

**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
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APPROVED

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, SEPTEMBER 9, 2015
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held on August 26, 2015. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Carroll DeWeese, Bert Koseck, Gillian Lazar, Bryan Williams; Alternate Board Member Daniel Share

Absent: Board Member Janelle Whipple-Boyce; Alternate Board Member Stuart Jeffares; Student Representatives Scott Casperson, Andrea Laverty

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

09-172-15

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
OF AUGUST 26, 2015**

Ms. Lazar:

Page 3 - Third paragraph from the bottom: Ms. Ecker.

Mr. Share:

Page 8 - Fifth paragraph from the top: Mr. Scott Anscheutz

Mr. DeWeese:

Page 3 - Second paragraph from the bottom, second sentence and forward should read as follows: "Chairman Clein indicated that if the board feels it is appropriate, the plan is to postpone the request to rezone this parcel until September 30 because there is no D-5 Zone and the board wants to keep it on the agenda. On September 9 there will be a study session . . . "

Motion by Mr. Boyle

Seconded by Mr. DeWeese to approve the Minutes of August 26, 2015 as amended.

Motion carried, 5-0.

VOICE VOTE

Yeas: Boyle, DeWeese, Clein, Lazar, Williams

Nays: None

Abstain: Koseck, Share

Absent: Whipple-Boyce

09-173-15

CHAIRPERSON’S COMMENTS

In relation to a communication from a resident related to zoning, Chairman Clein emphasized this board has done a great job over the years to insure they are doing the exact opposite of spot zoning. Mr. Williams added that his comments at the last City Commission meeting with respect to the vote on transitional zoning were interpreted incorrectly. He is in favor of the concept of transitional zoning but did not approve because of one of the 14 parcels.

09-174-15

APPROVAL OF THE AGENDA (approved).

09-175-15

FINAL SITE PLAN AND DESIGN REVIEW 369

- 1. **200 E. Brown St.
MA Engineering
Application for Final Site Plan and Design Review for one-story addition to existing office building**

Mr. Baka advised the site is the location of MA Engineering. The applicant proposes to build a 661 sq. ft. addition at the rear of the building. The addition will face Purdy St. and the alley to the rear of the property. The site is zoned B-2, General Business. The parcel also has an overlay zoning of D-3. The addition will not expand the area of the building by more than 40% of the existing building area, and thus is not subject to the requirements of the Downtown Birmingham Overlay District. The existing use is intended to be continued and is therefore permitted by right.

Design Review

The proposed addition will have materials that match the existing materials. The existing egress door that currently faces Purdy will be relocated to the rear of the addition and will face the alley. The plans as submitted do not indicate if the new addition that faces the street will have the required 70% of clear glass panels and doorway, as required in Article 04 subsection 4.83 (A). ***The applicant must provide the 70% glazing as required or obtain a variance from the Board of Zoning Appeals (BZA).***

East Elevation

No changes are proposed.

North Elevation (E. Brown)

No changes are proposed.

West Elevation (Purdy)

The addition will extend the building 28 ft. towards the rear of the property. The existing metal panels and window system will be relocated. The new brick will match the existing and be mounted on C.M.U. or light-gauge framing. The existing metal mansard finish panel will be placed on the new metal framing of the addition.

South Elevation (Alley)

The addition will extend the building 22 ft. 2 in. towards Purdy. The new brick will match the existing and be mounted on C.M.U. or light-gauge framing. The applicant proposes to relocate the existing metal panels and the existing egress door and sidelite. The existing metal mansard finish panel will be placed on the new metal framing of the addition. The existing egress door that currently faces Purdy will be relocated to the rear of the addition and will face the alley.

Mr. Williams noted this project will add three more parking requirements to the general parking in Birmingham. He commented that he feels the City Commission must address the issue of parking and parking structures in Birmingham. Cars are being pushed into the neighborhoods. Mr. DeWeese agreed.

Mr. Victor Saroki, Architect, was present with Mr. Salim Sacine, the building owner and the owner of MA Engineering. Mr. Sacine has purchased another engineering firm and would like to move them into his building. He pays for all of his staff members to park in the structures. He has made arrangements with the owners of the house to the south to get three additional parking spaces. Their goal is to meet the 70% glazing requirement measuring from grade and they may have to add one additional window. A materials board was passed around.

