

**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, APRIL 9, 2014**

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<p style="padding-left: 40px;">Motion by Mr. DeWeese Seconded by Mr. Williams to approve the Revised Final Site Plan for 685 E. Maple Rd., Kroger, with the following conditions:</p> <p>(1) Applicant repair adjacent parking area and service drive located in the right-of-way near the corner of Woodward Ave. and Maple Rd. as directed by the Engineering Division and any changes in the southwest plaza are subject to administrative approval; (2) Applicant resolve the required exit issue with the Building and Fire Departments subject to administrative approval; (3) Planning Board approves the waiver of non-cut-off fixtures for the illumination of the tower feature at the corner of Woodward Ave. and E. Maple Rd.; (4) Applicant obtain an Outdoor Dining License from the City; (5) Applicant extend the curb at the north entrance and provide necessary drawings subject to administrative approval. The intent is to increase the pedestrian zone; and (6) Applicant add a Knox Box.</p>	3
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To amend Chapter 126, Zoning, Article 2, Section 2.39, MX (Mixed Use) to allow Medical Marijuana sales.	
Motion carried, 6-0.	9

APPROVED

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, APRIL 9, 2014
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held April 9, 2014. Chairman Robin Boyle convened the meeting at 7:31 p.m.

Present: Chairman Robin Boyle; Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Student Representative Shelby Wilson

Absent: Board Member Scott Clein; Student Representative Jack Moore

Administration: Timothy Currier, City Attorney
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

04-45-14

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
HELD MARCH 12, 2014**

Motion by Mr. DeWeese

Seconded by Mr. Koseck to approve the Minutes of the regular Planning Board meeting on March 12, 2014 as presented.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Absent: Clein

04-46-14

CHAIRPERSON'S COMMENTS

The chairman apologized to the audience that the last meeting had to be cancelled because of the lack of a quorum.

04-47-14

APPROVAL OF THE AGENDA

Motion by Mr. Williams

Seconded by Mr. Koseck to hear the Kroger Revised Final Site Plan Review first, before continuing the Zoning Transition Overlay Public Hearing.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Absent: Clein

04-48-14

REVISED FINAL SITE PLAN REVIEW

685 E. Maple Rd.

Kroger

Lobby addition at rear, changes to E. Maple Rd. facade and streetscape (continued from February 26, 2014 and March 12, 2014)

Ms. Ecker advised at this time, Kroger is seeking to remodel the store. An extensive interior remodel is proposed, and as a result the applicant is seeking several site plan and exterior changes to facilitate the interior changes proposed. The applicant is proposing to reconfigure the rear lobby and add a new rear entrance for a new recycling area. This new entry will also include a sidewalk extension adjacent to the truck loading docks.

In accordance with the recommendations of the Planning Board on February 26, 2014, the applicant has made several changes which she then described. They are now proposing to keep the recycling area inside the building near its current location, and to expand the existing lobby/vestibule area by 466 sq. ft. to enhance the prominence of the rear entrance.

New signage is proposed on the existing canopy to further enhance the entry, along with outdoor display wrapping the corner of the entrance along the wall that leads to the receiving docks. A new canopy is also proposed above the windows on this wall to add architectural detail as requested by the Planning Board. On the front of the building (south elevation), the applicant is proposing to eliminate one entrance door near the existing pharmacy, and to provide outdoor seating for the Starbucks coffee shop located within the Kroger store. Improvements are also proposed at the southwest corner of the site at the intersection of Maple Rd. and Woodward Ave. to create a pedestrian plaza area. The Engineering Dept. has requested concrete with a broom finish or exposed aggregate concrete. They don't want pavers or granite in the right-of-way.

