
**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, APRIL 10, 2013
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held April 10, 2013. Chairman Robin Boyle convened the meeting at 7:30 p.m.

Present: Chairman Robin Boyle; Board Members Scott Clein, Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams

Absent: Student Representative Arshon Afrakhteh

Administration: Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

04-57-13

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
HELD MARCH 27, 2013**

Motion by Mr. DeWeese

Seconded by Mr. Clein to accept the Minutes of the Regular Planning Board Meeting of March 27, 2013 as presented.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

04-58-13

CHAIRPERSON'S COMMENTS (no comments)

04-59-13

APPROVAL OF THE AGENDA (no changes)

04-60-13

PUBLIC HEARING

To AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

To amend Article 5, Use Specific Standards, Section 5.13, (MX) to amend the regulated use standards in the MX District.

To amend Article 7, Regulated Uses, Section 7.20 – 7.23 to amend the review process for regulated uses in the City.

To amend Article 9, Definitions, Section 9.02 to amend the definitions for banquet facility, bathing establishment, tattoo parlor and use, regulated and to add definitions for nightclubs and pawnshops.

Chairman Boyle opened the public hearing at 7:34 p.m.

Ms. Ecker provided background. At the City Commission meeting May 7, 2012, the Commission considered a request for permanent makeup services to be offered at a salon after it was determined that permanent makeup was deemed a tattoo parlor under the existing language in Article 9, Section 9.02, Definitions. After much discussion, the City Commission directed the Planning Division to review the regulated use provisions in the Zoning Ordinance and make recommendations for updates. Specifically, the Commission directed that a definition be added for pawnshop, and to consider amending the definition of tattoo parlor to allow permanent makeup as an accessory use to a beauty salon.

On July 9, 2012, the City Commission also considered ordinance language to address several inconsistencies in the Zoning Ordinance, one of which related to regulated uses. Specifically, the City Commission voted to adopt an amendment that added the 1,000 ft. separation requirement to regulated uses and limited the number of regulated uses in a single building to one in the B-4 Zone District.

On August 22, 2012, the Planning Board discussed making all regulated uses into Special Land Use Permits (“SLUPs”) to achieve more control over the use and the impacts on the surrounding area. The board referred a question to the city attorney as to whether it was legal for the City to make one of the regulated uses a SLUP. The city attorney has indicated that it is certainly legal to do so, and that is a policy decision for the City to make.

On March 13, 2013, the Planning Board again discussed the issue of regulated uses and the proposed draft ordinance language. The Planning Board voted unanimously to

send the ordinance amendments to a public hearing at the Planning Board meeting on April 10, 2013.

Several regulated uses have been eliminated, such as modeling studios. Pool or billiard halls have been eliminated and changed to billiard games as a regulated use. Dance halls have been eliminated and replaced with night clubs, a regulated use differentiated from a banquet facility. The ordinance amendments before the board tonight make all regulated uses into SLUPS so that they are required to go through the review process at the Planning Board and then the City Commission.

Also, some of the definitions have been amended and clarified. Further, one other provision places the same limitation in the MX District as everywhere else which is that there cannot be a regulated use within 1,000 ft. of another regulated use.

Mr. Clein initiated discussion regarding Article 5, Section 5.13, Specific Standards, "Regulated uses are permitted if located more than 1,000 ft. from any lot for which a Certificate of Occupancy has been issued for another regulated use." He inquired what happens if someone obtains a Building Permit and doesn't yet have a Certificate of Occupancy because they are under construction. Ms. Ecker said that is the same language used elsewhere in the ordinance. The board's conclusion was to go forward with these amendments and then put the issue in front of the city attorney to address the issue comprehensively all at one time if appropriate.

There were no members of the public who wished to comment at 7:44 p.m.

Motion by Mr. DeWeese

Seconded by Mr. Williams to recommend approval to the City Commission of the following amendments to Chapter 126, Zoning, of the Birmingham City Code:

To amend Article 5, Use Specific Standards, Section 5.13, (MX) to amend the regulated use standards in the MX District.

To amend Article 7, Regulated Uses, Section 7.20 – 7.23 to amend the review process for regulated uses in the City.

To amend Article 9, Definitions, Section 9.02 to amend the definitions for banquet facility, bathing establishment, tattoo parlor and use, regulated and to add definitions for nightclubs and pawnshops consistent with the comments made tonight correcting what was presented.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

No comments from the public were heard at 7:46 p.m., and the chairman closed the public hearing.

