

**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
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**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, SEPTEMBER 30, 2015
City Commission Room
151 Martin Street, Birmingham, Michigan**

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

Present: Chairman Scott Clein; Board Members Robin Boyle, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce; Alternate Board Members Stuart Jeffares, Daniel Share

Absent: Board Members Carroll DeWeese, Bryan Williams; Student Representatives Scott Casperson, Andrea Laverty

Administration: Matthew Baka, Senior Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

09-184-15

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
OF SEPTEMBER 9, 2015**

**Motion by Mr. Boyle
Seconded by Mr. Koseck to approve the Minutes of September 9, 2015 as
presented.**

Motion carried, 6-0.

VOICE VOTE

Yeas: Boyce, Koseck, Clein, Jeffares, Lazar, Share

Nays: None

Abstain: Whipple-Boyce

Absent: DeWeese, Williams

09-185-15

CHAIRPERSON'S COMMENTS (none)

09-186-15

APPROVAL OF THE AGENDA (approved).

FINAL SITE PLAN AND DESIGN REVIEW

**1. 2100 E. Maple Rd.
Whole Foods**

Application for Final Site Plan and Design Review to allow construction of a new 46,000 sq. ft. grocery store

Ms. Ecker advised that the subject site has been before the board on several occasions. The site currently contains a vacant building that was previously an office building, and then an urgent care medical clinic. At this time, the applicant is proposing a new single-story 46,500 sq. ft. retail building. The subject site is located on the south side of E. Maple Rd., west of the existing LA Fitness facility and east of the railroad tracks. The proposed new building will house a Whole Foods grocery store, selling natural and organic foods. The site occupies a total of 4.62 acres.

On June 10, 2015, the Planning Board voted to accept the Community Impact Statement ("CIS") for the proposed Whole Foods development with several conditions.

On June 29, 2015, the City Commission approved the rezoning of the parcel from O-1 to B-2, with the condition that the rezoning be approved, but the use be limited to grocery store uses only.

On August 12, 2015, the Planning Board continued to discuss the Preliminary Site Plan for the proposed Whole Foods Store. Much of the discussion focused on the traffic, landscaping, glazing, and the building's floor plan. At that time, the Preliminary Site Plan was approved with conditions.

Ms. Ecker advised that at this time in accordance with the Planning Board's request, the applicant has rotated the interior layout of the proposed building and placed the cash registers and eating areas along the east elevation and created a more prominent front entry on E. Maple Rd. There is a main entry at the southeast corner of the site as well. The applicant is also proposing outdoor seating along the front and side elevation of the building to promote activity and a welcoming front entry connected to the public sidewalk. Additionally, three new bike racks have been added along the northeast corner of the building as requested by the Planning Board.

The applicant is required to obtain a waiver from the arborist or obtain a variance from the Board of Zoning Appeals ("BZA") or provide the required total of 14 street trees and to ensure that all notes and drawings are consistent on all of the plan sheets. The arborist has indicated verbally that he would provide a waiver.

Design Review

Ms. Ecker advised that the applicant has submitted a photometric plan for the entire site. However, the photometric plan (drawing No. 15-38601-V6) shows light levels outside the property line on the northwest side of the property in excess of 1.5 fc, which does not meet the maximum luminance level in Article 4, section 4.21(E) of the Zoning Ordinance. This could be mitigated if lighting fixture LK- 30 were removed. **The**

applicant will be required to adjust the lighting in this area to meet all requirements, or to obtain a variance from the BZA.

Numerous changes have been made to the building design pursuant to the requests of the Planning Board during Preliminary Site Plan Review. The applicant has now removed the fritted glass panels, and has reconfigured the store layout as noted above to orient the front of the store to E. Maple Rd.

Accordingly, additional glazing has been added to both the north and the east elevations of the proposed store. Glazing has been minimized along the west elevation that faces the railroad embankment, and has been reduced along the south elevation to allow internal prep stations in this area. All active areas are now oriented toward the north and east edges of the building as requested by the Planning Board.

Ms. Ecker advised that the building as proposed does not meet the 70% glazing requirement as listed in section 4.83 of the Zoning Ordinance. ***The applicant has submitted an application for a glazing variance, and this matter will be heard at the October 13, 2015 meeting of the BZA.***

All signage will require review and approval by the Design Review Board or Administrative Sign Review by the Planning Division as insufficient detail has been provided on the size, materials and mounting details of the proposed signage.

