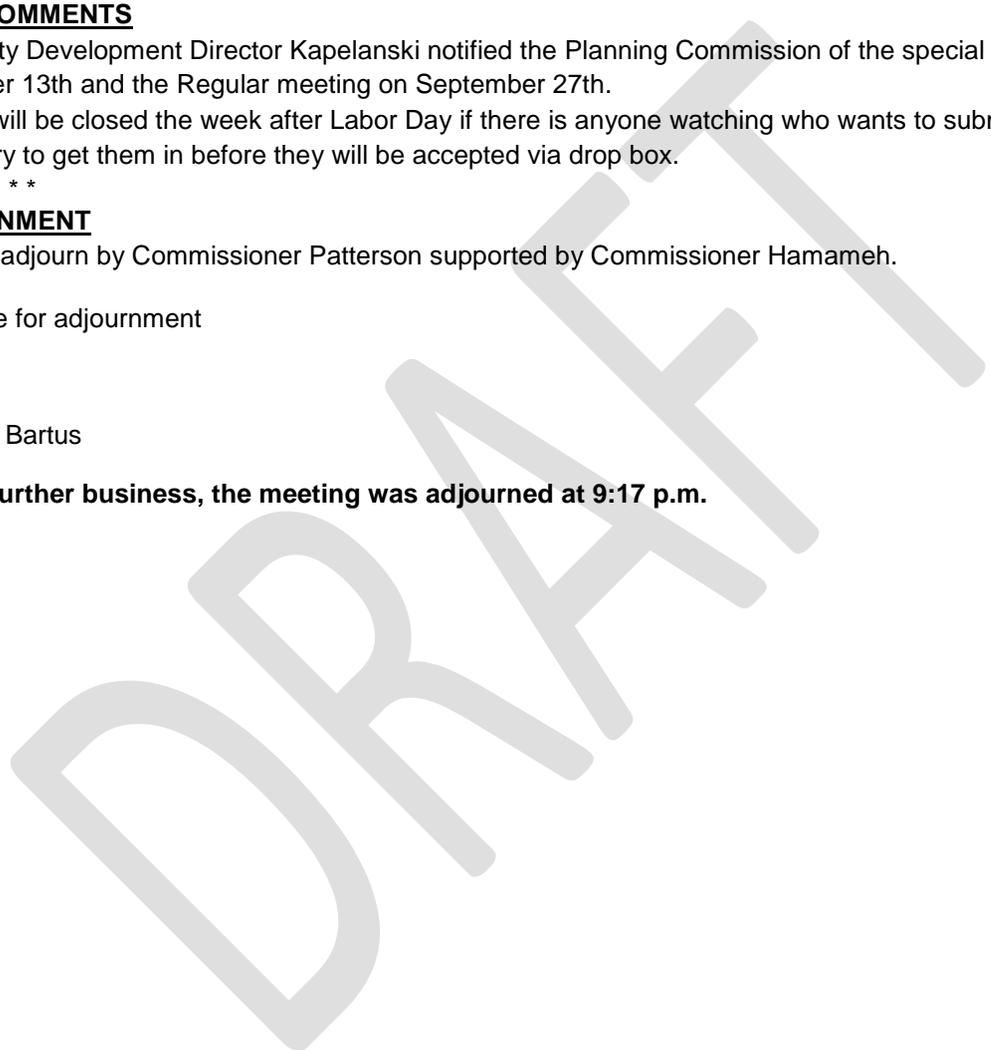
Voice vote for adjournment

AYES: 6

NAYS: 0

ABSENT: Bartus

With no further business, the meeting was adjourned at 9:17 p.m.



THE SPECIAL MEETING OF THE BERKLEY CITY PLANNING COMMISSION WAS CALLED TO ORDER AT 7:00 PM, SEPTEMBER 13, 2022 AT BERKLEY CITY HALL BY CO-CHAIR LISA KEMPNER.

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: Shiloh Dahlin Matteo Passalacqua
Joe Bartus
Lisa Kempner

ABSENT: Greg Patterson, Lisa Hamameh

ALSO, PRESENT: Kristin Kapelanski, Community Development Director
John McNally, 1408 Wiltshire, Berkley
Ellorie Silver, 1363 Wiltshire, Berkley

Motion by Commissioner Dahlin to excuse the absences of Commissioner Patterson and Commissioner Hamameh. Motion supported by Commissioner Passalacqua.

Voice Vote to approve the absence of Commissioner Patterson and Commissioner Hamameh.

AYES: 4
NAYS: 0
ABSENT: Hamameh, Patterson

MOTION CARRIED

APPROVAL OF AGENDA

Motion by Commissioner Passalacqua to approve the agenda supported by Commissioner Dahlin.

Voice vote to approve the agenda

AYES: 4
NAYS: 0
ABSENT: Hamameh, Patterson

MOTION CARRIED

COMMUNICATIONS

NONE

CITIZEN COMMENTS

NONE

OLD BUSINESS

NONE

NEW BUSINESS

- 1. PSP-15-22: 28557 Woodward – Seven Point Provisioning Center:** The applicant, Seven Point Dispensing of Michigan, LLC on behalf of Greenside Trust, is requesting site plan approval for conversion of an existing building to a retail marihuana dispensary and office use at 28557 Woodward

Avenue, Parcel #04-25-17-257-025, on the west side of Woodward Avenue between Wiltshire Road and Franklin Road.

Community Development Director Kapelanski summarized the application, stating that this application does meet all the ordinances and staff is all recommending approval of the plan. Community Development Director Kapelanski stated that she did receive communication after business hours from Mr. Daniel Veres opposing the approval.

Applicant Presentation

Gabe Ruben
Partner of 7-point dispensing LLC

Brian Howard
Architect, HF: architecture

Brian Sinnott
Civil Engineer, Fleece and VandenBrink

David Rozanski
Scott Roberts Law

The Applicant, Mr. Ruben reviewed the conditional rezoning application that was withdrawn in the previous application of 1299 Wiltshire and 1276 Franklin. The applicant also described the proposed site plan and floor plan, exterior elevations, parking lot redevelopment incorporating more landscaping, and stormwater management.

The applicant discussed in depth with the Planning Commission about parking and number of employees with the previous parking reports that were presented in prior meetings.

Citizen Comments

Jonas Rymer, 1628 Harvard - Stated he is in support of this plan, it will bring money to the city. He is happy to see that there is a bike rack, repair station, and Mo Go rental. He believes Berkley should be more bicycle friendly and a step in the right direction. He stated that the parking minimum needs to be abolished and a parking maximum put in place. He believes Berkley should become more people centric, providing examples of other cities that have done this.

