

**CITY OF BIRMINGHAM
 PLANNING BOARD ACTION ITEMS
 OF WEDNESDAY, MAY 13, 2015**

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1. Compliance with the requirements of the City Departments.	
Motion carried, 7-0.	3

APPROVED

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, MAY 13, 2015
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held on May 13, 2015. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Daniel Share; Student Representative Andrea Laverty

Absent: Board Member Robin Boyle, Alternate Board Member Stuart Jeffares; Student Representative Scott Casperson

Administration: Matthew Baka, Senior Planner
Jana Ecker, Planning Director
Shalaka Puranik, Asst. City Planner
Carole Salutes, Recording Secretary

05-87-15

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
HELD APRIL 8, 2015**

Motion by Mr. DeWeese

Seconded by Ms. Lazar to approve the Minutes of the regular Planning Board meeting on April 22, 2015

Motion carried, 6-0.

VOICE VOTE

Yeas: DeWeese, Lazar, Clein, Koseck, Whipple-Boyce, Williams

Nays: None

Abstain: Share

Absent: Boyle

05-88-15

CHAIRPERSON'S COMMENTS (none)

05-89-15

APPROVAL OF THE AGENDA (33877 Woodward Ave. is removed per applicant's request)

05-90-15

SPECIAL LAND USE PERMIT ("SLUP")

FINAL SITE PLAN REVIEW

33877 Woodward Ave., Sav-On Drugs

Application for SLUP and Final Site Plan and Design Review to add a drive-through pharmacy on the south side of the building (postponed from March 25, 2015 – request by applicant to postpone indefinitely)

05-91-15

FINAL SITE PLAN REVIEW

2483 W. Maple Rd.

DFCU

Application for Final Site Plan and Design Review to construct a new one-story bank building with a drive-through facility on the east side of the building

Mr. Baka advised the site at 2483 W. Maple Rd. is the current location of Cranbrook Auto Care. The petitioner intends to demolish the current building and construct a one-story bank with a drive-through.

The existing site is zoned B-1. The bank use is permitted; however the drive-in teller requires a SLUP. Should Preliminary and Final Site Plan approval be granted by the Planning Board, a public hearing will be held by the City Commission to consider granting the proposed SLUP.

On February 11, 2015 the applicant appeared before the Planning Board and presented revised plans with several changes aimed at addressing earlier concerns of the Planning Board. At that time, the Planning Board voted to grant the applicant Preliminary Site Plan and to recommend Special Land Use Permit approval with several conditions.

On April 14, 2015 the applicant appeared before the Board of Zoning Appeals ("BZA") and was granted a variance to provide less than 70% glazing on the first floor of the building as required by section 4.83 of the Zoning Ordinance. They increased the amount of glazing to mitigate their variance request. The remaining conditions of the Preliminary Site Plan approval have been addressed by the applicant.

Design Review

The applicant has submitted design plans and material usage for each façade. The building as proposed will be primarily constructed of red face brick with limestone head caps above the windows and almond color porcelain tile on the soffit. The roof is proposed to be black asphalt shingles. Information has been submitted verifying that the

screenwalls, size of parking spaces, photometric plan, and sign plan all conform to ordinance requirements. A materials board was passed around.

Mr. Vince Pangle, Strategic Property Services, spoke on behalf of DFCU requesting a Final Site Plan recommendation. They received unanimous approval from the BZA on April 14 for the glazing variance. All other conditions that would have required a variance have now been dealt with. He described the 8 in. raised speed table that tells drivers they are entering a pedestrian thoroughfare. They will be putting a full brick finish with a cap on the masonry brick wall that surrounds the entire rear of the site and backs up to residential. The two screenwalls that run north and south along Cranbrook and north and south along the entrance drive will be checked and deterioration will be replaced. All of the brick will match the proposed building. Two curb cuts have been removed.

Mr. Koseck asked why they are using tile on the facade. Ms. Shirley Gannon, Architect, explained it is porcelain exterior grade tile that has been incorporated as part of the branch standards since 2004. It adds contrast from the darker red brick and gives a classic alabaster look to the building. She has never had to make repairs on it.

There were no comments from the public at 7:50 p.m.

Mr. Williams said he is impressed that the 8 in. raised level for the cars will slow them down, so he will vote in favor of the proposal this time. They were not asked to make that change, but they did anyway.

Motion by Mr. DeWeese

Seconded by Mr. Williams to recommend approval of the Final Site Plan and Design Review to the City Commission for 2483 W. Maple Rd. with the following condition:

- 1. Compliance with the requirements of the City Departments.**

No one in the audience wished to comment on the motion at 7:51 p.m.

Motion carried, 7-0.