Mr. Jeffares had concerns that inside lights shining out might be an issue along the north elevation. He received clarification that the Building Dept. will review placing of the barrier free parking spaces.

Mr. Rick Rattner, Attorney, 380 N. Old Woodward Ave., was present to represent the property owner, Mr. Linden Nelson of Nelson Ventures, LLC who was in attendance. With them was Mr. Mike Fitzgerald with OKW Architects, 600 W. Jackson Blvd., Chicago; Mr. David Hunter from PEA; and Mr. Joseph Marson, Traffic Engineer with Parsons,

Mr. Fitzgerald said they have activated the north facade by sliding the building to the south approximately 8 ft. That enabled them to provide a larger, more prominent entrance as well as an outdoor terrace that extends along a fair portion of that facade. They lost a couple of parking spaces, but there is no concern because there is adequate parking. The spaces along the railroad will be for employee parking. In response to Mr. Jeffares' comments they are open to sliding a couple of handicap spaces up to the north end of the building and they are sensitive to mitigating the light transmittance out from the building.

Mr. Fitzgerald described how the interior floor plan has been modified by rotating the interior plan 90 degrees to provide a significantly enhanced connection to the City along E. Maple Rd. as suggested by several board members. Additionally, he went on to illustrate how each of the elevations has changed.

Material samples were then passed around. The building is predominantly brick or cast stone, but three corner elements are glass to screen mechanical equipment at the parapet. That glass is insulated, layered and the back is painted medium grey. There is a consistent dot pattern silk screen on the front face of the glass that provides depth just as the clear vision glass has beneath it. The board might want to consider that same screening for the upper-most portions of the vision glass along the north facade. It would still provide vision into the store, but at the same time reduces the amount of light that can transmit through.

Ms. Ecker noted the medium grey glass with the dots will not count toward the 70% glazing requirement.

Mr. Fitzgerald indicated they will work with staff to rectify the concern for light bleeding out from the northwest corner of the site.

Ms. Whipple-Boyce had concerns regarding maintenance of the cedar stained horizontal wood slats that screen the loading and trash area on the west elevation of the building. Mr. Fitzgerald produced an alternate material called longboard they have considered to replace the wood. It is made from aluminum and has a wood grain finish. Ms. Whipple-Boyce asked if the porcelain tile material will be a full-bodied color rather than having just a painted surface. Mr. Fitzgerald agreed to look into that.

Mr. Fitzgerald explained for Ms. Lazar that six or seven cart corrals are provided throughout the site. He clarified for Mr. Jeffares that the eye level from the second floor of the apartments across the street will not be above the parapet of the Whole Foods building and therefore people will not be looking down on mechanical equipment.

Mr. Koseck thought this is a great design. He hopes the BZA will support the applicant's variance for the amount of glazing. He was not in favor of cedar stained wood slats and likes the porcelain tile or the aluminum. Further, he asked to eliminate the deceleration lane on this very wide section of E. Maple Rd. Another lane makes the road wider yet. He suggested it would be nice to have street trees between the curb and the porch area. Lastly he liked the elimination of two parking spaces at the entrance to the site.

Mr. Fitzgerald said if there is an issue of light transmittance, film can be added to the back of the glass inside the store. That is something that can be done post construction.

Chairman Clein took discussion to the public at 8:40 p.m.

Mr. David Bloom asked about the safety plan for the site. Ms. Ecker said if there is an issue, the various departments call it out. She assumes from their lack of comment that there is enough coverage.

Mr. Dorothy Conrad, 2252 Yorkshire, indicated she is very pleased with what has been done with this project.

Chairman Clein agreed with Mr. Koseck regarding the deceleration lane. Also he thought this is a much better project without the two parking spaces. Any change in the floor plan to add a bottle return area can be administratively approved.

Mr. Jeffares said people will come and go sporadically from this site as opposed to having an office building where everyone enters and leaves at the same time, so this is win-win with regards to traffic.

