

**THE REGULAR MEETING OF THE BERKLEY CITY PLANNING COMMISSION WAS CALLED TO ORDER AT 7:00 PM, MARCH 22, 2022 AT BERKLEY CITY HALL 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/cityofberkeley>.*

**PRESENT:** Kristen Kapelanski Martin Smith  
Joe Bartus Lisa Kempner  
Greg Patterson Julie Stearn  
Mark Richardson Shiloh Dahlin

**ABSENT:** Daniel Petrosky (Excused)

**ALSO, PRESENT:** Megan Masson-Minock, Interim Community Development Director  
Matthew Baumgarten, City Manager  
Bill and Jackie Scarmeas, 1878 Rosemont, Berkley  
Aaron Geyer, 1722 Roszel, Royal Oak

Motion by Commissioner Richardson to excuse the absences of Commissioner Petrosky. Motion supported by Commissioner Bartus.

AYES: Bartus, Dahlin, Kempner, Patterson, Stearn, Richardson, Smith, Kapelanski  
NAYS: NONE  
ABSENT: Petrosky

**MOTION CARRIED**

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**APPROVAL OF AGENDA**

Motion by Commissioner Kempner to approve the agenda supported by Commissioner Bartus.

AYES: Smith, Richardson, Stearn, Patterson, Kempner, Dahlin, Bartus, Kapelanski  
NAYS: NONE  
ABSENT: Petrosky

**MOTION CARRIED**

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**APPROVAL OF THE MINUTES**

Motion by Commission Richardson to approve the minutes from the regular Planning Commission meeting on February 22, 2022 and supported by Commissioner Kempner with the amendment on page 5:

- Adding "regarding parking" to the description from Commissioner Richardson's question on empirical data for the facilities.

AYES: Bartus, Dahlin, Kempner, Patterson, Stearn, Richardson, Smith, Kapelanski  
NAYS: NONE  
ABSENT: Petrosky

Motion by Commissioner Richardson to approve the minutes from the Planning Commission Work Session on March 1, 2022 and supported by Commissioner Kempner with the amendment of:

- Changing Commissioner Julie Stearn from "Present" to "Absent"

AYES: Bartus, Dahlin, Kempner, Patterson, Stearn, Richardson, Smith, Kapelanski  
NAYS: NONE

ABSENT: Petrosky

**MOTION CARRIED**

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**COMMUNICATIONS**

Community Development Department Report  
E-mail between City Attorney & Marihuana Regulatory Agency  
E-mail and attachment from Bill Scarmeas in regard to five licenses and 1949 Twelve Mile in particular.

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**CITIZEN COMMENTS**

James Campbell, 1591 Catalpa - requested that the Commission reconsider approval of the agenda by removing PSP-03-22 from the agenda, basing it on two points of order. The first point is that the ordinance O-02-22 had not been passed by the City Council. Secondly, all Planning Commission documents, applications, websites specify either thirty days or four weeks for additions to agenda. The notification for the request to make the agenda change was submitted on March 2, 2022 per records provided online.

Interim Community Development Director Masson-Minock clarified that the applicant for PSP-03-22 had submitted plans before the date specified on the website, all the materials were in before the date online.

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**OLD BUSINESS**

- 1. **DDA Guidelines:** Review of ordinance language to implement the DDA guidelines, based on March 1, 2022 Work Session.

Interim Community Development Director Masson-Minock provided an overview of the changed proposed language for the revised design plan standards and that would be inserted into part of the site plan standards.

Chair Kapelanski commented on 3c. She questioned why the Commission would want to reduce pedestrian use.

Co-Chair Smith commented on 1a. Why did the parking placement get taken out? Interim Community Development Director Masson-Minock stated that parking placement was removed because of changing the rules so that all the districts in the DDA would have to park behind the building for new developments.

Chair Kapelanski stated that this update in ordinance can be presented at the next meeting.

- 2. **Rules of Procedure:** Update from the work session

Chair Kapelanski stated that the need to excuse members is required.

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**NEW BUSINESS**

- 1. **Capital Improvement Plan:** Presentation and discussion of the proposed Berkley Capital Improvement Plan.

City Manager, Matt Baumgarten, presented and discussed the proposed Berkley Capital Improvement Plan. Mr. Baumgarten provided an explanation of what the CIP is and the role of dual approval from Planning Commission and City Council.

Commissioners asked questions related to the proposed CIP.

The City Manager noted that the updated document would return to the Planning Commission.

2. **PSP-03-22:1949 Twelve Mile - Lume:** Sketch Plan for the conversion of 6,764 square feet of the existing building to a retail marihuana dispensary and office use for the remaining 17,677 square feet.

Interim Community Development Director Masson-Minock gave an overview on the process of application from Lume. Interim Community Development Director Masson-Minock also stated there was correspondence from residents who were concerned that KinderCare that shares a parking lot with this building and felt it was a violation of state law and the Zoning Ordinance to locate a marihuana dispensary within 1,000 feet of the pre-school. Interim Community Development Director Masson-Minock referenced the state law and zoning ordinance provision that Berkley follows for marihuana and schools, which require that a marihuana provisioning center not be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Through a conversation with the director of the KinderCare, Interim Community Development Director Masson-Minock verified that the KinderCare offers only preschool services.