John McNally, 1408 Wiltshire - Stated that the site plan does not fit the intended use. He stated that the number of employees and security that would be there equal more than the number of parking spaces they have presented. He would like to request that no employee should park on the street and suggested a one-hour parking limit or permitted parking. He also stated that it appeared that the ADA parking space does not meet the minimum requirements.

Mary Glenn, 1350 Franklin - Stated that the rendering is an improvement. She would like to know if the business hours can be changed, is there a possibility that the screen walls can be raised from 6ft to 7ft, if security cameras will be tied into Berkley Public Safety, signage by the benches not to smoke, a left turn only onto Franklin, vermin mitigation, and recommending not to use the tacky LED lights.

Joann Stenquist, 1343 Wiltshire - Addressed the hours. Feels the seven days a week is more excessive than what Berkley has right now. It would show respect to the residents if they reduce their hours of operation. She also suggested an idea of closing fully on Sunday.

Ed Lash, 1511 Wiltshire - Stated he wants clarification to the on-street parking of Wiltshire. He also asked if there has been or will be a light pollution study done, and where will the snow or snow plowing be pushed and will spaces be lost because of that operation or is it taken off-site.

Email from Daniel Veres, 1336 Franklin - read into correspondence
Email from Thomas Rolewicz Jr., 1350 Franklin - read into correspondence

The Applicants responded to some of the concerns that were presented in the Citizens Comments, including the ADA parking space, left turn onto Franklin, photometric plan, snow storage/removal, and an EV charging station.

Community Development Director Kapelanski addressed the permitted parking suggestion, security cameras, vermin mitigation, the screen wall with ordinance requirements.

The applicants addressed the parking on Wiltshire, additional parking agreements, and business hours.

The applicant stated that most of the employees are Berkley residents, hopefully mitigating the parking issue of encouraging them to seek alternatives. There also was agreement of raising the six (6) ft. screen wall to seven (7) ft.

Commission Bartus asked the applicants for clarification on the traffic signal for pedestrians on the corner of the building.

The Planning Commission discussed the no left turn sign. They concluded that with the no left turn sign it would push traffic to other side streets making that heavy trafficked, and residents/customers would stay on Woodward, and the signage was not needed.

The Planning Commission discussed the seven (7ft) screen wall suggestion. There was a concern about creating an inconsistent look along the corridor with other six (6) ft walls in the area. It was noted that other projects have increased wall heights and the taller height would create a sound barrier on the property line with no green buffer.

The Planning Commission agreed that landscaping meets the intent of the master plan, and would like to see the existing grades show on the plan for HRC review.

Motion by Commissioner Bartus to approve **PSP-15-22: 28557 Woodward – Seven Point Provisioning Center** subject to findings and conditions:

- Stated in the staff report
- Landscape review meets master plan
- The screen wall is seven (7) ft.
- The applicant shows existing grades

Motion supported by Commissioner Dahlin.

AYES: Bartus, Kempner, Passalacqua, Dahlin

NAYS: 0

ABSENT: Hamameh, Patterson

MOTION CARRIED

LIAISON REPORT

NONE

COMMISSIONER COMMENTS

Co-Chair Kempner thanked the residents for attending the meeting and expressing their thoughts and concerns.

STAFF COMMENTS

Community Development Director Kapelanski reminded the board that there is a meeting at the end of the month including ordinance discussion items. There is a potential of a second special meeting in October on the 11th.

ADJOURNMENT

Motion to adjourn by Commissioner Dahlin supported by Commissioner Bartus.

Voice vote for adjournment

AYES: 4

NAYS: 0

ABSENT: Hamameh, Patterson

With no further business, the meeting was adjourned at 8:08 p.m.



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

TO: City of Berkley Planning Commission
FROM: Megan Masson-Minock, AICP
DATE: September 13, 2022
RE: Zoning Ordinance Amendments for outdoor seating accessory to restaurants

Per the request of staff, we have drafted Zoning Ordinance amendments to allow outdoor seating for restaurants, bars, lounges or other places serving food or beverage as an accessory use. Currently, outdoor seating is a Special Land Use, requiring a public hearing and City Council approval. Both the Master Plan and the Downtown Plan cited outdoor seating as a key component to the vitality of corridors in Berkley.

The proposed amendments add outdoor seating as an accessory use of the permitted use or uses allowing restaurants or bars in the Local Business, Downtown, Gateway, Coolidge and Twelve Mile zoning districts. In those same districts, "outdoor seating areas for restaurants or other food serving establishments" is proposed to be deleted from the special uses. Since the Woodward zoning district allows any retail or service establishment permitted in the Local Business zoning district, the proposed amendment would essentially change the permitting of outdoor dining in the Woodward zoning district as well.

If the Planning Commission is comfortable with the proposed amendments, the next step would be to call a public hearing. After the public hearing, the Planning Commission makes a recommendation to the City Council, who would approve the amendments if they saw fit.

Let us know if you have any questions or concerns!

Sincerely,

CARLISLE/WORTMAN ASSOC., INC.
Megan Masson-Minock, AICP
Senior Associate

AN
ORDINANCE

of the City Council of the City of Berkley, Michigan to Amend Section 138-143, Sec. 138-222, Sec. 138-526, Sec. 138-527, and Sec. 138-679 of Chapter 138 – Zoning to allow outdoor seating accessory to a restaurant as a permitted use.

THE CITY OF BERKLEY
ORDAINS:

SECTION 1: Section 138-387 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-387. – Principal Uses permitted.

Principal uses permitted in the LB district are as follows:

- (1) Any generally recognized retail business whose principal activity is the sale of commodities on the premises, in a completely enclosed building including, but not limited to, the sale of groceries, meats, dairy products, baked goods and other food items dispensed for consumption off the site, drugs, pharmaceutical, apothecary items, flowers, dry goods, furnishings, jewelry, clothing millinery, shoes, books and periodicals, stationery and office supplies and hardware.
- (2) Specialty shops such as, but not limited to, antique shops, craft shops and shops for the sale of gifts and notions.
- (3) Personal service establishments which perform services on the premises directly for the consumer such as, but not limited to, repair shops (shoes, watches, jewelry, radios, televisions, small appliances, vacuum and sewing machines, etc.), beauty salons, hair salons, barber shops, manicuring studios, tanning salons, massage facilities, spa service facilities, self-service laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.
- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, seamstress/dressmaker, photography studios and similar service establishments that require a retail adjunct.
- (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments shall be prohibited.
- (6) Business establishments which perform services on the premises such as, but not limited to, banks, credit unions, savings and loan associations, loan companies, insurance offices, travel services, and real estate offices. Bank, savings and loan associations and credit unions may include drive-up facilities only as an accessory use subject to the required provisions for stacking or waiting space, apart from required off street parking areas, at the rate of 4 car spaces for each service window or pedestal, in addition to providing a full car length space at the window or pedestal.