04-61-13

STUDY SESSION

Review transitional areas of Birmingham where residential areas abut commercial areas

Ms. Ecker recalled that in accordance with the direction of the City Commission and Planning Board, the Planning Dept. presented information regarding the “transition areas” of Birmingham at the March 27th Planning Board meeting. These are the areas of town where commercial zones abut single-family residential. Each of these areas has a unique set of conditions that determine their relationship with the adjacent residential areas.

In many instances, the use of screening, landscaping, height standards, and appropriate lighting methods are key to providing a buffer to a residential area. Based on the discussion at the Planning Board, the Planning Division has assembled information regarding the various Zoning Ordinance provisions that are in place in the areas where residential is abutting commercial zones.

In addition, photos have been collected to demonstrate the inconsistency of the existing conditions throughout these areas. Some of these photos illustrate that the current standards do provide a significant buffer for the residential. However, as seen in the recent Woodward Gardens site proposal, meeting those standards can often create additional difficulties in meeting the parking requirement. If the need for additional parking is determined to be a paramount concern, then the existing standards may need to be modified to maximize the parking opportunities while providing a balance that still protects the residential areas.

Mr. Williams observed the only green space vegetation that provides coverage is evergreens. Higher walls may be needed between Lincoln and Fourteen Mile Rd. to protect the residences. The residents need to be solicited as to what they think is best to protect the neighborhoods from intrusion in these transition areas. The Master Plan for Woodward Ave. from the Detroit River to Pontiac is being re-done. There will be pressure to soften Woodward Ave. by putting in bicycle paths and more walking areas. That will ultimately serve to reduce parking all along Woodward Ave. and force parking to the back. The neighborhood associations need to be solicited to come forward and say what they would like.

Chairman Boyle suggested bringing forth best practice that works, such as the former IHOP on Woodward Ave. that is now a bank and is wonderfully screened. Rather than stipulating wall heights, types of plantings, etc. for screening, maybe consider a form of screening that gets across the goal but doesn't give the detail.

Mr. DeWeese was concerned there is nothing that requires maintenance. He likes the example that was shown of a decorative wall that is pedestrian friendly and appropriate to the area.

Ms. Whipple-Boyce indicated her preference for a consistent material on the walls. Mr. Koseck thought landscaping is good, but not right up to the street. For screenwalls, ideally find a way to always specify quality materials and make sure that is enforced.

In response to Ms. Lazar, Ms. Ecker said right now a site plan review would require the applicant to go in and modify the screenwall to bring it into compliance. It was concluded that in many instances this would discourage the property owner from making a change.

Mr. Clein said he considers that site development standards are somewhat lacking in the ordinance. There is not a development standard of providing landscape buffers in front of walls so that cars will not bump into them. Roads can be throated down just past the commercial areas leading to residential neighborhoods. The best plans that he has seen define the edge where no more parking can be added. Instead of a consistent material for the walls, maybe consider something consistent with the development. Additionally, perhaps a SLUP should be required for properties immediately adjacent to residential.

Ms. Whipple-Boyce loved the idea of having a point of no return for parking into the neighborhoods. It will discourage business owners from purchasing residences in the hope that some day they can be turned into a parking lot for their business.

No members of the public wished to join the discussion at 8:21 p.m.

The board discussed the next steps. Mr. Koseck thought this ties into the scope of what LSL Planning and Hamilton Anderson are doing. He was interested to see where they go with it and then the board can have a productive conversation.

Chairman Boyle commented that the aesthetic they are trying to build is completely overwhelmed by the clutter of overhead wires. He recommended that possible options for screening in transitional areas be pursued by staff in conjunction with the consultants who are engaging with topics in the S. Woodward Ave. area, and the sub-contract that has been let for the Oakland/Park/Woodward Ave. sub-area. Chairman Boyle said he will contact the consultants to see if they would perhaps consider allowing an intern to take some photographs of other examples up and down the corridors, particularly those that are at an angle to the grid.

Ms. Lazar thought it is the property owners who should contribute to the meetings, rather than the tenants, because there may not be a fair reading of what the consensus really is.

STUDY SESSION
Outdoor Display and Storage

Ms. Ecker noted The Planning Board recently added the issue of outdoor sales and storage to the annual Action List, and at the last Planning Board meeting several photos of outdoor storage were passed around for discussion purposes.

To commence the study of outdoor display, sales and storage, Ms. Ecker presented a review of the current ordinance regulations on the subject.

The use of inconsistent terms occurs across various sections of the Zoning Ordinance, and varying standards are in place across the different zone districts. In addition, the outdoor display, sales and storage standards are located in numerous sections of the Zoning Ordinance, including two different locations in Article 4, Development Standards and also throughout Article 5, Use Specific Standards. Finally, notably absent are any definitions for any of these terms.