### **APPLICANT PRESENTATION**

Chris Enright  
Christopher Enright Architects PC  
628 E Parent Ave #106, Royal Oak, MI 48067

Petitioner, Mr. Enright provided an overview of Lume Cannabis in the state of Michigan. Mr. Enright provided specifics on 1949 Twelve Mile where the building and location would be. There will be extensive renovation to the building both inside and outside including parking, landscaping, elevator, stormwater detention system, green roof, solar panel and much more.

### **PUBLIC COMMENT**

Bill Scarmeas, 1878 Rosemont - Presented a poll from Mott study done for children. He stated that he is concerned about the children at KinderCare, and is objecting to Lume Dispensary. He questioned the walking accessibility for children, they will be walking to school and be exposed to this. In the Mott report, the number one concern is impaired drivers and the University of Michigan did a study showing 56% of participants using medical marihuana admitted to driving high within 2 hours of use.

James Campbell, 1591 Catalpa - Stated that there was hesitation from City Council on the passing of ordinance O-02-22. Stated that the applicant is ineligible to occupy the space for the type of business in which they plan to operate. In context, consider that one of the effects as to why ordinance is being considered is because a litigator for this company as a part of public record, threatened to sue the City if they did not expand this ordinance and that he is offended by that. He asked the Commissioners to keep this information in mind as they evaluated this business.

Larry Fons, 1908 Rosemont - Stated that he has six grandchildren and does not want them exposed to marihuana and the smell.

Other correspondence included information from the first speaker, Bill Scarmeas. Correspondence from the City Attorney was provided as well.

Chair Kapelanski questioned the applicant on odor and smells associated with the use. The Petitioner, Mr. Enright stated that all of Lume Cannabis retail is packaged and nothing is ever open to the air.

Chris Klampkin, Founder of Operation Grow LLC, DBA Butter, 2222 W Eleven Mile- Stated that Lume has nitrogen packaging which actually seals the cannabis flower. Mr. Klampkin also asked specific questions on DBA Butter, in which Chair Kapelanski told Mr. Klampkin to refer to staff for information.

Commissioner Stearn asked the applicant about the plans for the parking lot on the east side of the building.

Commissioner Kempner asked Mr. Enright about the wind turbines, and about the ID process for Lume especially since they will be residing on the second floor.

Commissioner Dahlin made statements about possibly improving the east parking lot. Commissioner Dahlin also discussed with Mr. Enright about the stormwater treatment and detention along with parking.

Commissioner Richardson discussed with Mr. Enright the reciprocal agreement for parking, and redirecting traffic if the American Legion is busy. Commissioner Richardson also asked Mr. Enright what the anticipated hours of operation would be stating the hours are 11a.m. -9 p.m. Commissioner Richardson asked if there will be security, a parking plan, and a lighting plan.

Co-Chair Smith stated parking in the American Legion hall does get busy and that there may be conflict on that side of parking. Commissioner Smith also discussed with the applicant Mr. Enright about site lighting, public sidewalk space, green roof, wind turbines, and the exterior design.

Chair Kapelanski stated to Mr. Enright to obtain typical parking counts from the other Lume facilities, and the parking plan for the entire site. Chair Kapelanski also gave comments on rendering, signage of other spaces, rain barrels.

Commissioner Stearn stated questions on curbside pickup and parking.

Commission Richardson suggested to Mr. Enright an idea of a wall next to the sidewalk or trees and shrubs to disguise the fact that there is a parking lot behind there.

There was general discussion with Commissioners, Interim Community Development Director and Mr. Enright with parking and traffic impact assessment.

**3. PSP-7-22: 3916 W. Eleven Mile - Quality Roots: Sketch Plan for renovation of the existing building to a retail marihuana dispensary and office tenant space**

Interim Community Development Director Masson-Minock provided the timeline of the application from the applicant. Interim Community Development Director Masson-Minock also stated inconsistencies that the applicant has changed since the pre-application meetings that have happened.

**APPLICANT PRESENTATION**

Michal Klar  
Vice president, Co-founder of Quality Roots

Andrew Danaher, Architect  
Stucky-Vitale Architects

Mr. Danaher presented the background of Quality Roots, their connection to the community where there are stores present today. Mr. Danaher also presented the plans for the site exterior and interior of Quality Roots.

**PUBLIC COMMENT**

Anne McMinn 1780 Cummings – Stated she is confused as to which building is the current tenant moving out, and what is on the second floor.

Mr. Danaher stated that there was an existing jewelry manufacturer in the space that is moving out. Mr. Danaher stated that there is also an accountant as a tenant that will stay there. There is also the second floor that is around 300 sq. ft being featured as an office.