Motion by Mr. DeWeese

Seconded by Mr. Williams to approve the Final Site Plan and Design Review for 200 E. Brown St. as the proposed development meets the requirements set out in Chapter 126, Article 07, subsection 7.27 (B) with the following condition:

- 1. Provide the 70% glazing as required.**

There were no comments on the motion from members of the public at 7:45 p.m.

Motion carried, 7-0.

VOICE VOTE

Yeas: DeWeese, Williams, Boyle, Clein, Koseck, Lazar, Share

Nays: None

Absent: Whipple-Boyce

09-176-15

PRELIMINARY SITE PLAN REVIEW

- 1. 559 W. Brown St. (currently vacant land)**

Application for Preliminary Site Plan Review for new construction of two attached single-family residences

Mr. Baka provided background. The subject site is a 0.141 acre parcel located on the south side of W. Brown St. between Cherry Court and Watkins in the R-8 Zoning District. The existing parcel is currently vacant. The 6,178 sq. ft. foot parcel previously had a single-family home which was demolished earlier this year. The applicant is proposing to construct a new 2 ½ story attached single-family building with two residential units.

Article 04, section 4.30 OS-01 C requires that projections into the front open space do not reduce the front setback to less than 10 ft. ***The applicant must provide the required 10 ft. setback or obtain a variance from the Board of Zoning Appeals ("BZA").***

The plans as submitted do not indicate a 180 sq. ft. private enclosed open space as required per Article 04, section 4,34 OS-05. ***The applicant must provide the required open space and 6 ft. screenwall or obtain a variance from the BZA.***

Chapter 126, Article 04, section 4.30 (C) states that steps may project into a front open space for a maximum distance of 10 ft. The provision cannot reduce the required front setback to less than 10 ft. The proposed front steps project 10 ft. into the front open space leaving an 8.83 ft. front setback. ***The applicant must provide the required 10 ft. front setback or obtain a variance from the BZA.***

Design Review

A complete design review will be conducted at Final Site Plan Review. However, the applicant is currently proposing the following materials:

- Brick veneer and stone veneer;
- Asphalt shingles;
- Standing seam copper on dormers and window bays.

It was noted the roof of the garage is used as a patio. Ms. Ecker stated that in the past 180 sq. ft. terraces, balconies, and decks have been considered as outdoor open space. There must be a wall between two spaces but they don't need to be surrounded by a wall. There was consensus to see the Building Official's opinion on this proposal.

Mr. Koseck questioned maneuverability into the project from the driveway. Further, he noted their civil plan doesn't match their architectural plan. It seems to him the building is 4 ft. too close to the property line.

Mr. Jason Krieger, Krieger Klatt Architects, was present with the developer, Mr. Brian Sergio. Mr. Krieger noted their intent is to create a high end development. They propose to adjust their plans to make them fit without any variances. Their engineers have said the driveway will work. They will install a privacy fence at the rear of the property.

The chairman invited input from members of the audience at 8:20 p.m.

Mr. Herbert Danziger, 550 Cherry Ct., offered some historical perspective to the area. This building site as proposed has at least 60% impervious area; whereas the previous structure had a large backyard with considerable opportunity for water to be absorbed. So his main concerns about the project are water runoff, loss of privacy, air space, noise, and lighting that escapes into the neighborhood. He feels the project is too large and not in keeping with the character of the neighborhood. Therefore he recommends denying the townhouse project and replacing it with a different development in the form of a single-family residence.

Ms. Colleen McGow, 543 Watkins, spoke in support of the project.

Mr. Williams noted the lots are deeper on the south side of Brown where the townhouses are. He would like that dimensional background. Also he wanted the petitioner to give some thought to creating more space to the rear. It was discussed that the City will not require that improvements be made to the alley. Mr. Share encouraged the petitioner to have a conversation with the Danzigers in order to work things out that are mutually satisfactory. Mr. Koseck needed proof that the placement of the building will provide accessibility in terms of getting in and out.

Mr. Boyle thought the building looks wonderful but he wanted to see it in the context of the neighborhood. Mr. DeWeese questioned whether they are impinging too tightly on the rear.

Motion by Mr. DeWeese

Seconded by Mr. Williams to postpone the Preliminary Site Plan for 559 W. Brown to the October 14 Planning Board meeting.

At 8:40 p.m. the chairman called for comments from the public on the motion.