VOICE VOTE

Yeas: DeWeese, Williams, Clein, Koseck, Lazar, Share, Whipple-Boyce

Nays: None

Absent: Boyle

05-92-15

STUDY SESSION

MX Ordinance Amendments and Medical Marijuana

Ms. Puranik noted that since the reformatting of the Zoning Ordinance in 2005, several errors have been identified in the new graphic format of the Zoning Ordinance. These text amendment and land use matrix changes were inadvertently made while switching formats.

In addition, the City Attorney requested that the Planning Board consider amending the Zoning Ordinance to allow and control medical marijuana establishments in the City. Previously, the City prohibited medical marijuana establishments because they were prohibited by Federal law. However, as a result of recent court rulings, the City can no longer prohibit such establishments as they are expressly permitted in the State of Michigan.

Thus, the Planning Board was asked to consider allowing medical marijuana establishments in certain zone districts, and to consider any controls that may be needed. The Planning Board held a public hearing on May 14, 2014 recommending approval to the City Commission to allow medical marijuana facilities in the MX District. The issue was sent back to the Planning Board by the City Commission on February 25, 2015 and after much discussion the board recommended discussion of the subject with the City Attorney and Police Dept.

At the Planning Board's request, the City Attorney was present for the meeting on April 8, 2015 to answer questions/concerns related to the medical marijuana facilities. After further discussion, the Planning Board suggested changing the buffer maps to show 200 ft. and 300 ft. buffers from single-family and multi-family residential so that the allowable area for medical marijuana facilities is clearly identified. The board also requested staff to determine the height requirements for vertical ventilation. The Planning Division conducted research on the methods of regulating such establishments; other jurisdictions listing specific criteria for lighting; ventilation and the overall building.

Since the issue is complex, the Planning Division suggests two options for consideration. The first option includes detailed regulations for lighting, ventilation and the building, in addition to the buffer requirements. The second option considers the mechanical ventilation system requirements along with the buffer.

The board had no concerns with the text amendments and went on to consider the buffer maps and the proposed ordinance language.

Using the 300 ft. buffer from single and multi-family homes map, Mr. DeWeese recommended eliminating the two isolated parcels to the west and permitting the parcels defined at the east end.

Ms. Whipple-Boyce received confirmation there has been no consideration for 1,000 ft. drug free school zones, which is Federal law. That would eliminate all of the parcels. Ms. Ecker replied the City Attorney and deputy police chief have both weighed in on the maps and determined this is the best location.

In response to a question by Mr. Share, Ms. Puranik confirmed she got the option standards from the International Mechanical Code. She saw no mention of what height the exhaust stack should be set. Ms. Ecker thought that is covered, without dictating exact height. It would depend on the size of the operation. Odors should not be detected.

Chairman Clein was uncomfortable with seeing what he considers to be very specific performance specs in a land use ordinance. He did not think this topic is ready for a public hearing. Ms. Ecker said it will be sent to the other City Departments, as well as the City Attorney and Police Dept., asking for their comments/objections.

Ms. Whipple-Boyce thought the question of drug-free school zones has to be addressed. Secondly, she can't foresee ever supporting medical marijuana in this district, so she will very likely always be a "no" vote on that. This district is our most exciting area right now and we are seeing some of the best projects coming in. People are excited to do them and it has just exploded. There is so much going on, so many great buildings, so much interest, tons of people and new residential projects. So, as far as she is concerned this location for medical marijuana facilities is not even close to being ready for a public hearing because it is not the right place.

Mr. Koseck noted this use is legal and it has a purpose. The MX is Birmingham's edgiest district. He wonders how these facilities will affect nearby property values. It is about perception. If the use by law has to have a place in the community, then put it right Downtown within 300 ft. of the Police Dept. which may discourage providers because of the price of land.

Mr. Williams said he lives in the MX District and has never seen a Birmingham Police car on Eton. He agreed the facilities should be placed Downtown. Make them pay quadruple what they would otherwise pay; they won't come.

Chairman Clein suggested that staff come back next time with information on where similar communities have allowed these facilities. Ms. Ecker recalled that the Deputy Police Chief and City Attorney did not agree with placing these facilities in Downtown Birmingham. She will take it to them again.

Board members agreed with keeping Option 1 but listing general guidelines without specific technical requirements.

Chairman Clein noted the Planning Board is charged with providing recommendations to the City Commission as to where they think these establishments should go. It was decided to put this matter on the agenda for the joint City Commission/Planning Board meeting on June 15 and see what the commissioners say.

Mr. Koseck thought that maps drawing a circle 200 and 300 ft. from the Police Dept. would be good to have for the joint meeting.

05-93-15

STUDY SESSION

Proposal to add D-5: Downtown Gateway Over Five Stories to the Downtown Birmingham Overlay District

Ms. Ecker advised that the Planning Division has received an application from the owners of the 555 S. Old Woodward building to request an amendment to the Zoning

Ordinance to create a new D-5 zoning classification to the Downtown Birmingham Overlay District.