Mr. Boyle agreed about eliminating the deceleration lane. Also, he thinks this is a magnificent structure and it brings vitality, jobs and taxes into the City. So he looks forward to seeing it built.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Koseck to approve the Final Site Plan and Design for 2100 E. Maple Rd., Whole Foods Market, with the following conditions:

- 1) Applicant provide the required screen wall/evergreen screening for all parking areas or obtain a variance from the Board of Zoning Appeals;**
- 2) Obtain administrative approval for any rooftop mechanical equipment and associated screening;**
- 3) The applicant is required to obtain a waiver from the Arborist, or obtain a variance from the Board of Zoning Appeals, or provide the required total of 14 street trees, and to revise the landscape plan to ensure that all notes and drawings are consistent on all of the plan sheets;**
- 4) Applicant provide plans delineating the size of the indoor seating areas to determine if all parking requirements have been met;**
- 5) Applicant provide a public access easement to the City for the sidewalk along E. Maple Rd.;**
- 6) Adjust light levels at the northwest corner of the property or obtain a variance from the Board of Zoning Appeals;**
- 7) Applicant provide material samples and specifications for all proposed materials, including window tints for administrative approval;**
- 8) Comply with the 70% glazing requirement or obtain a variance from the Board of Zoning Appeals; and**
- 9) Applicant remove the deceleration lane.**

Mr. Share raised the question as to whether the board is in a position to remove the deceleration lane. Chairman Clein recalled that both the applicant's and the City's traffic consultants felt there was not an overwhelming traffic warrant for its installation, which is the reason why he personally supports its removal.

There was no discussion from the public at 9 pm.

Motion carried, 7-0.

ROLLCALL VOTE

Yeas: Whipple-Boyce, Koseck, Boyle, Clein, Jeffares, Lazar, Share

Nays: None

Absent: DeWeese, Williams

At this time the board took a brief recess.

09-188-15

PRELIMINARY SITE PLAN REVIEW AND COMMUNITY IMPACT STUDY ("CIS") REVIEW

1. 2400 and 2430 E. Lincoln St. Birmingham Senior Living

Mr. Baka advised that the subject site, 2400 E. Lincoln St., which is currently vacant, was most recently used for manufacturing (2005), and has a total land area of 3.78 acres. It is located on the south side of E. Lincoln St. between S. Eton St. and the Grand Trunk Railroad right-of-way.

The applicant is proposing to develop the vacant site with a four-story senior living center, two surface parking lots, a detention basin and nearly 84,000 sq. ft. of landscaped open space. The proposed development will consist of two connected buildings. The east portion is one story and the west portion is four stories. The development will provide 122 residential units (83 assisted living and 39 memory care units) as well as building amenities for residents such as a community room, beauty salon and wellness suite.

The site is currently zoned MX and lies within the Eton Rd. Corridor Plan area. Assisted living is a permitted use in the MX District with City Commission approval. The applicant was required to prepare a CIS in accordance with Article 7, section 7.27(E) of the Zoning Ordinance, as they are proposing a new building containing more than 20,000 sq. ft. of gross floor area.

CIS

Access and circulation: Mr. Baka advised that the main entries to the building are located along E. Lincoln St.

The front parking and drop-off area undermine the pedestrian experience by creating excessive curb cuts and unsightly parking between the building and frontage line. Pedestrian circulation is proposed along a sidewalk in the R-O-W on both E. Lincoln St. and the proposed N/S street. However, continuous pedestrian circulation has not been provided throughout the entire site.

Sub-Area Plan: While the proposed size and placement of the building does provide an anchor for this portion of the Rail District similar to the recommended large scale recreation building, no recreational components are being proposed. However there is some allowance for the recommended linear park.

Land development issues: A concentration of methane was detected exceeding the recommended action level for methane in soils. The potential exists for known contamination to have migrated from the site to the north onto the subject property. Verification of the presence or absence of contaminants potentially associated with these Recognized Environmental Conditions ("RECs") may be determined through a Phase II investigation by the applicant.

Utilities, noise and air issues: Specification sheets for all mechanical equipment will be reviewed at Final Site Plan Review for noise output to ensure that the City's noise limits for commercial property will be met.

Public Safety: The CIS states that the owner has plans for an expandable security system. The applicant will request approval from the Police Dept. after final design is complete. The Fire Dept. has said they need better access to the east side of the building up against the railroad tracks, and propose the addition of an eastern access drive.

Transportation issues: The applicant has provided a transportation study prepared by Tetra Tech (July 15, 2015). The transportation report concluded that the vehicular traffic impacts of the proposed development will be negligible and that vehicular traffic access to the site will be safe and efficient. The opinion of the City's traffic engineer is that the project will not have a significant impact on the adjacent road network. Minimum conflicts are expected between the existing and proposed land uses due to the low site-generated traffic volumes. He also feels that the north entrance driveway should be evaluated for turning movements and height restrictions to ensure adequate access for emergency vehicles. The applicant is proposing 11 on-street parking spaces and the width of Lincoln St. cannot support parking on both sides. So, if the applicant wants that parking it would have to be eliminated from the other side.