Ms. Camille Danziger, 550 Cherry Ct., noted there is a huge dumpster in the alley belonging to the apartment that needs to be addressed. She thought this development will set a precedent for building townhouses that replace existing single-family homes.

Motion carried, 7-0.

ROLLCALL VOTE

Yeas: DeWeese, Williams, Boyle, Clein, Koseck, Lazar, Share

Nays: None

Absent: Whipple-Boyce

09-177-15

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

- 1. 369 N. Old Woodward Ave.
Brookside Development**

Application for Preliminary Site Plan Review and Community Impact Study Review to allow construction of a new five-story mixed-use building

Ms. Ecker advised the subject location is currently the site of an existing residential development of nine townhouses and has a total land area of .81 acres. It is located on the west side of N. Old Woodward Ave. between Harmon and Willits.

The applicant is proposing to demolish the existing buildings and surface parking lot to construct a five-story mixed-use building. The building will provide two levels of underground parking along with storage, ground floor retail/commercial, and 26 residential units on the second through fifth floors.

The site is currently zoned R-6, but the applicant is seeking a rezoning to R-6/D-4 Overlay. As it is currently zoned, the development does not meet the use or development standards. This review uses the standards of the D-4 Zone of the Downtown Overlay District as the applicant has proposed to rezone the property. However, a rezoning approval by the City Commission is necessary prior to a site plan approval based on these standards.

On August 26, 2015, the Planning Board reviewed the applicant's request for rezoning from R-6 Multiple Family Residential to R-6 Multiple Family Residential and D-4 in the Downtown Overlay District. After much discussion, the Planning Board voted unanimously to recommend to the City Commission rezoning of the property as requested.

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. Procedurally, the Planning Board "accepts" the CIS prior to taking action on a Preliminary Site Plan.

CIS

Ms. Ecker advised that the CIS states that under existing conditions approximately 0.25 acres of the site drains into the municipal system while the remaining portion of the site drains directly into the Rouge River. The drainage plan for the proposed new development is to collect roof drainage from the building and discharge it directly into the Rouge River. The quality of the storm water would improve because it is coming from the roof; not from the parking lot. A detailed drainage plan has not been provided at this time.

The applicant has not provided any mitigation strategies to address construction vibration and dust.

The CIS states that the amount of refuse generated will be similar to a standard development in the City. The applicant will be required to provide information on the trash storage facilities to be provided, including information detailing the collection and separation of recyclable materials.

The CIS states there will be a state-of-the art security system for the building to be interfaced with the Police Dept. The applicant has said that they will request approval from the Police Dept. after final design is complete.

Mr. Williams received confirmation that the applicant doesn't have to go offsite for parking and they do not have to get a variance from the Board of Zoning Appeals ("BZA") if they create additional underground parking. Mr. DeWeese noticed maneuverability would be difficult in the drive unless the building is moved back; so he feels the building is too close to the property line. Second, the point was made in the CIS that two parking spaces need to be removed in order for a vehicle to have adequate site distance when exiting onto N. Old Woodward Ave. Nothing in the CIS addresses that there is adequate maneuverability for vehicles coming in and out safely.

The City's traffic consultant had the following comments:

- A 15% internal capture was applied in the applicant's Traffic Impact Assessment ("TIA"). An explanation of how this value was determined should be included in the report. Also, the use of multi-modal trips and associated impact were not reviewed and may be considered for this site.
- Since the parking garage is for exclusive use of the residents, it is recommended they assume all 100% of the residential trips using the parking garage access via N. Old Woodward Ave., not off of Bates.
- The level of service ("LOS") was not evaluated at the site driveways. The intersection operations should be evaluated with Synchro 8 or later. Emphasis should be put on consideration of left-turn queue lengths at the driveways, and also consider multi-modal impacts.
- The TIA identified a northbound left-turn queue length on N. Old Woodward Ave. at the site driveway of 95 ft. and it should only be 70 ft.
- A parking analysis should be included to determine if the proposed on-site and shared off-street parking will provide the necessary number of spaces for the existing and proposed land uses. Right now the site doesn't meet the parking requirements.
- The TIA recommends providing a sidewalk adjacent to the south side of the proposed building facade. That is agreed to.

Ms. Ecker noted the Engineering Dept. cannot approve an access drive to the underground parking deck from the existing land which has no easement of record to provide the access. So the condition would be that they would have to come in off of N. Old Woodward Ave. unless they get approval from the City Commission.