- (7) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales, subject to the limitations contained in section 138-390.
- (8) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions subject to the limitations contained in section 138-390.
- (9) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions, subject to the limitations contained in section 138-390.
- (10) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
- (11) Places of worship.
- (12) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
- (13) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings or accessory outdoor seating areas, not including drive-in or drive-through ~~or outdoor-service~~ eating establishments.
- (14) Single-family, two-family and multiple-family dwellings when located on the second floor or above a first floor permitted or special use. Single-family detached dwellings and first floor dwelling units are prohibited.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.

SECTION 2: Section 138-388 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-388. Special uses.

The following special uses shall be permitted in the LB local business district, subject to the regulations in article VI, division 6, Special Uses, of this chapter:

- (1) Automobile service stations, subject to the requirements of section 138-389.
- (2) Drive-in and drive-through eating establishments.
- (3) Drive-through retail/service establishments.
- (4) Open air business uses when developed as uses accessory to primary uses and structures in the LB local business district as follows:
 - a. ~~Outdoor seating areas for restaurants or other food serving establishments.~~

- ~~a~~b. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn furniture, playground equipment, hardware supplies and other home garden supplies.
 - b~~e~~. Businesses in the character of open store fronts.
- (5) Commercial amusement device centers.
- (6) Nursery schools, day nurseries and child care centers, provided:
 - a. Applicants are licensed through the Michigan Department of Licensing and Regulatory Affairs (LARA). Proof of licensing shall be provided to the city when submitting an application for a business license.
 - b. Facilities meet the minimum requirements established by the Michigan Department of Licensing and Regulatory Affairs (LARA) and meet the minimum standards of section 138-391 Area and bulk requirements and section 138-392 Building design requirements.
 - c. Facilities meet screening requirements as deemed reasonable by the planning commission, including masonry walls up to six feet in height, decorative fencing or landscaping.
 - d. Applicants, staff, and facilities meet the minimum standards established by the Michigan Child Care Organizations, MCL 722.111 et seq., as amended.

SECTION 3: Section 138-417 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-417. – Principal permitted uses.

Principal uses permitted in the downtown district are as follows:

- (1) Restaurants, carryout or standard, [including outdoor eating areas](#), except drive through uses.
- (2) Bars, cocktail lounges, or taverns, [including outdoor eating areas](#).
- (3) Retail uses, dealing with the sale of new merchandise, such as, but not limited to the following:
 - a. Gift shops.
 - b. Clothing stores, including shoes, hats, and accessories.
 - c. Jewelry store.
 - d. Kitchenware, small appliance stores.
 - e. Furniture stores.
 - f. Toy stores.
- (4) Retail uses, dealing with the sale of previously owned merchandise, such as, but not limited to the following:

- a. Antique shops.
- b. Art galleries.
- (5) Personal service uses, including the following:
 - a. Hair salons.
 - b. Nail salons.
 - c. Tanning salons.
- (6) Dance studios and health clubs.
- (7) Food uses, not including convenience stores, such as, but not limited to the following:
 - a. Produce markets.
 - b. Specialty food stores.
 - c. Wine shops.
 - d. Butcher shops.
 - e. Bakeries.
- (8) Movie theaters, stage theaters, and comedy clubs.
- (9) Residences, when located above the first floor.
- (10) Offices or agencies, when located above the first floor.
- (11) Marihuana retailers and medical marihuana provisioning centers.

SECTION 4: Section 138-418 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-418. Special uses.

The following special uses shall be permitted in the downtown district, subject to the regulations in article VI administration and enforcement, division 6 special uses, of this chapter:

- (1) Offices or agencies, when located on the first floor.
- (2) Banks.
- (3) Convenience stores.
- (4) Outdoor sales ~~or eating~~ areas, when developed as accessory to primary uses and structures.
- (5) Repair shops or workshops such as, but not limited to, clothing, shoes, watches, televisions, small appliances, electrician, painter, and upholstery.
- (6) Resale shops.

SECTION 5: Section 138-427 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-427. Principal uses permitted.

Principal uses permitted in the Gateway district are as follows:

- (1) Any generally recognized retail business whose principal activity is the sale of commodities on the premises, in a completely enclosed building including, but not limited to, the sale of groceries, meats, dairy products, baked goods and other food items dispensed for consumption off the site, drugs, pharmaceutical, apothecary items, flowers, dry goods, furnishings, jewelry, clothing millinery, shoes, books and periodicals, stationery and office supplies and hardware.
- (2) Specialty shops such as, but not limited to, antique shops, craft shops and shops for the sale of gifts and notions.
- (3) Personal service establishments which perform services on the premises directly for the consumer such as, but not limited to, repair shops (shoes, watches, jewelry, radios, televisions, small appliances, vacuum and sewing machines, etc.), beauty salons, hair salons, barber shops, manicuring studios, tanning salons, massage facilities, spa service facilities, self-service laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.
- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, seamstress/dressmaker, photography studios and similar service establishments that require a retail adjunct.
- (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments shall be prohibited.
- (6) Business establishments which perform services on the premises such as, but not limited to, banks, credit unions, savings and loan associations, loan companies, insurance offices, travel services, and real estate offices. Bank, savings and loan associations and credit unions may include drive-up facilities only as an accessory use subject to the required provisions for stacking or waiting space, apart from required off street parking areas, at the rate of 4 car spaces for each service window or pedestal, in addition to providing a full car length space at the window or pedestal.
- (7) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales, subject to the limitations contained in section 138-410.
- (8) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions subject to the limitations contained in section 138-410.
- (9) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions, subject to the limitations contained in section 138-410.
- (10) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
- (11) Places of worship.
- (12) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.

- (13) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings or accessory outdoor seating areas, not including drive-in, or drive-through ~~or outdoor service~~ eating establishments.
- (14) Single-family, two-family and multiple-family dwellings when located on the second floor or above a first floor permitted or special use. Single-family detached dwellings and first floor dwelling units are prohibited.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.

SECTION 6: Section 138-428 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-428. Special uses.

The following special uses shall be permitted in the Gateway district, subject to the regulations in article IV, division 6, special uses, of this chapter:

- (1) Automobile service stations, subject to the requirements of section 138-429.
- (2) Drive-in and drive-through eating establishments.
- (3) Drive-through retail/service establishments.
- (4) Commercial amusement device centers.
- (5) Open air business uses when developed as uses accessory to primary uses and structures in the Gateway district as follows:
 - ~~a. Outdoor seating areas for restaurants or other food serving establishments.~~
 - ab. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn furniture, playground equipment, hardware supplies and other home garden supplies.
 - bc. Businesses in the character of open store fronts.

SECTION 7: Section 138-442 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-442. Principal uses permitted.