Chairman Clein received clarification that the proposed development meets the ordinance density requirements. A question came up as to whether parking spaces along Lincoln St. were counted in the parking requirements for the dental office.

Mr. Sean Havera, Mr. Ron Hughes and Mr. Don Bailey were present with Hughes Properties, along with Mr. Bob Baronski with Senior Lifestyles, operator for the project; Mr. Matt Boons with CA Ventures, joint venture partner; and Ms. Chauncey Hoffman with Harley Ellis Devereaux, the architect.

With regard to the curb cut issues Mr. Havera emphasized the importance of having a covered, safe drop-off area for residents. The Engineering Dept. has no concerns with regard to the number of curb cuts. Pedestrians won't be impacted because there won't be a lot of traffic inflow into the drop-off or parking areas. They are looking at adding sidewalk flow around the building. There will be discussions with the Fire Marshal as to how to bring in a road for emergency vehicles. They will prepare information for the City's traffic consultant related to the trip generation for the drop-off and for parking requirements which it appears will be met.

Mr. Koseck wanted to understand how this site relates to the future Master Plan and the linear park that is proposed. Ms. Ecker answered that the park as envisioned in the plan would come down to a certain extent on this property. So in the future that area may be more walkable than it currently is.

In response to Mr. Share, Mr. Havera said his understanding is that contaminants on the property are all minor in nature and can be taken care of by simply covering them. Ms. Ecker assured that soil testing will have to be done when the applicant submits for a

Building Permit. This site previously went through the Brownfield process and a lot of remediation was done at that time.

Mr. Boyle expressed his fears that this development prevents the connectivity of the green space which exists between Lincoln St. and Kenning Park. Thus, the CIS needs to think about how better to connect the whole neighborhood through and around the developments that are going onto this site. Mr. Havera replied they are trying to accomplish that as best they can by incorporating connections to a future park.

Chairman Clein established that some board members will need major convincing regarding anything that disrupts pedestrian flow on both sides of Lincoln St. in front of the building.

Motion by Mr. Boyle

Seconded by Mr. Koseck to approve and adopt the CIS for 2400 and 2430 E. Lincoln as presented with the following conditions:

- 1) Applicant must coordinate with the City Engineer prior to removal or abandonment of any sewer leads;**
- 2) Applicant provide information on all life safety issues and obtain Fire Dept. approval;**
- 3) Applicant provide information on the proposed security system for approval by the Police Dept.; and**
- 4) Applicant revise and resubmit the CIS pending any outcomes related to dealing with the three issues for staff administrative approval.**

No one from the public wished to comment on the motion at 9:58 p.m.

Motion carried, 7-0.

VOICE VOTE

Yeas: Boyle, Koseck, Clein, Jeffares, Lazar, Share, Whipple-Boyce

Nays: None

Absent: DeWeese, Williams

Preliminary Site Plan Review

With regard to setback and height requirements, Mr. Baka noted the following:

- The height of the building must be reduced from 46 to 45 ft. in height;
- Number of units proposed must be reduced to meet the land area per unit requirement. **Therefore the applicant must reduce the number of units to meet the minimum lot area or obtain a variance from the Board of Zoning Appeals ("BZA").**
- **The building must be moved forward so it is at the frontage line or demonstrate that the requirements of Article 04 section 4.76 SS-08 are met to the satisfaction of the Planning Board, or the applicant must obtain a variance from the BZA.**

Parking facilities are not permitted between the building facade and the frontage line.

The applicant must remove parking from the front yard or obtain a variance from the BZA.

The applicant has 570 ft. of street frontage, and thus 14 street trees are required. Thirteen are proposed. **Accordingly, the applicant is required to add one additional tree, obtain a waiver from the City arborist, or obtain a variance from the BZA.**

In accordance with Article 4, section 4.43 (PK) of the Zoning Ordinance, a total of 68 parking spaces is required. The applicant is proposing 68 parking spaces, 57 on-site and 11 on the streets abutting the property. On-street parking located along a lot's frontage may be credited towards meeting the parking requirements, provided that the applicant obtains approval from the City Commission and the streetscape is improved as approved by the Engineering Dept. The applicant proposes many streetscape improvements, including street trees, benches, and waste receptacles. **If the on-street parking is not provided then the applicant would need to provide 11 additional spaces on site or obtain a variance from the BZA.**

Design Review

The new building facades are composed of brick, wood-look fiber cement siding, fiber cement panels, glass, and metal trim. The plans state that the north elevation first floor has 70% glazing to meet the requirements of section 4.83 of the Zoning Ordinance. However, it appears that the calculation was done based on the amount of linear glazing provided, not 70% of the area of the first floor. The applicant must provide a detailed analysis of the glazing provided based on area at Final Site Plan Review to verify that the requirement has been met. Material details have not been provided at this time, but will be required at the time of Final Site Plan Review.