The applicant has now submitted full signage details that allow the Planning Board to review and approve the proposed signage changes to eliminate a duplicate review by

the Design Review Board. Based on the 293 ft. width of the building facing E. Maple Rd., the applicant is permitted to have up to 293 sq. ft. of signage. As the applicant is proposing 207.4 sq. ft. of signage, this proposal meets this maximum signage requirement. Per the Planning Board's request, the Starbucks signage will be moved over the entry to Starbucks. In addition, buildings with more than 100 linear feet of building frontage may not exceed 100 sq. ft. of signage on walls other than the principal frontage. The applicant is proposing 96.2 sq. ft. of signage between the rear and Woodward Ave. elevations. Thus, the proposed signage meets the Ordinance requirements.

Mr. Jeff Scott with Scott Architects was present with Mr. Steve Lazar from Kroger. Mr. Scott described how they brought in grillage at the front to make it a little more dynamic. They went with a more urban plaza and provided a venue for future public art. In the back they left the bottle return where it is and extended the outdoor sales area to provide a more interesting approach. Also, they brought the signage down to the awning level.

Mr. Koseck thought the applicant has made drastic improvements since last time that will enhance the overall architecture. He suggested they soften the angular walls on the plaza. Also, eliminate two parking spaces at the rear entrance to make them into a pedestrian as opposed to a vehicular zone. Take the stained concrete and connect it back to the transformer wall because there needs to be better definition of a protected zone for pedestrians. Mr. Scott thought they could install bollards to create a better landing for people as they come in and out of the store.

Ms. Whipple-Boyce wondered if the group could see further into the parking lot to find out about what kind of a grade they are dealing with. She asked if the petitioner could include a drawing when they seek administrative approval for a new plan. Also she asked whether they could do the same front plaza but use the preferred concrete with the broom finish and aggregate rather than pavers. That would satisfy the concerns of the Engineering Dept. Mr. Scott indicated they plan to put the pavers down on a sand bed.

Ms. Lazar received confirmation from Mr. Scott that they plan to install an irrigation system for the landscape; they will address issues in the parking lot and then re-stripe; and they will create more winter interest with the plaza landscaping.

Chairman Boyle asked for comments from the public at 8:05 p.m.

Mr. Harvey Zaleson, 564 Purdy, commented on the safety of the plaza.

Motion by Mr. DeWeese

Seconded by Mr. Williams to approve the Revised Final Site Plan for 685 E. Maple Rd., Kroger, with the following conditions:

(1) Applicant repair adjacent parking area and service drive located in the right-of-way near the corner of Woodward Ave. and Maple Rd. as directed by the Engineering Division and any changes in the southwest plaza are subject to administrative approval;

- (2) Applicant resolve the required exit issue with the Building and Fire Departments subject to administrative approval;**
- (3) Planning Board approves the waiver of non-cut-off fixtures for the illumination of the tower feature at the corner of Woodward Ave. and E. Maple Rd.;**
- (4) Applicant obtain an Outdoor Dining License from the City;**
- (5) Applicant extend the curb at the north entrance and provide necessary drawings subject to administrative approval. The intent is to increase the pedestrian zone; and**
- (6) Applicant add a Knox Box.**

There were no comments from the public at 8:10 p.m.

Motion carried, 6-0.

ROLLCALL VOTE

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

Nays: None

Absent: Clein

Chairman Boyle remarked that the Planning Board saw an opportunity to meet with the applicant and discuss how they could improve the exterior of their building which includes public safety and some urban amenities. He thanked the board for their deliberations and particularly the applicant for listening to suggestions.

04-49-14

PUBLIC HEARING

Zoning Transition Overlay

The chairman re-opened the public hearing at 8:12 p.m.

1. An ordinance to amend Chapter 126, Zoning, Article 3, Overlay Districts, to add sections 3.17 – 3.24 to create the Zoning Transition Overlay District by creating the new zoning classifications TZ-1 – Attached Single-Family Residential, TZ2 – Attached Single-Family Residential, TZ-3 – Mixed Use and TZ-4 – Mixed Use, and establishing development standards for these new zone districts.

2. An ordinance to amend Chapter 126, Zoning, Article 9, Definitions, Section 9.02 to add definitions for parking – off-street, social club, tobacconist, indoor recreation facility and specialty food store.

