

**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, SEPTEMBER 28, 2016**

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**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, SEPTEMBER 28, 2016
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held on September 14, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Stuart Jeffares, Bert Koseck, Bryan Williams; Alternate Board Member Daniel Share

Absent: Board Members Robin Boyle, Gillian Lazar, Janelle Whipple-Boyce; Alternate Board Member Lisa Prasad; Student Representative Colin Cousimano

Administration: Mathew Baka, Sr. Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

09-165-16

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
OF SEPTEMBER 14, 2016**

Motion by Mr. Williams

Seconded by Mr. Jeffares to approve the Minutes of September 14, 2016 as presented.

Motion carried, 4-0.

VOICE VOTE

Yeas: Williams, Jeffares, Clein, Koseck,

Nays: None

Abstain: Share

Absent: Boyle, Lazar, Whipple-Boyce

09-166-16

CHAIRPERSON'S COMMENTS (none)

09-167-16

APPROVAL OF THE AGENDA

There has been a request for postponement of the Site Plan Review for 100-450 Woodland Villa Ct.

09-168-16

SITE PLAN REVIEWS

- 1. 100-450 Woodland Villa Ct. (existing duplexes)
Request for Final Site Plan approval to add a gate across Woodland Villa south of W. Maple Rd. (continued from August 10, 2016)**

Motion by Mr. Williams

Seconded by Mr. Share to postpone consideration of the Site Plan Review for 100-450 Woodland Villa Ct. to November 9, 2016.

There were no comments on the motion from members of the audience at 7:34 p.m.

Motion carried, 5-0.

VOICE VOTE

Yeas: Williams, Share, Clein, Jeffares, Koseck

Nays: None

Absent: Boyle, Lazar, Whipple-Boyce

09-169-16

- 2. 2010 and 2012 Hazel St.
Crosswinds
Request for Revised Final Site Plan and Design Review for construction of rear deck over existing driveways**

Mr. Baka explained the subject location is live/work units within the Crosswinds development. The Crosswinds development was originally approved by the Planning Board January 10, 2001 for mixed use. The current proposal is a request to modify one of the earlier buildings by adding a deck/carport to the back of the unit above the entrance to the attached garage to create a larger second-floor balcony. The applicant is proposing to construct two side-by-side decks on the rear elevation of 2010 and 2012 Hazel. Each deck is proposed to be 20 ft. x 16 ft. The decks would be attached to the outer wall of the building and then supported by three columns which would support an aluminum framing system. The decking material that is being proposed is a drylock waterproof aluminum decking system by Nexan. Each deck would be slightly pitched from the center towards each side to allow rain water to drain. In between the two decks the applicant is proposing to install a 6 ft. tall privacy wall that would extend out from the building 12 ft. Also, the applicant is proposing to install an additional privacy wall on the outside edges of the two decks that would be 6 ft. tall and extend 6 ft. from the back of the building.

Design Review

The privacy walls are proposed to be constructed of longboard privacy screening. The deck is proposed to be supported by three (3) 12 ft.- 2.5 in. columns. The columns are

proposed to be clad with thin brick to match the existing building and a limestone cap at the base with decorative PVC trim and wrap extending up the shaft of the column to the underside of the deck. An existing tree will be relocated to make room for the decks. Material samples were passed around.

Mr. Jeffares received confirmation that a letter signed by the president and vice-president has been received from the condominium association indicating they approved the proposal. Future plans by other condominium owners can be administratively approved if they are identical.

Board members thought the concept is a good one. Discussion considered whether the columns should be pushed back because that area is tight to maneuver. Chairman Clein didn't have a concern with the columns but he thought water dripping down might be a problem.

Mr. John Peglino, 2010 Hazel, was present with his wife, Karen. Mr. Peglino noted the deck extension will act as a backyard for them. They will work on solving the dripping water problem.

Motion by Mr. Williams

Seconded by Mr. Koseck to approve the Revised Final Site Plan Review for 2010 and 2012 Hazel St., Crosswinds, as proposed this evening in the materials.

No one from the public wanted to make a final comment at 7:47 p.m.

Motion carried, 5-0.

