THE REGULAR MEETING OF THE BERKLEY CITY PLANNING COMMISSION WAS CALLED TO ORDER AT 7:00 PM, SEPTEMBER 22, 2020 VIA ELECTRONIC MEETING BY CHAIR KRISTEN KAPELANSKI

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          Julie Stearn          Kristen Kapelanski
Lisa Kempner       Mark Richardson       Martin Smith (joined at 7:03pm)
Matt Trotto        Jeffrey Campbell      Mark Richardson (joined at 7:02pm)

ABSENT:
None

ALSO PRESENT:
Erin Schlutow, Community Development Director
Ross Gavin, City Council Liaison
Torri Mathes, Community Engagement Officer
Dan Hill, Public Policy Assistant
Keith Logsdon
Tim Kenrick

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APPROVAL OF AGENDA
It was moved by Commissioner Campbell to approve the Agenda supported by Commissioner Patterson.

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

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APPROVAL OF MINUTES
It was moved by Commissioner Kempner to approve the minutes from August 25, 2020 and supported by Commissioner Patterson.

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

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COMMUNICATIONS
Michigan Association of Planning sent a flyer for the upcoming 2020 conference. It will be held virtually and all sessions are to be recorded.

Chair Kapelanski welcomed the new commissioners, Joe Bartus and Julie Stearn.

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

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1. **ELECTIONS:** Matter of electing a chair person, vice chair person and secretary of the Planning Commission.

   Commissioner Kapelanski nominated Commissioner Smith to Vice Chair. Commissioner Smith nominated Commissioner Kapelanski to Chair and Commissioner Richardson to Secretary.

   Commissioner Kempner motioned to elect Chair Kapelanski to continue as Chair, Vice Chair Smith to continue as Vice Chair, and Secretary Richardson to continue as Secretary. Motion supported by Commissioner Campbell.

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

2. **APPOINTMENTS:** Matter of appointing Planning Commission liaisons to the following Boards and Commissions:

   a. City Council – Chair Kapelanski volunteered to continue as the liaison
   b. Downtown Development Authority – Commissioner Trotto volunteered to continue as liaison
   c. Chamber of Commerce – Commissioner Stearn volunteered to serve as the liaison
   d. Environmental Advisory Committee – Commissioner Richardson volunteered to continue as liaison

3. **SP-03-20; 3241 & 3249 W. Twelve Mile Rd – Amici’s Façade Change:** Keith Logsdon, on behalf of Amici’s Kitchen and Living Room, is proposing a façade change to the existing structure.

   Director Schlutow summarized the September 13, 2020 review letter and the proposed façade changes at Amici’s Kitchen and Living Room.

   Chair Kapelanski inquired about the DDA review letter that noted compliance with the Design Guidelines and the proposed mural.

   Owner Tim Kenrick addressed the condition to install a mural over the doorway and noted his support and intent to comply with that design.

   Architect Keith Logsdon thanked staff through the process.

   Commissioner Trotto inquired about the wall sconces on the front façade of the building.

   Commissioner Smith inquired about the detailing on the base near the sidewalk to ensure that the materials do not warp with weather and the location of the proposed mural.

   Chair Kapelanski noted it was a nice change.

   Commissioner Smith motioned to approve SP-03-20, as presented. Motion supported by Commissioner Patterson.

   Commissioners discussed adding the mural as a condition of approval.

   AYES: Richardson, Smith, Stearn, Trotto, Bartus, Campbell, Kempner, Patterson, Kapelanski
4. **PUBLIC HEARING**: Review and discussion for proposed text amendments for modifying parking requirements during site plan review.

   Director Schlutow summarized the proposed text amendment and background information provided to the Commission, which included ordinance language comparison with several Michigan communities, as well as potential parking reductions for the most recent site plans that were approved by the Planning Commission.

   Chair Kapelanski opened the Public Hearing at 7:27pm.

   No public comment.

   Chair Kapelanski closed the Public Hearing at 7:28pm.

   Commissioner Patterson noted he liked the 10% cap on the numerical modification.

   Commissioner Richardson noted it was a thorough discussion and well vetted and should move forward.

   Commissioner Smith stated that the Planning Commission has granted these types of modifications in the past and glad that it is official.

   Chair Kapelanski agreed with how it is written with the 10% cap.