3. To consider a proposal to rezone the following transitional parcels that are adjacent to residential zones throughout the City as follows:

a) 300 Ferndale, 233, 247, 267 & 287 Oakland, 404, 416 & 424 Park, Birmingham, MI

Rezoning from R-2 Single-Family Residential to TZ-2 - Attached Single-Family.

- b) **185 Oakland, 322, 344, 350, 380, 430, 450, 460 & 470 N. Old Woodward Birmingham, MI**
Rezoning from B-2 General Business to TZ-4 - Mixed-Use to allow Commercial and Residential uses.
- c) **191 N. Chester Rd. Birmingham, MI**
Rezoning from R-2 Single-Family Residential to TZ-2 - Attached Single-Family to allow Attached Single-Family and Multi-Family Residential uses.
- d) **400 W. Maple Birmingham, MI**
Rezoning from O1 Office to TZ-4 Mixed-Use to allow Commercial and Residential uses.
- e) **564, 588, 608, 660 Purdy Birmingham, MI**
Rezoning from R-3 Single-Family Residential to TZ-1 - Attached Single-Family to allow Attached Single-Family and Multi-Family Residential uses.
- f) **115, 123, 195 W. Brown, 122, 178 E. Brown Birmingham, MI**
Rezoning from O-2 Office to TZ-3 - Mixed-Use to allow Commercial and Residential uses.
- g) **1221 Bowers & 1225 Bowers Birmingham, MI**
Rezoning from O1- Office/ P - Parking to TZ-2 - Attached Single-Family to allow Attached Single-Family, Multi-Family Residential uses.
- h) **1111 & 1137 Holland; 801, 887, 999, 1035 & 1105 S. Adams Rd.; 1108, 1132 & 1140 Webster; 1137 & 1143 Cole St.; 1101 & 1120 E. Lincoln. Birmingham, MI**
Rezoning from O-2 Office to TZ-3 - Mixed Use to allow Commercial and Residential uses.
- i) **500, 522 & 576 E. Lincoln; 1148 & 1160 Grant; 1193 Floyd Birmingham, MI**
Rezoning from B-1 Neighborhood Business to TZ-3 - Mixed-Use to allow Commercial and Residential uses.
- j) **36801, 36823 & 36877 Woodward, Birmingham MI**
Rezoning from O-1- Office & P-Parking to TZ-4 - Mixed-Use to allow Commercial and Residential uses.
- k) **1775, 1803, 1915, 1971, 1999, 2055, 2075 & 2151 Fourteen Mile Rd. Birmingham, MI**
Rezoning from O-1- Office to TZ-3 - Mixed-Use to allow Commercial and Residential uses.
- l) **100, 124, 130 & 152, W. Fourteen Mile Rd. & 101 E. Fourteen Mile Rd. Birmingham, MI**
Rezoning from B-1-Neighborhood Business, P-Parking, R-5-Multi- Family Residential to TZ-3 - Mixed-Use to allow Commercial and Residential uses.
- m) **880 W. Fourteen Mile Rd., 1875, 1890 & 1950 Southfield Rd. Birmingham, MI**
Rezoning from B-1-Neighborhood Business, O-1-Office to TZ-3 - Mixed-Use.
- n) **1712, 1728, 1732, 1740, 1744, 1794 & 1821 W. Maple Rd. Birmingham, MI**
Rezoning from B-1-Neighborhood Business, P-Parking, O-1-Office to TZ-3 - Mixed-Use to allow Commercial and Residential uses.
- o) **2483 W. Maple Rd. Birmingham MI**
Rezoning from B1-Neighborhood Business to TZ-3 - Mixed Use to allow Commercial and Residential uses
- p) **151 N. Eton, Birmingham MI**
Rezoning from B-1 Neighborhood Business to TZ-3 - Mixed-Use to allow Commercial and Residential uses.
- q) **412 & 420 E. Frank, Birmingham MI**

Rezoning from B-1-Neighborhood Business, B2-B-General Business, R-3-Single-Family Residential to TZ-2 - Attached Single-Family Residential to allow Attached Single-Family and Multi-Family Residential uses.