Principal uses permitted in the Coolidge Districts are as follows:

- (1) Any generally recognized retail business whose principal activity is the sale of commodities on the premises, in a completely enclosed building including, but not limited to, the sale of groceries, meats, dairy products, baked goods and other food items dispensed for consumption off the site, drugs, apothecary items, flowers, dry goods, furnishings, jewelry, clothing, shoes, books and periodicals, stationery and office supplies and hardware.
- (2) Specialty shops such as, but not limited to, antique shops, craft shops and shops for the sale of gifts and notions.

- (3) Personal service establishments which perform services on the premises directly for the consumer such as, but not limited to, repair shops (shoes, watches, jewelry, small appliances, etc.), hair salons, barber shops, manicuring studios, spa service facilities, self-service laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.
- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, photography studios and similar service establishments that require a retail adjunct.
- (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments shall be prohibited.
- (6) Business establishments which perform services on the premises such as, but not limited to, banks, credit unions, savings and loan associations, insurance offices, travel services and the like. Banks and other financial institutions may include drive-up facilities only as an accessory use subject to the required provisions for stacking spaces.
- (7) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales.
- (8) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions.
- (9) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions.
- (10) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
- (11) Places of worship.
- (12) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
- (13) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings or accessory outdoor seating areas, not including drive-in, ~~or~~ drive-through ~~or outdoor service~~ eating establishments.
- (14) Dwellings above a business use.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.

SECTION 8: Section 138-443 of Chapter 138 of the Berkley City Code shall be amended, as follows:

The following special uses shall be permitted in the Coolidge district, subject to the regulations in article VI, division 6, special uses, of this chapter:

- (1) Automobile service stations, subject to the requirements of section 138-444.

- (2) Drive-in and drive-through eating establishments.
- (3) Drive-through retail/service establishments.
- (4) Open air business uses when developed as uses accessory to primary uses and structures in the Coolidge district as follows:
 - ~~a. — Outdoor seating areas for restaurants or other food serving establishments.~~
 - ab. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn furniture, playground equipment, hardware supplies and other home garden supplies.
 - be. Businesses in the character of open store fronts.
- (5) Commercial amusement device centers.

SECTION 9: Section 138-457 of Chapter 138 of the Berkeley City Code shall be amended, as follows:

Sec. 138-457. Principal uses permitted.

Principal uses permitted in the twelve mile district are as follows:

- (1) Any generally recognized retail business whose principal activity is the sale of commodities on the premises, in a completely enclosed building including, but not limited to, the sale of groceries, meats, dairy products, baked goods and other food items dispensed for consumption off the site, pharmaceuticals, apothecary items, flowers, dry goods, furnishings, jewelry, clothing, shoes, books and periodicals, stationery and office supplies and hardware.
- (2) Specialty shops such as, but not limited to, antique shops, craft shops and shops for the sale of gifts and notions.
- (3) Personal service establishments which perform services on the premises directly for the consumer such as, but not limited to, repair shops (shoes, watches, jewelry, small appliances, etc.), hair salons, barber shops, manicuring studios, spa service facilities, self-service laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.
- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, photography studios and similar service establishments that require a retail adjunct.
- (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments shall be prohibited.
- (6) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales.
- (7) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions.
- (8) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions.

- (9) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
- (10) Places of worship.
- (11) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
- (12) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings or accessory outdoor seating areas, not including drive-in, ~~or~~ drive-through ~~or outdoor service~~ eating establishments.
- (13) Apartments or townhouses,
- (14) Dwellings above a business use.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.

SECTION 10: Section 138-458 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-458. Special uses.

The following special uses shall be permitted in the twelve mile district, subject to the regulations in article VI, division 6, special uses, of this chapter:

- (1) Automobile service stations, subject to the requirements of section 138-409.
- (2) Drive-in and drive-through eating establishments.
- (3) Open air business uses when developed as uses accessory to primary uses and structures in the twelve mile district as follows:
 - ~~a. Outdoor seating areas for restaurants or other food serving establishments.~~
 - ab. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn furniture, playground equipment, hardware supplies and other home garden supplies.
 - be. Businesses in the character of open store fronts.



Carlisle | Wortman
ASSOCIATES, INC.

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TO: City of Berkley Planning Commission

FROM: Ben Carlisle, AICP
Megan Masson-Minock, AICP

DATE: September 16, 2022

RE: Ordinance Amendments to implement Downtown Design Guidelines

Based on your input at your April 26, 2022 meeting, we have revised the ordinance amendments to implement the Downtown Design Guidelines (see attached). At that meeting, the Planning Commission indicated that they were comfortable with the following proposed changes:

- Sec. 94-5 of Chapter 94. Signs: Reducing the percentage of windows that could be covered by signs to 25%.
- Sec. 138-143, Requirements for Outdoor Lighting in Nonresidential Districts: Adding a minimum footcandle level and lower lighting levels between 11:00 p.m. and sunrise, with certain exceptions.
- Sec. 138-222, Parking lot location, design, and construction: Adding requirements for pedestrian circulation improvements in parking lots.
- Sec. 138-526, Schedule of Regulations: Removing the allowance for parking in the front yard and front setback of 10 feet to create a build to line in the Coolidge District and the Gateway District.
- Sec. 138-527, Notes to the Schedule of Regulations: Amending footnote j to require parking in the side or rear yards, amend and adding a note "o" to create a build to line in the Coolidge District.
- Sec. 138-679, Standards for Site Plan Review: Updating the standards for site plan review, based on a work session with the Planning Commission in March 2022.

Since a number of Planning Commissioners have joined since April, background information is attached. The background information includes the introductory selections from our memo to the Planning Commission in April, Planning Commission and staff direction, and the associated proposed amendment.

The next steps for the amendments attached would be to call a public hearing. Please come to your next meeting on September 27, 2022 prepared to share any questions, concerns or edits. Megan will be in attendance.

Sincerely,

CARLISLE/WORTMAN ASSOC., INC.
Benjamin R. Carlisle, LEED AP, AICP

CARLISLE/WORTMAN ASSOC., INC.
Megan Masson-Minock, AICP
Senior Associate

Background Information on Zoning Ordinance Revisions

Amendments to Sec. 94-5 of Chapter 94. Signs

Purpose: Limit window signage

Background paraphrased from CWA April 22, 2022 Memorandum

Covering the front window facades with window signage is counteractive. Limiting window signage promotes visual interest and in-store activity. Reducing the allowed fifty (50) percent to twenty-five (25) would removal clutter and increase visual interest.

Direction from Planning Commission

Text as presented was ready for public hearing.

Proposed Amendment

Existing language is *italicized*. New language is blue colored and underlined. Removed language is redlined and ~~strikethrough~~.

Sec. 94-5. - Exempt signs (signs permitted in nonresidential districts).