The building owners are interested in renovating the existing buildings and adding new residential units along S. Old Woodward Ave., as well as adding an addition to the south of the existing residential tower for new retail space and residential units. The building official previously ruled that any changes to the existing legal non-conforming building would increase the non-conformity, and thus be prohibited unless numerous variances were approved. Therefore, the petitioner feels their hands have been tied in terms of making exterior and structural improvements to the building.

Accordingly, the applicant is requesting a Zoning Ordinance amendment to create a new D-5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District. Over the past several months, the applicant has reviewed several drafts of the proposed ordinance language with City staff.

Proposed ordinance language to amend Article 3, section 3.01, 3.02 and 3.04 of the Birmingham Zoning Ordinance was presented for the Planning Board to review and consider.

Mr. Rick Rattner, 380 N. Old Woodward Ave., Attorney for the petitioner, was present with a representative of the owner, Mr. Jerry Reinhart; the architect, Mr. Bob Ziegelman; and a landscaper from his office. Mr. Rattner gave a presentation aimed at convincing the Planning Board why the petitioner would like to see the changes made and why it would work in this particular location. Their primary goal is to get the building zoned so that it comes into compliance. They want to do a building that is an icon in the City of Birmingham and a great gateway to the City, along with being completely in line with the 2016 Plan. Included in the presentation was a video depicting Andres Duany's comments when he came to the City in 2014. He stated it is a special building that requires special treatment and it could become incredibly exciting and really cool.

Mr. Koseck said they have not seen a site plan showing the footprint relative to property lines, along with the expansion opportunity. The building needs to be seen in its context. He received confirmation that the tall building is apartments and the other building contains office space. Ms. Ecker said the way this ordinance is written the commercial side could potentially go up an equivalent height to the apartment side.

Mr. DeWeese thought it would be appropriate for the board to think through, if they were going to allow a building of that scale, what they would want there that fits the spirit and essence of the rest of Downtown. He knows that the back side is not inviting at all from the Woodward Ave. side and the front side is not pedestrian oriented the way it is set up. The lower levels could be made more friendly and the parking garage covered up.

Chairman Clein felt the board should look at the proposed ordinance and decide whether creating a D-5 Zone makes sense. Mr. Williams considered this an iconic structure that is long overdue for attention. The Planning Board has almost totally ignored the south end of town, so let's start with this.

Mr. Koseck noted there are buildings being built today that look a lot like this. They have beautiful high tech glass and he knows what Duany is talking about in terms of lighting it so that it glows. Mr. Williams thought the only practical way to proceed with this study is to set up a sub-committee of this board to work with staff.

Chairman Clein suggested the next step would be to come back to a study session to allow the board to review and provide their input. It was discussed that the board should not create the language of the district around a specific project. Everyone agreed that another study session is in order so that the board can look at all of the implications of the request. June 10 would be the earliest.

Mr. Rattner said it is important to him to put together a package for Ms. Ecker as quickly as they can. Chairman Clein asked for a graphic of an existing site plan so the board knows what parcels are included and what are not. Context should be shown so it is clear what is around the site and how that plays into it. Mr. Koseck added it is about the existing footprint, the applicant's ownership limits, and context within 200 ft.

Mr. Williams stated this is an important building and the board will treat it accordingly.

05-94-15

PRE-APPLICATION DISCUSSION (no applicant came forth)
856 N. Old Woodward Ave.
Vacant property

05-95-15

MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA (no discussion)

05-96-15

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

- a. Communications (none)
- b. Administrative Approvals
 - 266 Elm St. - Construction of deck and pergola.
 - 34901 and 34953 Woodward Ave. – Minor design changes.
 - Mr. Baka advised the Shell Gas Station (formerly known as Citgo) has asked to remove a 6 ft. screenwall between two parking areas on the southern boundary; change the underside of the canopy from Azak to a different material; paint the columns of the canopy rather than cladding them in Azak; change the body of the building from black to green. The board determined these are lower quality changes and the applicant should come back to the board for a full design review.

c. Draft Agenda for the Regular Planning Board Meeting on May 27, 2015

- Transitional Zoning public hearing;
- 2100 E. Maple Rd. rezoning;
- 2100 E. Maple Rd. Site Plan and CIS review;
- 555 S. Old Woodward Ave. application for rezoning (to be postponed to June 10, 2015)

d. Other Business

- It was observed there are cars stored in the parking lot at Adams Square and the construction site is in disarray. Mr. Baka noted the Fred Lavery service facility is not allowed to store cars outside. Ms. Ecker said they will pass that along to Code Enforcement.

05-97-15

PLANNING DIVISION ACTION ITEMS

- a. Staff report on previous requests (none)
- b. Additional items from tonight's meeting (none)

05-98-15

ADJOURNMENT

No further business being evident, board members motioned to adjourn at 9:47 p.m.

Jana Ecker
Planning Director