Chairman Boyle recalled the Planning Board has held several study sessions over the past year in order to develop the Zoning Transition Overlay that could be applied to areas that abut Single-Family Residential Zones and are adjacent to commercial zones or located on major thoroughfares. The goal of these study sessions has been to identify and revise the zoning classifications of properties that abut single-family residential and are also adjacent to commercial areas or major thoroughfares so that they provide a transit or buffer to the single-family neighborhoods.

Mr. Williams thought it is important that the minutes of the joint meeting with the City Commission where this topic was discussed be made available.

Ms. Ecker recalled at the March 12, 2014 study session the Planning Board directed staff to present the Board with additional information regarding the impact of various minimum lot area per unit ("MLA") standards. The discussion at the last study session centered on the appropriateness of the 3,000 sq. ft. MLA. Accordingly, the Planning Department is providing an analysis of the density that would result from the 3,000 sq. ft. standard as compared to 2,500 sq. ft. in the TZ-2 zone. Currently only the parcels along Purdy are recommended for TZ-1. For this area staff has provided three comparison MLAs, 1,500, 2,500, and 3,000 sq. ft. The greater square footage reduces the number of units allowable.

The board considered each of the TZ-1 and TZ-2 transitional properties. Mr. Williams and Mr. DeWeese thought the Ring Road sites ought to be consistent at 3,000 sq. ft.

Board members concluded the following:

Park and Oakland Site

East - approximately 24,500 sq. ft. - MLA 3,000 sq. ft. allows 8 units

West - approximately 37,500 sq. ft. - MLA 3,000 sq. ft. allows 12 units

Parcel at 404 Park - approximately 12,500 sq. ft.- MLA 3,000 sq. ft. allows 4 units

First Church of Christ Scientist

approximately 17,000 sq. ft. - MLA 3,000 sq. ft. allows 5 units

West side of Purdy south of Brown, two most southern parcels (TZ-1)

approximately 17,000 sq. ft. - MLA 3,000 sq. ft. allows 5 units

Post Office Site

approximately 124,000 sq. ft.- MLA 3,000 sq. ft. allows 41 units

Frank St. at Ann

approximately 15,000 sq. ft. - MLA 3,000 sq. ft. allows 5 units

The board discussed TZ-1 and TZ-2. The setbacks are the same but the difference is 2 stories at 30 ft. for TZ-1, and 3 stories at 35 ft. for TZ-2.

Discussion on the Land Use Matrix corrected the use to "bank/credit union" under Commercial Uses. Any parking structure should be a Special Land Use. Under Recreational Uses "Recreation Club" is eliminated. "Dwelling - one family" should be added under Residential Uses. Also, under Residential Uses live/work unit is not suitable for TZ-1 or TZ-2.

Under C in the Land Use Matrix, insert "each" in front of "use" in numbers 1 and 2.

In the Parking section Number 5 should read: "Each use shall provide the parking required by the off-street parking space requirements in the underlying district except as provided for in this Section."

In Commercial/Mixed-Use Architectural Requirements, Section F Corner Buildings, the first sentence should read: "Buildings situated at a corner shall possess a level of architectural design that incorporates accents and details that accentuate its prominent location." Delete the remainder of that sentence.

Under Definitions, change "Specialty food store" to "Specialty food shop." Parking - off-street should read "an area used for the parking of motor vehicles not located in the public right-of-way."

Chairman Boyle took comments from the public at 9 p.m.