The following signs are permitted in the Office, Downtown, Local Business, Eleven Mile, Twelve Mile, Coolidge, Gateway, Woodward, Industrial, Parking, and Cemetery districts and are generally exempt from the regulations of the ordinance from which this chapter was derived, except section 94-11 shall apply.

- (6) *Window signs, not exceeding ~~50~~ 25 percent of glass.*

Amendments to Sec. 138-143, Requirements for Outdoor Lighting in Nonresidential Districts

Purpose: Protect pedestrians via better lighting in parking lots

Background paraphrased from CWA April 22, 2022 Memorandum

Data from professional organizations, as well as antidotal experience, supports the fact that pedestrians being struck by vehicles in parking lots is a common occurrence. One of the ways to improve pedestrian safety is lighting.

Direction from Planning Commission

Text as presented was ready for public hearing.

Proposed Amendment

Existing language is *italicized*. New language is blue colored and underlined. Removed language is redlined and ~~strikethrough~~.

Sec. 138-143. - Requirements.

- (b) *Nonresidential districts.*

- (5) General parking and pedestrian areas shall maintain a minimum of 1.0 fc for all hours of operation.
- (6) All outdoor lighting fixtures, existing or hereafter installed and maintained upon private property, shall be turned off or reduced to no more than 0.5 fc in lighting intensity between

Background Information on Zoning Ordinance Revisions

11:00 p.m. and sunrise. The following exceptions may be approved by the Planning Commission as part of site plan review:

- a. Where greater lighting levels are necessary for security or safety purposes; or
- b. Where permissible commercial or industrial uses such as sales, assembly and repair operate after 11:00 p.m., in which case the lighting levels shall be turned off or reduced after the use ceases for that day.

Amendments to Sec. 138-222, Parking lot location, design, and construction

Purpose: Protect pedestrians via better parking lot design

Background paraphrased from CWA April 22, 2022 Memorandum

Data from professional organizations, as well as antidotal experience, supports the fact that pedestrians being struck by vehicles in parking lots is a common occurrence. Pedestrian safety is improved through physical measures such as striping, calming devices (narrow lanes, speed bumps, stop signs, and stop bars), and hardscaping (building sidewalks and curbs).

Direction from Planning Commission

Text as presented was ready for public hearing.

Proposed Amendment

Existing language is *italicized*. New language is blue colored and underlined. Removed language is redlined and ~~strikethrough~~.

Sec. 138-222. - Parking lot location, design, and construction.

- (e) Pedestrian Connections. Plans for parking lots shall include pedestrian circulation improvements incorporating striping, calming devices, and hardscaping, protective lighting, connections to buildings, and landscaping that ensures the visibility and separation of pedestrians from the street and pedestrian safety within parking lots to the front building entrance. Plans shall allow pedestrians to walk parallel to moving vehicles and minimize crossing parking aisles.

Amendments to Section 138-526, Schedule of Regulations

Purpose: Require parking in the rear and build-to lines for the Coolidge and Gateway Districts

Background paraphrased from CWA April 22, 2022 Memorandum

To achieve the vision of the Master Plan, create more appealing streetscapes, and improve nonmotorized transportation, parking should be located behind the front building façade line and screened from public view. While most of the non-residential development in the city has parking located in the rear and sides of buildings, this proposed text amendment to the Office, Local Business, Coolidge, Gateway, Woodward, Eleven Mile, and Industrial district would codify that requirement, requiring all future development to comply.

To achieve the goals of the Master Plan and maintain building uniformity along Coolidge Highway, there should be an established build-to-line rather than a setback. The most common regulation is the setback, which tells a

Background Information on Zoning Ordinance Revisions

property owner how far from the edge of the property line they can place a building. The build-to-line is the inverse of the setback. With a build-to line, you are required to build a minimum percentage of the building at that distance or closer. It is designed to encourage street frontage and to put buildings at the front or the corner of the lot, with parking in rear. Most of the existing buildings on Coolidge Highway are constructed, though maybe not required at the time, with a build-to-line principle rather than a setback.

Direction from Planning Commission and staff

The Planning Commission felt in April that the text as presented was ready for public hearing. However, when reviewing the amendments, staff asked that the Gateway District, which also has a minimum 10 foot front yard setback, be changed to a build to line. Both the Coolidge and the Gateway districts are in the DDA boundaries.

Proposed Amendment

Existing language is *italicized*. New language is blue colored and underlined. Removed language is redlined and ~~strikethrough~~.

Sec. 138-526. - Schedule of regulations.

Districts	Minimum Size of Lot per Unit		Maximum Height of Buildings In Feet	Front	Minimum Yard Setback			Maximum Percentage of Lot Coverage (Area of All Structures)	Minimum Floor Area Per Unit	
	Area in Square Feet (a)	Width in Feet			At Least 1 Side Yard	Total of 2 Side Yards	Rear		With Base-ment	Without Base-ment
Coolidge	—	—	40	10(ft ko)	(m)	(m)	10	—	—	
Gateway	—	—	40	10(ft ko)	(m)	(m)	10	—	—	

Amendments to Section 138-527, Notes to schedule of regulations

Purpose: Require screened parking in the rear and build-to lines for the Coolidge and Gateway Districts

Background paraphrased from CWA April 22, 2022 Memorandum

In addition to the information in the section above, the amendments proposed would require parking only behind front building façade line and in side and rear yards and require parking lots that are adjacent to roadway to be screened via screen wall or landscaping.

Direction from Planning Commission and staff

In addition to the information in the section above, staff, in consultation with us, felt it was appropriate to allow a maximum 10-foot setback for first floor residential uses. Since the Twelve Mile district is the only zoning district in the DDA area that allows first floor residential uses, that amendment would functionally solely in that district.

Background Information on Zoning Ordinance Revisions

Proposed Amendment

Existing language is *italicized*. New language is blue colored and underlined. Removed language is redlined and ~~strikethrough~~.

Sec. 138-527. - Notes to schedule of regulations.

~~(j) Parking shall be permitted in the front yard after approval of the parking plan layout and points of access by the planning commission. The setback shall be measured from the nearest side of existing and/or proposed right-of-way lines.~~ Parking shall be located in a side or rear yard; when located in a side yard and abutting the required build-to-line adjacent the primary building, parking shall be screened with a minimum 30-inch masonry wall on the required build-to-line, or within 5 feet of the required building line, provided that a landscape treatment is added between the wall and the required building line.

(n) No setback shall be permitted, unless the planning commission finds that the proposed setback shall be developed as a defined plaza, outside eating area, or other pedestrian space. When a first-floor residential use is allowed, a setback of up to ten (10) feet shall be allowed.