   Commissioner Smith noted that he does not want this to be the new standard.

   Commissioner Smith motioned to recommend approval to City Council of text ordinance amendment for modification of parking requirements during site plan review, Section 138-226. Motion supported by Commissioner Kempner.

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

5. **PUBLIC HEARING**: Review and discussion for proposed ordinance text amendments for site plan projects and allowing extensions for site plan approvals.

   Director Schlutow summarized the proposed text amendment and updates that would clarify standards for development and provide some flexibility to residents and developers.

   Chair Kapelanski opened the Public Hearing at 7:37pm.

   No public comment.

   Chair Kapelanski closed the Public Hearing at 7:37pm.

   Commissioner Patterson motioned to recommend approval to City Council of text ordinance amendments to site plan review, as presented in the staff report. Motion supported by Commissioner Richardson.

   **AYES:** Stearn, Trotto, Bartus, Campbell, Kempner, Patterson, Richardson, Smith, Kapelanski
6. **DISCUSSION:** Discussion of accessory structure ordinances in relation to air conditioning units and generators.

Director Schlutow summarized the September 13, 2020 review letter and provided background and history of discussions by the Planning Commission and Zoning Board of Appeals.

Chair Kapelanski asked the following question of the PC in order to direct discussion as a whole: Should a/c units be regulated differently than generators and other external mechanical appliances?

Commissioner Kempner noted that they should not be separated, but the ordinance should specify standards for each.

Commissioner Trotto noted that they should be lumped together under “mechanical equipment” to capture both a/c, generators, and any other type of external mechanical equipment.

Commissioner Patterson stated it would be better to keep regulations for a/c units and generators separate, as there are more a/c units installed in the City. It could cause an undue burden to homeowner to move the units, if they wanted to move them.

Commissioner Campbell noted it would increase the number of nonconformities in the City. It’s not good ordinance policy. There are times when units will be replaced, which would incur additional code enforcement.

Commissioner Bartus stated that a/c units and generators should not be considered accessory structures.

Commissioner Stearn stated that generators and a/c units should not be considered accessory structures.

Commissioner Richardson noted that there are two issues: noise levels and aesthetic. The aesthetic issue is related to generators are larger and landscaping for screening would be ok. The original discussion around noise level was never complete and would like to base decision on average decibel level. The future decision should be based on facts and aesthetics are more subjective.

Commissioner Smith noted that these are considered to be exterior appliances. He noted that the existing unit can be replaced in the same place, even in side yard. For new construction, the policy is to receive a letter of approval from adjacent neighbor, and that’s a fine policy. Generators are larger and louder. It would be preferred to regulate generators to the rear yard.

Commissioner Smith stated that new equipment should be in the backyard, especially 40-50 ft. width lots. Suggested the ordinance to state rear yard, unless receive a signed letter from adjacent neighbor or replacing an existing unit. Sound levels are difficult to figure out.

Chair Kapelanski agreed that it would be unreasonable to make a homeowner relocate unit to rear yard. She stated that she doesn't have a problem with the a/c units in the side yard. If generators are going to be regulated to the rear yard, the a/c units should be looked at separately to be allowed in side yard. Also interested in learning about noise level, especially generators.

Chair Kapelanski asked the Commission if exterior appliances should be allowed in the side yard? And, if so, what would be the setback requirement?
Commissioner Smith noted that for 40 – 50 ft. lots, it would be difficult or impossible to require a setback distance for exterior appliances in the side yard.

Commissioner Trotto noted that he has looked at the sound output for generators, and they can range from 55 dBA – 69 dBA. Air conditioning units can be 58 dBA – 70dB, depending on manufacturer. Generators are not being installed as frequently as a/c units. He noted to be in favor of allowing units in the side yard.

Commissioner Kempner noted to be not in favor of the letter from neighbor.

Commissioner Smith agreed but the neighbor has the right to enjoy their property. He noted the time of usage for generators rather than a/c units. He modified his opinion that if the neighbor letter is to be removed from consideration, then the units should be regulated to the rear yard only.

Commissioner Kempner agreed that the standards should be specific that existing units can continue to remain in side yard and can be maintained or replaced as needed and do not need to be moved or relocated to rear yard.

Commissioner Bartus asked about circumstances where the rear yard may be noisier for neighbors than the side yard. The homeowner may want the flexibility to work with the neighbor.