Mr. Norman Fell who lives on Pierce read into the record a letter from Paul Reagan, President of the Central Business Residents Assoc. ("CBRA"). The preservation of residential property values is the primary concern of the CBRA. Mr. Reagan urged the Planning Board to return to its earlier N proposal regarding uses where commercial property is adjacent to residential. The CBRA is deeply concerned about the proposed rezoning of single-family homes into multi-family properties for property value preservation reasons. He asked the Planning Board to consider the City Commission's charge to lessen the intensity of use on commercial properties adjacent to residential.

On a personal note, Mr. Fell urged the board in some cases not to bootstrap spot zoning that occurred on an adjacent use. In other words, unspot zone.

Ms. Linda Uray, 663 Purdy, said she finds the proposals before the board are definitely unfriendly to single-family homeowners in the community that are affected by this zoning. It leaves only two homes on Purdy north of Frank that are zoned Single-Family. They will be surrounded now by either existing multi-family homes or the potential for more multi-family residences. Therefore, she asked the board not to eliminate the two remaining homes on Purdy from the proposal. Perhaps extend the transitional zoning designation option for those two homes near Frank Street to be some day transitioned into multi-family instead of leaving them stranded.

Mr. Harvey Zaleson said that rezoning the south side of Brown will offer a face lift for the Downtown district. He proposed that underground parking be made available for both the residents and for visitors.

Ms. Alice Thimm did not think anyone would want to live next door to most of the uses being proposed for TZ-3 and TZ-4. They eliminate a Transitional Zone.

Mr. David Bloom asked why a residential property owner that is adjacent to a potential rezoning site would be either in favor of the proposed rezoning or not care about it. Chairman Boyle replied the board is responding to a situation that is coming from the neighbors who wish to improve the situation on properties within the City. The Planning Board is carefully considering how it will deal with changes that are coming by putting into place the appropriate zoning and the appropriate land uses that will fit with the residential community.

Board members indicated their desire to continue the public hearing and deliberate one final time after staff has consolidated all of the different information and brought forth a clean document. Mr. Williams expressed his desire to walk Purdy and Chester in order to think about the concept prior to the next hearing.

Motion by Mr. Williams

Seconded by Mr. DeWeese to continue the public hearing on these issues to Wednesday, April 23 at 7:30 p.m.

Mr. DeWeese asked the board members to really think about the uses allowed in TZ-3 and TZ-4 because people have complained about their proximity to residential.

There were no members of the public who wished to comment on the motion at 9:31 p.m.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Absent: Clein

The board took a brief recess at 9:34 p.m.

04-50-14

STUDY SESSION

Medical Marijuana

Ms. Ecker announced that in light of recent case law, the city attorney has 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. 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 has been asked to consider allowing medical marijuana establishments in certain zone districts, and to consider any controls that may be needed to control their operation. The Planning Division has prepared language for the Planning Board to consider allowing medical

marijuana establishments in the MX (Mixed-Use) Zone, with a valid Special Land Use Permit ("SLUP"). Allowing these facilities as SLUPs would permit the City to control the size of the establishment and hours of operation.

Mr. Currier said there is no provision to sell marijuana. The service of being a medical marijuana provider/caregiver is what is sold, not the product. It is anticipated that marijuana caregivers will grow up to twelve plants per person and maintain them in an enclosed, locked facility that only allows access by the registered caregiver and the registered medical marijuana patient. Pending legislation makes it legal for medical marijuana provision centers. Since these centers are known to attract a criminal element it is necessary to place them in a spot that is easy for the police to access.

Chairman Boyle clarified this is not a dispensing facility; it is a growing facility that can be accessed only by a registered caregiver or patient. Discussion brought out that the proposed ordinance states that medical marijuana facilities will no longer be allowed in residential districts.

Motion by Mr. DeWeese

Seconded by Ms. Whipple-Boyce to set a public hearing for May 14 to consider the following Zoning Ordinance amendment:

To amend Chapter 126, Zoning, Article 2, Section 2.39, MX (Mixed Use) to allow Medical Marijuana sales.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Absent: Clein

04-51214

PLANNING DIVISION ANNUAL REPORT & 2014-2015 ACTION LIST OF THE PLANNING BOARD, THE HISTORIC DISTRICT COMMISSION, AND THE DESIGN REVIEW BOARD

The chairman stated the Report looks to him to be very appropriate and impressive. This document makes it clear what the boards are currently doing and have done in the past.