ROLLCALL VOTE

Yeas: Williams, Koseck, Clein, Jeffares, Share

Nays: None

Absent: Boyle, Lazar, Whipple-Boyce

09-170-16

STUDY SESSION ITEMS

1. Non-Conforming Building Regulations

Ms. Ecker provided background. On September 14, 2016, the Planning Board resumed their discussion regarding legal non-conforming buildings. After much consideration, the Planning Board directed Planning Staff to meet with the applicant for the 555 Building to craft ordinance language that would make existing buildings downtown conforming with regards to both height and setbacks, and to allow future expansion that would comply with the standards of the D-4 Overlay.

Proposed draft ordinance language addresses the improvement of commercial buildings throughout the City, and also specifically addresses the legal, non-conforming status of three buildings downtown.

The applicant agrees with the approach first to create a D-5 Zone, and second to recommend rezoning of one or more properties into the new D-5 category. This would allow the board to have further discussion on whether they want it to be the 555 Building property, or include the Birmingham Place and the Merrillwood Building, which are also non-conforming with regard to height.

Chairman Clein summarized that the language would make any property that is put into the D-5 Zone legal and conforming as to height and setback. It would allow expansions as part of building maintenance. Undeveloped portions of the property could be built upon so long as it meets the D-4 Overlay standards. The south side of the 555 Building still needs to be resolved.

Mr. Williams did not agree with limiting the south side to five stories. However, anything built above five stories would require a Special Land Use Permit ("SLUP"). Mr. Share was in favor of tying all of the expansions to a SLUP. Chairman Clein felt the D-4 controls are in place and any expansion must conform. Mr. Share thought the City should have some control over how changes get made. Mr. Koseck liked the SLUP because it allows the City to control the design to meet the spirit and intent of the D-4 Zone. Mr. Jeffares agreed.

It was noted that parking would have to be provided for any expansion because the building is not in the Parking Assessment District.

Mr. Williams observed it is in everyone's best interest to see the building improved so the City will be reasonable whether or not there is a SLUP. He feels the developer needs some flexibility, particularly at the south end. Mr. Koseck pushed for the SLUP because of the complexity that surrounds the building.

Ms. Ecker thought it could be recommended that any new buildings must be constructed under the terms of a SLUP.

Mr. Richard Rattner, Attorney, represented the applicant. He said they are almost there with allowing the 555 Building to be conforming in all respects. Secondly, the proposed expansion language is fine. Third, they would like to see the height of a new building being constructed in the D-5 Zone be up to but not exceeding the height of the building immediately adjacent or abutting it. That means the south building cannot be any higher than the 555 Building. They would like to do that without a SLUP.

Parking is not a problem for them and any new building would have parking also. With Mr. Currier's involvement, Mr. Rattner thought this will turn out to be a great package to send to the City Commission. He doesn't think a SLUP is needed because there are ordinances to control the first five floors, and above that the new building will be controlled.

Mr. Jerry Reinhart, Contract Developer, said their concept was to cap the buildings that are over five stories at their current height and to make all three buildings conforming. With respect to the 555 Building they cannot do the project on the south end unless the City wants it. They don't have the real estate to do it without involving public property. With respect to the construction on the east and west of the building, it gets complicated

with a SLUP. They would just like to build on the existing real estate in accordance with the D-4 Overlay Ordinance.

Mr. Koseck stated if it is not going to be a SLUP then the board has to establish some criteria for expansion of the building. He suggested if the applicant exceeds the D-4 Ordinance in height then that whole expansion from grade up becomes a SLUP. Board members discussed the following language:

D-5 Zone (over five stories)

- a. All existing buildings located in the D-5 Zone on _____ are deemed legal, conforming buildings.
- b. All existing buildings located in this zone district on _____ may be extended or enlarged only if the Property Owner elects to develop the extended or enlarged portion of the building under the provisions of the Overlay and the extension or enlargement meets all of the requirements of the Downtown Birmingham Overlay District and the D-4 Zone.
- c. The height of any addition and new construction in the D-5 Zone may be up to, but not exceed, the height of existing buildings in the D-5 to which they are immediately adjacent or abutting if the property owner agrees to the construction of the building under the provisions of a SLUP.