Commissioner Richardson noted he doesn’t want to make more stringent regulation. Agrees with Commissioner Kempner that the letter waiver is not efficient and becomes obsolete with time. Regulations should be spelled out in the ordinance. Leans toward regulating the units to the rear yard.

Commissioner Stearn stated that exterior appliances can be made to work in the side yard. Agreed with previous comments about the letter. She noted that proper screening and landscaping can be installed to muffle noise levels. That can be made a requirement. Generators run a weekly test run for about 10 minutes and times can be set any time any day of the week. The cost to install generators can be significantly increased if forced to install in the rear yard, if the electrical panel is on the side of the house. Installed units are quieter than the portable generators that are used when the power goes out.

Chair Kapelanski agreed not to have an issue with units in the side yard. Portable generators are much louder. Agreed with Commissioner Smith that the setbacks don’t make a lot of sense given distancing requirement to install and the small required setback for principal structure.

7. **DISCUSSION:** Discussion of projections into side yard setbacks.

Director Schlutow provided a summary of the Zoning Ordinance language that permits projections into side yard and rear yard setbacks, history of regulation for chimneys and ordinance language from neighboring communities.

Commissioner Smith provided some history on the ordinance and it was drafted for chimney boxes, similar to bay windows, on the side yard of homes. It was written as a response to the chimney boxes extending into the side yard. Noted that it does need some work or clarification.

Commissioner Smith discussed the intent of drafting the existing ordinance, as written. It was noted that the commission did not want projections to extend too far into the 5 ft. setback. A dimensional projection was given, but also a formula to extend the surface of the side wall. Suggested to include chimneys, bay windows, overhangs, etc. not to extend “X” inches into side yard and total surface area shall not exceed “X” amount or percentage of that wall area.

Chair Kapelanski agreed, but felt chimneys should be treated differently, as they are not liveable space.
Commissioner Smith stated it should be a standard projection because chimneys are no different than a bay window. It should be regulated by maximum depth and maximum area of the adjoining wall.

Chair Kapelanski asked about the depth of a traditional bay window.

Commissioner Smith noted that they can be as big or small as wanted.

Commissioner Kempner noted concern for allowing too many projections into the side yard setback.

Commissioner Trotto inquired about egress window locations.

8. **DISCUSSION:** Discussion of allowing pervious pavements as acceptable paving materials in residential and commercial developments.

Director Schlutow provided a summary of the review letter that would allow the Planning Commission to allow developments to use a permeable pavement material on the lots.

Commissioner Smith stated that he could understand residential properties wanting to use permeable pavement materials, but didn’t think it would be as popular with commercial properties.

Commissioner Richardson asked if municipal lots would be impacted and if the stormwater calculations could be supported.

Commissioner Smith noted his support for the proposed change.

The Planning Commission directed staff to set the public hearing for the October meeting.

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**LIAISON REPORTS**

Director Schlutow updated the Commission that two ordinances were adopted by the City Council, the development standards for the Local Business District and the removal of BOCA from the Zoning Ordinance.

Commissioner Trotto noted the DDA has approved the new signage plan.

Commissioner Richardson noted that the Environmental Advisory Board met and decided to move forward with a community garden. They are discussing location, size, management and will engage the public in the discussions in the future.

Commissioner Trotto noted that he knew of someone who may be interested in assisting with the community garden.

Commissioner Kempner gave an update on the Master Plan Steering Committee and the corridor walks that took place on Eleven Mile, Greenfield, Twelve Mile and Woodward.

Commissioner Smith noted he was not able to attend the walks and asked about if they notes would be available to review.

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**STAFF/COMMISSIONER COMMENTS**

Director Schlutow thanked those who attended the corridor walks with Megan Masson-Minock and Kristoffer Canty from Carlisle Wortman.
The City Council extended the deadline until March 31, 2021 for outdoor dining, sales, etc. and also allowed for temporary outdoor structures to be used by local businesses, as the weather begins to change. The City Council began a discussion on regulating public art and murals in the City.

Commissioner Smith welcomed new commissioners.

Commissioner Smith asked about incorporating outdoor areas into the Master Plan and future ordinance discussions.

Commissioner Kempner motioned to adjourn. Motion supported by Commissioner Richardson.

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

**With no further business, the meeting was adjourned at 9:00pm.**