Mr. Chris Longe, Architect, addressed the items that had been flagged as issues within the CIS:

- They will provide an engineered site plan;
- The entire building including underground parking is above the flood plain;
- Pilings will not be driven and they will follow the HUD guidelines for noise;
- A trash compactor will be located within the building and recyclables will be handled;
- It is their intent to join the Parking Assessment District;
- They plan four stories of residential and no restaurant;
- It may be possible to enter the site from Bates;

➤ The streetscape will be related to the building and will include benches. With respect to the flood plain, Mr. Longe said they have talked to the MDEQ, and Engineering. The Geotechnical Report was done by two separate firms. They do not encroach into the flood plain and they are 15 ft. above the river's edge.

There were no comments from the public related to the CIS at 9:55 p.m.

Ms. Ecker noted if the applicant does not get accepted for rezoning they would have to amend the CIS.

Motion by Mr. DeWeese

Seconded by Mr. Williams to accept the CIS as provided by the applicant for the proposed development at 369 N. Old Woodward Ave. with the following conditions:

- (1) Submission of a drainage plan for review and approval;**
- (2) Submission of information on planned mitigation strategies for vibration and dust during construction;**
- (3) Submission of information on the trash storage facilities to be provided, including information detailing the collection and separation of recyclable materials;**
- (4) Submission of information on the proposed security system for approval by the Police Department;**
- (5) Compliance with the recommendations of the City's transportation consultant;**
- (6) Compliance with the requirements of City Departments;**
- (7) Applicant gets permission from the City to use the southern access drive; and**
- (8) Submission to staff of a revised CIS addressing comments expressed tonight.**

No one from the public wished to comment on the motion at 10:05 p.m.

Motion carried, 7-0.

ROLLCALL VOTE

Yeas: DeWeese, Williams, Boyle, Clein, Koseck, Lazar, Share

Nays: None

Absent: Whipple-Boyce

It was discussed that the Preliminary Site Plan could not be considered until rezoning is approved.

Motion by Mr. Williams

Seconded by Mr. Share to postpone consideration of the Preliminary Site Plan for 369 N. Old Woodward Ave., Brookside Development, to the Planning Board meeting of October 14.

Mr. Rick Rattner, attorney for the applicant, requested that the Preliminary and Final Site Plans be considered at the same meeting. Board members agreed to add the Final Site Plan to the agenda as a separate item, although it may not be heard. Mr. Boyle emphasized that all submittals must be in on time or they won't be heard.

Motion carried, 7-0.

VOICE VOTE

Yeas: Williams, Share, Boyle, Clein, DeWeese, Koseck, Lazar

Nays: None

Absent: Whipple-Boyce

09-178-15

2. 2400 E. LINCOLN ST.

Application for Preliminary Site Plan and CIS for new construction of a four-story assisted living building over 20,000 sq. ft. in size (postpone to September 30, 2015)

Motion by Mr. Koseck

Seconded by Ms. Lazar to postpone the Preliminary Site Plan and CIS for 2400 E. Lincoln St. to September 30, 2015.

Motion carried, 7-0.

ROLLCALL VOTE

Yeas: Koseck, Boyle, Clein, DeWeese, Lazar, Share, Williams

Nays: None

Absent: Whipple-Boyce

09-179-15

STUDY SESSION

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 building official previously ruled that some changes in the existing legal non-conforming building may be permitted. The applicant is seeking to rezone the 555 S. Woodward Ave. properties 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.

At the Planning Board meetings of May 13, June 10, and July 8, 2015 the Planning Board discussed the ways that the building could be modified and improved as a conforming structure and not through the use of variance requests. The board indicated they would like to craft a zoning classification or overlay expansion that allows the 555 Building to be renovated but also mirrors the development standards in the Triangle District which allows a maximum of nine stories. Since that time, the applicant has submitted their revised draft of the proposed D-5 zone.

In accordance with the direction of the City Manager, the board can craft specific questions for the City Attorney and will respond in writing.

Mr. Williams suggested creating a D-5 District for the 555 Building and a D-6 District for other locations which might be nine stories. That would not isolate one parcel; but rather it would be a comprehensive approach. Further it would allow the 555 Building to be improved.