Mr. Rattner summed up what had been discussed. Everything five stories and below on the existing building is built pursuant to the D-4 Overlay standards without a SLUP. The whole parcel becomes a SLUP when it is expanded above the five stories. He asked if they could elect to go to a SLUP in order to have some design flexibility. Or, whether the Planning Board could be allowed to waive certain requirements.

Ms. Ecker replied that question would have to go to Mr. Currier.

Board members agreed to add this item to the agenda for the October 26 Planning Board meeting. Mr. Williams observed that he would like to have Mr. Currier present for that meeting.

09-171-16

PRE-APPLICATION DISCUSSION

**1. 225 E. Maple Rd.
Social Kitchen**

Mr. Josh Humphrey explained the patio area over Social Kitchen has become a little beat up due to wear and tear and the elements. They want to upgrade it with some new material. The footprint will not change. A hard glass canopy is proposed for the top. On the outside portion they would like to replace the planters with a hard glass and steel railing. Or, retaining the planters could be an option. The Eisenglass would remain all the way around the outside, allowing them to open it completely for a true patio experience. The current Eisenglass will be upgraded to a better quality product that folds up.

Ms. Ecker noted that Social Kitchen pays market rate for the space they are leasing from the City. However, there may be provisions in the agreement that limit it to the tent type structure. Ms. Ecker stated that the Building Division has indicated that there will be Code issues to address such as full footings, the need for fire-rated glass, Energy Code compliance and other code requirements. The applicant should discuss their revised plans with the Building Division prior to submitting a SLUP Amendment application.

Mr. Koseck indicated he is all in favor of doing something more permanent that would meet ordinance requirements. It would be good to see how far the canopy extends out.

The chairman thanked Mr. Humphrey for his presentation.

09-172-16

2. 2010 Cole St. (currently under construction)

Mr. Jason Krieger, Krieger Klatt Architects, said their proposal is to keep the existing footprint and site as it was approved a few times before, but now build up to a three-story, mixed-use building. Each floor going up will have stepped back balconies. Ground floor retail/commercial will have roughly 6,000 sq. ft. of fitness area. Second floor office space will be 8,800 sq. ft. and then 7,200 sq. ft. of residential on the third floor. Currently there are 52 parking spaces on-site. They propose garages at the back of the building and additional parking inside.

Parking on the east has one way in with a three point turn to leave. Mr. Share and Mr. Clein thought that area would draw some attention because board members feel it doesn't work. Mr. Koseck was curious why they would not demolish what is there and construct a building up towards the front with parking in the rear accessed by a drive. People could look out over Cole St. as opposed to looking at the rooftop of the neighboring building.

Mr. Krieger thanked everyone for their feedback.

09-173-16

MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA (none)

09-174-16

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications

It was noticed that light fixtures in the Rail District do not meet Birmingham standards, except for Armstrong White. Ms. Ecker advised there were some personnel changes at DTE and somehow they changed poles, bulbs, fixtures, and wattages. The City is working on that issue with DTE.

b. Administrative Approval Correspondence

- 2100 E. Maple Rd., Whole Foods Birmingham - Install RTU screening.
- 34100 Woodward Ave., Wells Fargo Building - Replace the existing EPDM (black rubber) with new white TPD membrane.
- Ms. Ecker presented a request for Administrative Approval for District Lofts, Phase 2. Mr. LePage has found a fountain that he likes and wants to place it in the center of a roundabout area. Still there will be extensive landscaping, but not in the same layout as before. Everyone approved.

c. Draft Agenda for the Regular Planning Board Meeting on October 26, 2016

- Retroactive Final Site Plan – 401 – 451 S. Eton, Irongate;
- Rezoning to TZ-1 - 412 and 420 E. Frank;
- Study Session - Non-Conforming Uses;
- Study Session - Dormers.

d. Other Business (none)

09-175-16

PLANNING DIVISION ACTION ITEMS

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

09-176-16

ADJOURNMENT

No further business being evident, the chairman adjourned the meeting at 9:28 p.m.

Jana Ecker
Planning Director