(o) Buildings must meet a required front build-to-line of ten (10) feet, or the line formed by connecting the front building lines of the adjacent buildings, whichever is less. 75% of the building façade must meet the required building-to-line, while up to 25% of the façade can be set back to allow for architectural consideration. The build-to-line is the maximum distance which any building front shall be located from a street right-of-way. The Planning Commission may adjust the required building line up to a maximum of 30 feet beyond the property line for projects incorporating a permanent space for an outdoor seating area, or public space. Outdoor seating or public spaces must be developed as part of the primary building.

Amendments to Section 138-679, Standards

Purpose: Update site plan review standards to include overall design standards and requirements in the Downtown Design Guidelines.

Background paraphrased from CWA April 22, 2022 Memorandum

CWA worked with Planning Commission to provide more direct language in the site plan review standards section of the Ordinance. Design guidelines/standards are difficult to write, and a certain amount of subjectivity is inevitable. Standards have to strike a delicate balance between enforceable objectivity and allowing architectural creativity.

We have found that, if a community clearly articulates their required standards and expectations early in the review process, the building/development community is willing to follow those standards. We encounter pushback when the standards are not clearly articulated, could be considered subjective, and the “rules are changed mid-way through the review period.” The proposed language was reviewed and revised based on Planning Commission direction.

Direction from Planning Commission

The Planning Commission helped to refine the amendments below on two separate occasions.

Background Information on Zoning Ordinance Revisions

Proposed Amendment

Existing language is *italicized*. New language is blue colored and underlined. Removed language is redlined and ~~strikethrough~~.

Sec. 138-679. - Standards.

The site plan shall be reviewed and approved by the planning commission upon finding that:

(a) General Standards

- (1) The site meets the requirements of this Code.*
- (2) The proposed development does not create adverse effects on public utilities, roads, or sidewalks.*
- (3) Pedestrian and vehicular areas are designed for safety, convenience, and compliment adjacent site design.*
- (4) Site design, architecture, signs, orientation, and materials are consistent with the city's master plan objectives and the design of the neighboring sites and buildings.*
- (5) Landscaping, lighting, dumpster enclosures, and other site amenities are provided where appropriate and in a complementary fashion.*
- (6) Site engineering has been provided to ensure that existing utilities will not be adversely affected.*

(b) Development shall ensure compatibility with existing commercial districts and include a transition between land uses through application of the following requirements:

- (1) Building design shall improve the character of the surrounding area in relation to building placement, landscape and streetscape features, and architectural design.
- (2) Street fronts shall provide a variety of architectural expression that is appropriate in its context and creates variety and enhances visual interest.
- (3) Building façade and massing shall achieve a compatible transition between adjacent properties with different height, massing, scale, and architectural style.
- (4) For proposals in the Downtown Development District, the applicant shall explain, and the Planning Commission should consider how the proposal implements the site design elements in Chapter II and character areas in Chapter V of the Berkley Downtown Design Guidelines. The Planning Commission may require changes to the site plan based on the Berkley Downtown Design Guidelines.

(c) Development shall incorporate the following recognized best architectural building design practices:

- (1) Foster a lasting impact on the community through the provision of high quality design, and construction,
- (2) Provide high quality, durable materials, such as but not limited to stone, brick, and glass. E.I.F.S., metal or material equivalent shall only be used as an accent material.

Background Information on Zoning Ordinance Revisions

- (3) Develop buildings with creativity that includes balanced compositions and forms.
 - (4) Design roofs that are appropriate to the architectural style of the building and contextual to the surrounding area.
 - (5) For commercial buildings, incorporate clearly defined, highly visible customer entrances that face the street, using features such as canopies, porticos, arcades, arches, wing walls, ground plane elements, and/or landscape planters.
 - (6) New development or site redevelopment shall incorporate community amenities that add value to the development such as patio/ seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located in areas accessible to the public. Such improvements shall be proportionate to the proposed scope of site work.
 - (7) Buildings shall be designed to fit the character of the community.
 - (8) For proposals in the Downtown Development District, the applicant shall explain, and the Planning Commission should consider how the proposal implements the character areas in Chapter V of the Berkley Downtown Design Guidelines and the provisions of the following:
 1. Chapter III of the Berkley Downtown Design Guidelines for new construction; or
 2. Chapter IV of the Berkley Downtown Design Guidelines for renovations or façade alterations.
 - (9) The Planning Commission may require changes to the site plan based on the Berkley Downtown Design Guidelines.
- (d) Enhance the character, environment, safety, and access for motorized and non-motorized transportation through the following requirements:
- (1) Provide elements that distinguish the street and the pedestrian realm (area from the back of the street curb to the building front).
 - (2) Create a non-motorized pedestrian connection between the public right of way and ground floor activities.
 - (3) Create a safe environment by employing design features to reduce vehicular and pedestrian conflicts, while not sacrificing design excellence.
 - (4) Enhance the pedestrian realm by framing the sidewalk area with trees, awnings, and other features.
 - (5) Improve safety and access for pedestrians through site design elements and lighting.
 - (6) For proposals in the Downtown Development District, the applicant shall explain, and the Planning Commission should consider how the proposal implements the site design elements in Chapter II and character areas in Chapter V of the Berkley Downtown Design Guidelines. The Planning Commission may require changes to the site plan based on the Berkley Downtown Design Guidelines.

AN
ORDINANCE

of the City Council of the City of Berkley, Michigan to Amend Section 94-5, Exempt Signs (signs permitted in nonresidential districts), in Chapter 94, Signs, of the City of Berkley Code of Ordinances and Sections 138-143, Sec. 138-222, Sec. 138-526, Sec. 138-527, and Sec. 138-679 of Chapter 138 – Zoning to implement the Downtown Design Guidelines adopted by the City.

THE CITY OF BERKLEY
ORDAINS:

SECTION 1: Section 94-5 of Chapter 94 of the Berkley City Code shall be amended, as follows:

Sec. 94-5. - Exempt signs (signs permitted in nonresidential districts).

The following signs are permitted in the Office, Downtown, Local Business, Eleven Mile, Twelve Mile, Coolidge, Gateway, Woodward, Industrial, Parking, and Cemetery districts and are generally exempt from the regulations of the ordinance from which this chapter was derived, except section 94-11 shall apply.

- (1) Banners, not exceeding six square feet, one per location
- (2) Barber poles, not exceeding 12 inches in diameter and eight feet in height.
- (3) Fuel pumps.
- (4) Time/temperature signs, not exceeding 20 square feet, one per location.
- (5) Vehicle signs.
- (6) Window signs, not exceeding ~~50~~ 25 percent of glass.

SECTION 2: Section 138-143 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-143. - Requirements.

(b) *Nonresidential districts.*

- (1) Any light fixture shall be placed in such a manner that no light source is visible from any residential area or public/private roadway, walkway, trail or other public way when viewed at eye level.
- (2) The level of lighting shall not exceed 0.5 footcandles at any residential property line or 1.0 footcandles at any nonresidential property line.