Ms. Ecker explained that the applicant has submitted language that has two different sub-zones. They are proposing a sub-zone north of Bowers and a sub-zone south of Bowers. South of Bowers (the tall part of the 555 Building) allows 168 ft. and includes the area they want to expand. That would make the existing residential portion of the 555 Building conforming and would allow them to expand. The sub-zone north of Bowers and south of Hazel allows nine stories.

Mr. Share announced he may be okay with making the existing building conforming but not okay with adding an additional 12 stories to it. However, Mr. Koseck thought it would look odd to have a five-story addition scabbed onto the front of the tower.

Motion by Mr. Share

Seconded by Mr. Koseck to extend the meeting to 11:10 p.m.

Motion carried, 7-0.

Board members suggested having identification signs on the building facade that fronts Woodward Ave. and maybe on the south facade. However, Chairman Clein was nervous about having them on the other facades that look into Downtown and across.

Other aspects of the applicant's submitted language were discussed. The group considered whether it would be feasible to make this building or any building in this condition 100% legally conforming. There are many issues, such as lighting, setbacks, height, uses. Mr. Share said that at some point they approach the problem of spot zoning. Mr. Koseck thought that enhancements and additions should comply with the ordinance. It was agreed that there need to be standards, but that there could be exceptions if certain criteria are met.

The board listed items for the City Attorney's response:

- Does our ordinance create sub-zones with geographic descriptions anywhere else? If we do this do we need to rezone anyway?
- What is the appropriate means to provide exemptions to make non-conformities conforming, other than grandfathering?
- Look at the language that takes juris from the BZA.

Board members continued to discuss sections of the proposed ordinance language. Consensus of board members was not to allow drive-through facilities without SLUPS and they must be internal. A height of 168 ft. might be okay in some instances to make an existing building conforming, but not necessarily for additions. The board is willing to consider illuminated signs on Woodward Ave. elevations only, and is not willing to allow

exemptions that would eliminate pedestrian friendly requirements. Board members also agreed that the southern gateway would be the southern point of the Triangle District.

Motion by Mr. Share

Seconded by Mr. DeWeese to extend the meeting 10 minutes to 11:20 p.m.

Motion carried, 7-0.

Mr. Rick Rattner, attorney for the applicant, said that taking variances and assigning them to the Planning Board instead of the Board of Zoning Appeals ("BZA") is a very common method used in PUDs. It is recognized that planning and design control is a lot of what is done in zoning. When variances go to the BZA they are judging the variance by a different standard that has nothing to do with design or form based code. It has to do with whether there is undue hardship or something that necessitates amending the ordinance.

The other thing is he has tried to get the 555 Building in a position where it complies with the 2016 Plan and what Andres Duany said last May. This is an ordinance to put the non-conforming structures into conformance so they can be improved rather than sit there and waste away.

Lastly, the ordinance allows opting in or opting out of the D-4 Overlay District. That could mean something when moving forward to re-do buildings on a form-based code.

Motion by Mr. Williams

Seconded by Mr. Boyle to schedule a public hearing on the consideration of zoning classification D-5 for Wednesday, October 14.

Board members tended to agree they should feel comfortable prior to putting the new zoning classification before the public. That would make for a more efficient hearing.

Motion failed, 2-5.

ROLLCALL VOTE

Yeas: Williams, Boyle

Nays: Clein, DeWeese, Koseck, Lazar, Share

Absent: Whipple-Boyce

Chairman Clein wrapped up by saying this matter will be brought back at the next meeting for a study session with direction from the city manager/city attorney and language from staff.

09-180-15

MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA

09-181-15

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

- a. Communications (none)
- b. Administrative Approval Correspondence
 - 33696 Woodward Ave. - New rooftop HVAC and screening.
 - 245, 325, 375 Eton St., District Lofts - Doors at the first level revised per structural elements required to be added to wall assemblies; fourth floor balcony guardrail revised to match the detailing found on Building A. All items noted and captured within architectural response package pertaining to report comments, issued to City on July 10, 2015.
- c. Draft Agenda for the Regular Planning Board Meeting on September 30, 2015
 - 2400 E. Lincoln, Preliminary Site Plan and CIS;
 - Whole Foods, Final Site Plan;
 - Study session to consider of D-5 zoning.
- d. Other Business (not discussed)

09-182-15

PLANNING DIVISION ACTION ITEMS

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

09-183-15

ADJOURNMENT

No further business being evident, board members motioned to adjourn at 11:23 p.m.

Jana Ecker
Planning Director