04-52-14

UPDATE ON DOWNTOWN BIRMINGHAM 2016 PLAN REVIEW

Ms. Ecker recalled the Downtown Birmingham 2016 Plan was completed by Andres Duany and Elizabeth Plater-Zyberk, Architects, Inc. ("DPZ") in 1996. This Master Plan was a strategic document intended for the next twenty years. Nearly eighteen of those twenty years have passed.

Over the past six months the City Commission has been discussing engaging Andres Duany for a visit to Birmingham. to briefly review the implementation of the 2016 Plan and to make recommendations on setting major goals for the future. A sub-committee was formed by the City Commission and charged with preparing a general outline of what the City would like Mr. Duany to study when he arrives. After reviewing the City's draft agenda and planning needs with DPZ staff, a two and one-half day agenda was agreed upon, with an option for a written summary report at the end of Mr. Duany's visit.

Over the course of two and a half days, Mr. Duany will make observations and assess what has been accomplished to date and which components of the 2016 Plan have not succeeded. The resulting presentation or written report will be an overview of existing and projected conditions, with recommendations for how the 2016 Plan might be updated in a later, full master planning effort.

On February 10, 2014, the City Commission approved the contract for Mr. Duany's services, and approved a budget amendment for \$16,500 for the approved contract. **The confirmed dates for Mr. Duany's visit are Monday, May 19, 2014 through Wednesday, May 21, 2014. The lower level of the library has been booked as the venue for the majority of the sessions.**

On February 10, 2014, the City Commission also discussed the desire to clarify that the written report would focus on findings and recommendations for the future, and not be merely a summary of what has been accomplished to date downtown.

The Planning Division contacted DPZ and discussed the optional written report. The report is specifically to include Mr. Duany's findings and recommendations for the future. On April 3, 2014, the City Commission voted to approve adding the optional formal written report of Mr. Duany's findings and recommendations for the future into the previously approved contract with DPZ, at an additional cost of \$4,500.00.

04-53-14

MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA

Mr. Stuart Jeffries, 1381 Birmingham Blvd., urged the board to do things right the first time by accommodating what is needed at the library not only for today, but for the future. The payback is increased property values for Birmingham.

04-54-14

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

- a. Communications (none)

b. Administrative Approvals

- 355 S. Old Woodward Ave. - Temporary treating unit installed on powerhouse roof vented into Group Fitness Room. Center for Yoga is using this room for 45 days, then unit will be removed.
- 200 Woodland Villas, Unit 5 -
 - Install 36 VW generator in rear yard behind terrace;
 - Install shrubs to match existing to screen generator;
 - Bulb arborvitae at least 46 in. high;
 - Generator dimensions: 76 in. l x 3.5 in. w x 46 in. h.
- 200 Woodland Villas, Unit 2 -
 - Install 36 KW generator in rear yard behind terrace;
 - Install shrubs to match existing to screen generator;
 - Bulb arborvitae taller than generator;
 - Generator dimensions: 46 in l x 33 in. w x 46 in. h.
- 820 E. Maple Rd., All Seasons of Birmingham - building changes:
 - Add conservatory to 3rd floor rooftop;
 - "Future" conservatory was indicated on approved Final Site Plan.

c. Draft Agenda for the Regular Planning Board Meeting on April 23, 2014

- Continuation of Transitional Overlay public hearing (first on the agenda);
- Preliminary Site Plan Review for the Palladium; and
- Expansion of the parking lot at 2388 Cole.

d. Other Business (none)

04-55-14

PLANNING DIVISION ACTION ITEMS

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

04-56-14

ADJOURNMENT

No further business being evident, board members motioned to adjourn at 10 p.m.

Jana Ecker
Planning Director