Mr. Havera received confirmation that the City Commission will have ultimate jurisdiction in regards to the number of trees and street lights on the streetscape. He noted they will not count the three parking spaces along E. Lincoln St. toward their parking requirement. Rather, they propose on-street parking on the N/S street. They will address the front parking spaces with their engineer and pull them back so they conform with the ordinance. With regards to the glazing they will work with their architect to correct that.

Mr. Bob Garanski, Vice-President of Senior Lifestyles, said that for them the thing most appealing with this site is its proximity to the existing parks. The residents in assisted living need help with everyday activities. He went on to point out the highlights of the circulation plan through the site.

Ms. Hoffman said their building footprint is designed in such a way that they can provide full paved access around the site with a turning radius up against the east side.

It was noted the facility will typically have 36 employees and 122 residents in the building. Hughes Properties and CA Ventures will own the building and Senior Lifestyles will operate it. The apartment size ranges from 400, 600 and 800 sq. ft. for studio, one-bedroom, and two-bedroom units.

The chairman called for comments from the public on the proposal at 10:44 p.m.

Mr. David Bloom wondered why someone would want to live in this facility that is so close to the railroad tracks. Further, he noted there will be ambulances and fire trucks going through the adjacent residential neighborhood and wondered if an impact study has been thought about.

Ms. Ecker noted the Fire Marshal's request for access to the building on the east side could potentially eliminate the southern terminus of a linear park. Mr. Koseck indicated he would never bless this proposal unless that fundamental matter is resolved. He felt there are ways this project could be much better. Mr. Jeffares thought more open space could be added to the entry. He noted that floors 3 and 4 will look out past the railroad tracks and onto the dump. Mr. Share said from his perspective the building should be set back a foot rather than out to the street because these occupants don't move fast. He is reluctant to dive into the site plan without understanding the parking.

Chairman Clein stated he understands the need for the porte cochere. His concern is this plan pulls the building back 14 ft. to essentially pave the entire frontage. It seems the applicant tried to get as many units as possible and they needed 15 ft. to get that in so they slammed it up in front. He believes it is a bad design solution. Also, he agrees the parking plan needs more clarity. He is concerned with 36 employees and 37 parking spaces in the rear that are for employees and potentially residents. Further, he doesn't like that they have to walk through a service entrance and a driveway and a loading zone to get into the building. When you add that to the uncertainty of the Fire Marshal's request he thinks there is tweaking that needs to be done to make it all work.

Motion by Ms. Whipple-Boyce

Seconded by Ms. Lazar to extend the meeting 15 minutes to 11:15 p.m.

Motion carried, 7-0.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Koseck to postpone the Preliminary Site Plan Review for 2400 and 2430 E. Lincoln St., Birmingham Senior Living, to October 14, 2015.

There was no discussion on the motion from the public at 11:02 p.m.

Motion carried, 7-0.

VOICE VOTE

Yeas: Whipple-Boyce, Koseck, Boyle, Clein, Jeffares, Lazar, Share

Nays: None

Absent: DeWeese, Williams

09-189-15

STUDY SESSION

1. Creation of D-5 Zone in the Birmingham Overlay District

Ms. Ecker explained that in order to renovate and expand the existing building, the owners of the 555 S. Old Woodward Building are requesting a Zoning Ordinance

amendment to create a new D-5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District. The proposal then is to seek rezoning of the 555 S. Woodward Ave. property from the existing D-4 Overlay zoning classification to the proposed D-5 Overlay zoning classification, which would essentially render the existing building as a legal, conforming building that could then be renovated and expanded.

After several prior Planning Board meetings, on September 9, 2015 the Planning Board again discussed the possible creation of a D-5 zone in the Downtown Overlay. Board members talked about a revised draft of the proposed D-5 zone as submitted by the applicant seeking the rezoning for 555 S. Old Woodward. The board discussed several of the applicant's requests for exemptions from Overlay standards in the D-5 zone and consensus was reached on the following items:

- Drive-through facilities should not be permitted as of right in any new zoning district, but maybe they could be allowed with a Special Land Use Permit ("SLUP");
- It might be acceptable to make existing buildings conforming with regards to height, but new additions/buildings should be kept lower and consistent with either the Downtown Overlay heights or the Triangle Overlay maximum heights;
- Illuminated signage may be permitted only on Woodward Ave. elevations;
- All pedestrian-oriented regulations should be mandatory in any proposed overlay;
- The southern boundary of a new Overlay District should be in line with the southern edge of the Triangle District on the east side of Woodward Ave.