Chair Kapelanski stated to the applicant that they should reach out to their surrounding neighbors so they have a clear understanding of what is being proposed.

Jim Hosivich - Questioned the plot behind the corner store that is shown as a new parking lot, the website shows cars parking there, is that part of this plan. Mr. Danaher stated that the whole lot to the north is utilized for parking. Mr. Hosivich asked if the city was going to maintain the alley.

Commissioner Bartus discussed with the applicant about the moving of the DTE power pole.

Commissioner Stearn asked about the windows on the second floor.

Commissioner Patterson asked the applicant if they have second floor plans, and suggested more windows on the front second floor.

Commissioner Kempner commented that this site can have two wind turbines.

Commissioner Richardson discussed with the applicant about the green roof for the building and a parking plan.

Co-Chair Smith stated that it needs to be shown that parking can be accommodated on this site. Co-Chair Smith commented on the investments in this building and discussed with the applicant the trees that are proposed to be planted, along with the roof structure, a sign question, and exterior comments.

Chair Kapelanski suggested to the applicant to include parking counts from the existing facilities, and comments specific to the building.

4. **PSP-06-22: 3737 Twelve Mile - New Construction of Rowhomes:** Daniel Stakhiv, on behalf of Berkley Deal LLC, 3737 Twelve Mile Road, Parcel #25-18-126-020, is requesting site plan approval of a new seven-unit rowhomes development in the Twelve Mile District.

Interim Community Development Director Masson-Minock stated to the Commission they need to decide on the waivers that are requested. Interim Community Development Director Masson-Minock stated that in the letter to the Planning Commission, she recommended that the site plan be tabled until the geotechnical site plan is completed. Interim Community Development Director Masson-Minock gave an overview of the information presented from the applicant.

#### **APPLICANT PRESENTATION**

Daniel Stakhiv

The applicant, Mr. Stakhiv gave an overview of the concerns with the clay soil, geotechnical survey, and time constraints. Mr. Stakhiv also provided an overview of the plan on the parcel and why he asked for waivers.

There is no public hearing on this item.

On the waiver for the Twelve Mile setback, there was no objection by the Planning Commission.

On the waiver for the Phillips setback, there was no objection by the Planning Commission on the finding that this is defined as a pedestrian area with a landscape area.

On the side yard setback waiver, there was no objection by the Planning Commission.

On the front elevation transparency waiver, there was no objection by the Planning Commission.

Chair Kapelanski discussed with the applicant the storm water and details of the plan.

Commissioner Dahlin discussed with the applicant the detention and pipe usage on this property.

There was discussion amongst the Commissioners on approval with the condition of county approval.

The Commission discussed with the applicant other specifics on the design.

Move of Motion by Commissioner Kempner to approve PSP-06-22 with support from Commissioner Richardson that:

1. Waiver for the setback on Twelve Mile based on the provision of front yards for pedestrian space is approved as proposed.
2. Waiver of the setbacks on Phillips and side yard setback so the building is parallel to Twelve Mile creating a better pedestrian space on Twelve Mile and Phillips is approved as proposed.
3. Waiver of transparency for what is shown on the site plan based on the finding that the site plan as proposed meets section 138-678, is approved as proposed.
4. The site plan is approved with the following conditions:
  - a. RCOC approval;
  - b. Approval from City of Berkley DPW;
  - c. Approval from the consulting engineer, HRC;
  - d. The dumpster screening detail is included on the final site plan; and
  - e. The bike rack is moved to the north side of the dumpster.
5. The conditions of approval are finalized with a review by the Planning Commission.

AYES: Bartus, Dahlin, Kempner, Patterson, Stearn, Richardson, Smith, Kapelanski

NAYS: NONE

ABSENT: Petrosky

**MOTION CARRIED**

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**LIAISON REPORT**

Commissioner Kempner provided the Commission with an update on DDA discussion of budget and crosswalks.

Commissioner Richardson stated that the Environmental Committee met and welcomed new members. They are still looking for additional members, and a bike corral will be likely at the art bash.

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**COMMISSIONER COMMENTS**

Commissioner Richardson appreciated the motion from Interim Community Development Director and helping the Commissioners make their decisions on findings.

Commissioner Kempner expressed appreciation for the information that is on the screen so audience can see.

The Commissioners discussed the community center committee if it is still functional or not.

The Commissioners inquired about voice votes instead of roll call votes on adjournment, approval of the minutes and agenda.

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**STAFF COMMENTS**

Interim Community Development Director Masson-Minock stated that she will be on vacation next week and to contact Ben Carlisle for any questions, and to contact Kim Anderson in the Building Department for questions.

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**ADJOURNMENT**

Motion to adjourn by Commissioner Richardson supported by Commissioner Stearn.

AYES: Bartus, Dahlin, Kempner, Patterson, Stearn, Richardson, Smith, Kapelanski

NAYS: NONE

ABSENT: Petrosky

**With no further business, the meeting was adjourned at 10:53 p.m.**