- (3) Any canopy structure used at a business location shall have recessed lights with diffusers that do not extend below the surface of the canopy.
- (4) Any luminaire on a pole, stand or mounted on a building shall have a shield, an adjustable reflector and non-protruding diffusor.
- (5) General parking and pedestrian areas shall maintain a minimum of 1.0 fc for all hours of operation.
- (6) All outdoor lighting fixtures, existing or hereafter installed and maintained upon private property, shall be turned off or reduced to no more than 0.5 fc in lighting intensity between 11:00 p.m. and sunrise. The following exceptions may be approved by the Planning Commission as part of site plan review:
 - a. Where greater lighting levels are necessary for security or safety purposes; or
 - b. Where permissible commercial or industrial uses such as sales, assembly and repair operate after 11:00 p.m., in which case the lighting levels shall be turned off or reduced after the use ceases for that day.

SECTION 3: Section 138-222 of Chapter 138 of the Berkley City Code shall be amended with the addition of a sub-section e, as follows:

Sec. 138-222. - Parking lot location, design, and construction.

(e) Pedestrian Connections. Plans for parking lots shall include pedestrian circulation improvements incorporating striping, calming devices, and hardscaping, protective lighting, connections to buildings, and landscaping that ensures the visibility and separation of pedestrians from the street and pedestrian safety within parking lots to the front building entrance. Plans shall allow pedestrians to walk parallel to moving vehicles and minimize crossing parking aisles.

SECTION 4: Section 138-526 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-526. - Schedule of regulations.

Districts	Minimum Size of Lot per Unit		Maximum Height of Buildings	Front	Minimum Yard Setback			Maximum Percentage of Lot Coverage (Area of All Structures)	Minimum Floor Area Per Unit	
	Area in Square Feet (a)	Width in Feet			In Feet	At Least 1 Side Yard	Total of 2 Side Yards		Rear	With Base-ment
R-1A	12,000	100	40	25(b)	5(c, d)	15	20	35(e)	1,800	2,000
R-1B	8,800	80	30	25(b)	5(c, d)	15	20	35(e)	1,500	1,700

R-1C	6,600	50	30	25(b)	5(c, d)	15	20	35(e)	1,300	1,500
R-1D	4,400	40	30	25(b)	5(c, d)	15	35	35(e)	1,300	1,500
R-2	4,000	40	30	25(b)	5(c, d)	15	35	35	1,100	1,300
R-M	(e)	(e)	30	25(b)	10(g)	20(f)	35	35	(h)	(h)
R-M-H	(See article V, division 5, High-Rise Multiple-Family Residential District)									
Greenfield	(See article V, division 7, Greenfield District)									
Community centerpiece	(See article V, division 8, Community Centerpiece District)									
Office	—	—	30	10(j, k)	(m)	(m)	10	—	—	—
Downtown	—	—	—	(n)	(n)	(n)	10	—	—	—
Local business	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Twelve mile	—	—	40	(n)	(n)	(n)	10	—	—	—
Coolidge	—	—	40	10(j k o)	(m)	(m)	10	—	—	—
Gateway	—	—	40	10(j k o)	(m)	(m)	10	—	—	—
Woodward	—	—	50	10(j, k)	m	m	10	—	—	—
Eleven mile	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Industrial	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Parking	—	—	15		(See sections 138-496—138-503)					
Cemetery	(See article V, division 16, Cemetery District)									

SECTION 5: Footnote j and n of Section 138-57 of Chapter 138 of the Berkeley City Code shall be amended, as follows, and footnote o shall be added:

Sec. 138-527. - Notes to schedule of regulations.

(j) ~~Parking shall be permitted in the front yard after approval of the parking plan layout and points of access by the planning commission. The setback shall be measured from the nearest side of existing and/or proposed right-of-way lines.~~ Parking shall be located in a side or rear yard; when located in a side yard and abutting the required build-to-line adjacent the primary building, parking shall be screened with a minimum 30-inch masonry wall on the required build-to-line, or within 5 feet of the required building line, provided that a landscape treatment is added between the wall and the required building line.

(n) No setback shall be permitted, unless the planning commission finds that the proposed setback shall be developed as a defined plaza, outside eating area, or other pedestrian space. When a first-floor residential use is allowed, a setback of up to ten (10) feet shall be allowed.

(o) Buildings must meet a required front build-to-line of ten (10) feet, or the line formed by connecting the front building lines of the adjacent buildings, whichever is less. 75% of the building façade must meet the required building-to-line, while up to 25% of the façade can be set back to allow for architectural consideration. The build-to-line is the maximum distance which any building front shall be located from a street right-of-way. The Planning Commission may adjust the required building line up to a maximum of 30 feet beyond the property line for projects incorporating a permanent space for an outdoor seating area, or public space. Outdoor seating or public spaces must be developed as part of the primary building.

SECTION 6: Section 138-679 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-679. - Standards.

The site plan shall be reviewed and approved by the planning commission upon finding that:

(a) General Standards

- (1) The site meets the requirements of this Code.
- (2) The proposed development does not create adverse effects on public utilities, roads, or sidewalks.
- (3) Pedestrian and vehicular areas are designed for safety, convenience, and compliment adjacent site design.
- (4) Site design, architecture, signs, orientation, and materials are consistent with the city's master plan objectives and the design of the neighboring sites and buildings.
- (5) Landscaping, lighting, dumpster enclosures, and other site amenities are provided where appropriate and in a complementary fashion.
- (6) Site engineering has been provided to ensure that existing utilities will not be adversely affected.

(b) Development shall ensure compatibility with existing commercial districts and include a transition between land uses through application of the following requirements:

- (1) Building design shall improve the character of the surrounding area in relation to building placement, landscape and streetscape features, and architectural design.
- (2) Street fronts shall provide a variety of architectural expression that is appropriate in its context and creates variety and enhances visual interest.