Also, there was some discussion about maybe creating two different zones.

The draft ordinance presented this evening covers two new zones, D-5 and D-6. D-5 is Downtown, nine stories as in the Triangle District; and D-6 is Downtown, over nine stories which goes up to 168 ft. and that is what the 555 Woodward Building is now.

Several questions were raised by the Planning Board and responses were received from the City attorney:

- He noted that in certain instances a waiver can be done as part of the planning process. This does not take jurisdiction from the Board of Zoning Appeals on other matters not related to the waiver.
- The Birmingham Zoning Ordinance does create sub-zones with respect to the zoning map. When the ordinance language creates a zone by geographic description, the map should also be amended so they are consistent.
- There is no appropriate means to provide exemptions to make non-conformities conforming, other than grandfathering. If the board wants to make the 555 Woodward Building conforming it must change the height standards and rezone it accordingly.

Mr. Koseck indicated he would make the 555 Woodward Building conforming by creating a D-5 Zone. He would include the piece south that is part of that property and allow it to extend to 168 ft. The Balmoral Building block is fine, and from there south allow 9 ft. in height.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Koseck to extend the meeting 15 more minutes to 11:30 p.m.

Motion carried, 7-0.

Chairman Clein thought the Planning Board could make the 555 Woodward Building conforming in some ways and send the applicant to the BZA for the others. Mr. Share didn't like making the height conforming; he would not be supportive of a 12-story building anywhere up and down that corridor; he would leave the question of height to the BZA; and he would certainly not be comfortable with a blank check for a 12-story on the piece to the south.

Ms. Whipple-Boyce said it is important to try to help the applicant have some sort of zoning classification so they can move on with their project. However, she also does not want to see 168 ft. up and down Woodward Ave. She is not sure that looking at the whole area is even appropriate. So maybe just work with this building and give them a zoning classification. Steer the applicant toward having their building conform with the sort of downtown standards that the board hopes to have; which for example, isn't the garden level. If they want to continue to have these when they come forward with a new plan that is when they can go to the BZA.

Mr. Share was in favor of having the applicant first exhaust their remedies. If the BZA doesn't provide them with the relief they need and this board concludes that it is really critical, then maybe the board changes the ordinance, takes the heat for it, and tells everyone it is because they don't want the building to fall down.

Chairman Clein said he is not hearing any clear direction so the board needs to bring this back because it is a complicated issue.

Motion by Mr. Boyle

Seconded by Ms. Whipple-Boyce to extend the meeting 5 more minutes to 11:35.

Motion carried, 7-0.

Mr. Rick Rattner recalled that Andres Duany during his visit to Birmingham said the 555 Woodward building should be redone. The building was built in the early '70s and has since been de-zoned. It can't be improved; only maintained. If they are going to maintain it, be able to improve it and put it into the 2016 Plan, this board has the obligation to make a Zoning Ordinance that follows the Plan. This is not spot zoning. The Planning Board has the right to go ahead and grant waivers (which is the same as a zoning variance). In this case the BZA can't do it because their variances are constrained by State law. If a public hearing is set on the ordinance that has been developed, that would be the right thing.

The board's conclusion was to bring this matter back for another study session.

09-190-15

MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA

09-191-15

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

- a. Communications (none)
- b. Administrative Approval Correspondence
 - 34660 Woodward Ave. - New roof.
 - 820-827 Henrietta - Install central A/C unit at rear of house.
 - 33101 Woodward Ave. - Add approximately 16 ft. of a single HVAC duct run on top of existing low roof and add RTU/equipment screen to hide new (and existing ductwork and equipment. Finish of new screen to match finish of adjacent existing RTU screen.
- c. Draft Agenda for the Regular Planning Board Meeting on October 14, 2015
(not discussed)
- d. Other Business
 - It was consensus that because Planning Board meetings fall on a holiday on February 10, 2016 and on October 12, 2010, those meetings will be skipped.

09-192-15

PLANNING DIVISION ACTION ITEMS

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

09-193-15

ADJOURNMENT

No further business being evident, board members motioned to adjourn at 11:35 p.m.

Jana Ecker
Planning Director

APPROVED