- (3) Building façade and massing shall achieve a compatible transition between adjacent properties with different height, massing, scale, and architectural style.
- (4) For proposals in the Downtown Development District, the applicant shall explain, and the Planning Commission should consider how the proposal implements the site design elements in Chapter II and character areas in Chapter V of the Berkley Downtown Design Guidelines. The Planning Commission may require changes to the site plan based on the Berkley Downtown Design Guidelines.
- (c) Development shall incorporate the following recognized best architectural building design practices:
 - (1) Foster a lasting impact on the community through the provision of high quality design, and construction,
 - (2) Provide high quality, durable materials, such as but not limited to stone, brick, and glass. E.I.F.S., metal or material equivalent shall only be used as an accent material.
 - (3) Develop buildings with creativity that includes balanced compositions and forms.
 - (4) Design roofs that are appropriate to the architectural style of the building and contextual to the surrounding area.
 - (5) For commercial buildings, incorporate clearly defined, highly visible customer entrances that face the street, using features such as canopies, porticos, arcades, arches, wing walls, ground plane elements, and/or landscape planters.
 - (6) New development or site redevelopment shall incorporate community amenities that add value to the development such as patio/ seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located in areas accessible to the public. Such improvements shall be proportionate to the proposed scope of site work.
 - (7) Buildings shall be designed to fit the character of the community.
 - (8) For proposals in the Downtown Development District, the applicant shall explain, and the Planning Commission should consider how the proposal implements the character areas in Chapter V of the Berkley Downtown Design Guidelines and the provisions of the following:
 - 1. Chapter III of the Berkley Downtown Design Guidelines for new construction; or
 - 2. Chapter IV of the Berkley Downtown Design Guidelines for renovations or façade alterations.
 - (9) The Planning Commission may require changes to the site plan based on the Berkley Downtown Design Guidelines.
- (d) Enhance the character, environment, safety, and access for motorized and non-motorized transportation through the following requirements:

- (1) Provide elements that distinguish the street and the pedestrian realm (area from the back of the street curb to the building front).
- (2) Create a non-motorized pedestrian connection between the public right of way and ground floor activities.
- (3) Create a safe environment by employing design features to reduce vehicular and pedestrian conflicts, while not sacrificing design excellence.
- (4) Enhance the pedestrian realm by framing the sidewalk area with trees, awnings, and other features.
- (5) Improve safety and access for pedestrians through site design elements and lighting.
- (6) For proposals in the Downtown Development District, the applicant shall explain, and the Planning Commission should consider how the proposal implements the site design elements in Chapter II and character areas in Chapter V of the Berkley Downtown Design Guidelines. The Planning Commission may require changes to the site plan based on the Berkley Downtown Design Guidelines.

DRAFT



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TO: City of Berkley Planning Commission
FROM: Megan Masson-Minock, AICP
DATE: September 22, 2022
RE: Vape Shop Zoning Ordinance Amendments Options

The opening of a vape shop on Coolidge in proximity to the high school has been noted as a concern. While that vape shop has since closed, a City Council member has asked the Planning Commission to consider a spacing requirement from schools for vape shops, like that for marijuana provisioning centers. In other communities for similar uses (tobacco shops marijuana provisioning centers, and liquor stores), we have seen spacing requirements in combination with restrictions to specific zoning districts, which are not in proximity to schools or other places where young people may gather.

Marijuana provisioning centers are allowed as principal uses in the Local Business, Downtown, Gateway, Coolidge, 12 Mile, Woodward, and 11 Mile zoning districts with a spacing requirement of 1,000 feet or more from a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. However, due to existing public and/or private schools that eliminated uses located in the Downtown, Gateway, Coolidge, and 12-mile districts the spacing requirement only allowed provisioning centers in the Local Business, Woodward, and Eleven Mile zoning districts.

At a work session in May 2022, potential zoning ordinance amendments dealing with vape shops were introduced. The Planning Commission decided more thought and discussion was needed on the topic than was possible at that meeting.

This memorandum presents the components for zoning ordinance amendments to regulate vape shops, a comparative analysis of the two possible approaches, and discussion questions.

Zoning Ordinance Amendment Components

Zoning ordinance amendments to regulate vape shops would have the following components:

- **Definitions:** Term used in the amendments will need to be defined such as vape shop and vapor product. The Zoning Ordinance defines a tobacco shop as, “Any establishment having more than 30 percent of shelf space devoted to selling of tobacco, cigarette, cigars, or smoking paraphernalia.” A similar approach could be used for a definition of a vape shop or a more general definition could be used, that does not specify the amount of shelf space.

- Listing of use in Zoning Districts: The use will need to be listed in the zoning districts where it is proposed to be allowed, as either a principal use or a special use.
- Rules regarding the use (Optional): Any spacing rules or design requirements will need to be specified. For example, many communities use 1,000 feet as a separation buffer. In the City’s Zoning Ordinance, those rules can be found at the end of each zoning district article (see Sec. 138-389 – Automobile Service Stations in Division 6.5 - Local Business District) or as a section in Division 17 – Schedule of Regulations (See Sec. 138-528 – Marihuana Business Regulations).

Comparative Analysis

The table below describes a zoning district approach and a spacing approach, with pros and cons for each. Please note, you that may also use both a zoning district as well as spacing requirement.

Approach	Description	Pros	Cons
Zoning District	<p>Restricts locations of a use by zoning district.</p> <p>Based on the recent experience with the marihuana provisioning centers, a vape shop use could be restricted to the Local Business, Woodward, and Eleven Mile zoning districts and likely not locate near to an existing school.</p>	<ul style="list-style-type: none"> • Simple to understand • Easy to administrate 	<ul style="list-style-type: none"> • If zoning district boundaries change, proximity to schools could change • Does not prevent clustering
Spacing	<p>Requires a certain distance between the use and uses such as schools, parks or places of worship. Can also be used to prevent a clustering of such uses.</p>	<ul style="list-style-type: none"> • Additional level of assurance • Could prevent clustering of a use 	<ul style="list-style-type: none"> • More difficult to administrate • If new a new school is established within the spacing requirement of an existing use, the use is non-conforming and allowed to continue

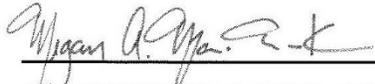
Discussion Questions

Please come prepared to discuss the following questions at your next meeting:

- Should vape shops be regulated in the Zoning Ordinance?
- If so, what is the intent of those regulations?
- Do you have a preference in terms of an approach?
- What other suggestions do you have?
- What additional information is needed?

Please let us know if you have any questions or concerns. We look forward to this discussion on September 27th!

Sincerely,



CARLISLE/WORTMAN ASSOC., INC.
Megan Masson-Minock, AICP
Senior Associate



CITY OF BERKLEY COMMUNITY DEVELOPMENT

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MEMORANDUM

To: Members of the Planning Commission

From: Kristen Kapelanski, Community Development Director

Subject: **Election of Planning Commission Officers and Committee Liaisons**

Date: September 22, 2022

The Planning Commission is asked to elect a Chairperson, Vice-Chairperson and Secretary to serve a one-year term.

Additionally, the Planning Commission has also sent liaisons to the following Committees. Typical meeting times are listed below.

- City Council: Meets the first and third Monday of the month at 7:00PM at City Hall
- Downtown Development Authority: Meets the second Wednesday of the month at 8:30AM at the Public Safety Conference Room
- Chamber of Commerce: Meets the second Wednesday of the month, location varies. I am confirming the time with the Chamber and will have that for you at the meeting.
- Environmental Advisory Committee: Meets the third Thursday of the month at 6:30PM at the Public Safety Conference Room

If you have any questions, please let me know.

Thank you