Thus, Ms. Ecker advised that the Planning Board may wish to consider adopting definitions for the terms outdoor display and/or outdoor sales and outdoor storage. Once the definitions of each have been clarified, ordinance amendments should clearly state in which zone districts each, all or none of these uses are permitted, and clear standards for such uses should be considered. For example, standards for the maximum area for outdoor display, sales or storage could be provided, regulations with regard to the location of such uses on the lot (in the rear, storefront, not blocking pedestrian pathways etc.), screening requirements and aesthetic standards for display fixtures could also be included.

Outdoor display, sales and storage definitions, regulations and information from various cities were provided for the board's review and comment.

Ms. Whipple-Boyce observed that outdoor displays are a problem in the transition areas. There may be a problem of policing as well. Mr. Koseck thought it gets back to whether the merchant cares. The question is how to go about modifying the language of the ordinance to allow displays, but in a controlled manner that would look better. Mr. DeWeese commented the City has paid a lot of attention to buildings, but not much attention to the ancillaries.

Ms. Whipple-Boyce said she doesn't object to displays during business hours because sometimes they are interesting and they draw people. She thought a time restriction would discourage outdoor storage of materials.

Mr. DeWeese thought there is an appropriateness to having some things out on the street. He was interested in defining the standard of what they are trying to achieve, perhaps with a form based approach. There might be a trade-off that would give an

incentive to property owners to find it in their self-interest to pay more attention to their display.

Chairman Boyle noted here is a distinction between a display and storage. Also, timing is something to contemplate. He asked staff to continue collecting information and to provide some ordinance language for the board to consider.

04-63-13

MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA (no public was present)

04-64-13

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications

Mr. DeWeese reported he received an e-mail from Alice Thimm about the new lighting standards in the Rail District. Her two primary concerns were that the new lighting by the brewery seems overly bright. Secondly, she thought the fixtures would have a rail theme and be painted black, rather than green. Ms. Ecker advised that the Rail District Sub-Committee recommended the fixtures in black. However, the City Commission wanted to go with Birmingham Green to match what is Downtown. Also, they recommended the same green bench that is Downtown. With regards to the brightness of the lighting, DTE has said repeatedly that when new lights go in they are extra bright and they will dim down to the correct level. Chairman Boyle commented the materials are very high quality and nicely put in. Mr. Koseck was happy to see the lighting because it brings in some scale, some rhythm and some color. Now it begins to look urban in front of Griffin Claw.

b. Administrative Approvals

- 563 Eton S. Eton St., Griffin Claw Brewing Co. – Addition of milling room structure at exterior of building on the south of the property. Ms. Ecker said they came in with a masonry building with straight walls that will match the previously approved cooler unit that runs down the back. Also, they are adding a trellis with some plantings growing up. Chairman Boyle anticipated the activity that will occur as a result of this project. It will be a tremendous feature of the Rail District.
- 563/575 S. Eton St., Griffin Claw Brewing Co. – Landscape modifications to accommodate new architectural and civil changes. Additional landscape plantings are included into the revised planting plan.

Ms. Ecker highlighted two informal requests for administrative approval:

- Crush has made a request to enclose the west second-floor terrace overlooking S. Old Woodward Ave. with a fixed glass window in the center and folding glass windows on the side that will open. The windows would match what was approved on the rest of the building which is dark bronze and aluminum. The board concurred with administrative approval.
- Because they have gone over budget, the Hamilton Funeral Home has asked to shrink the tower feature at the corner of Maple Rd. and Elm to just above the height of the building. Board members agreed that would be more consistent and honest.

Their other request consists of material changes on the Maple Rd. elevation. They are asking for an increase in cement fiber siding and a decrease in the percentage of brick. The percentages go from 67% brick and stone to 61% (a 6% decrease in brick). On the east elevation they did not provide percentages. On the courtyard interior façade they wish to change four different areas from stone to brick.

Mr. Koseck indicated he cannot make a judgment until he studies their proposal. Mr. DeWeese echoed that thought. Mr. Koseck went on to say maybe there is a way to accomplish this without looking like they are trying to save money. Don't cheapen three sides and make the front brick and stone. This is a very important, highly visible project.

Chairman Boyle summed up that the tower is administratively approved and the applicant will be asked to come before the board with changes in the finishes. Ms. Ecker indicated they will not be charged if they appear informally at the end of the meeting.

- c. Draft Agenda for the Regular Planning Board Meeting on April 24, 2013
 - Public hearing on the redundancy of board reviews between the DRB and Planning Board;
 - LSL appearance with information they have collected on Oakland/Park/Woodward. Residents in that district have been invited.
- d. Other Business
 - Ms. Ecker updated the board on the BZA's decision to preserve the landscaped area behind the Hi Way Collision project rather than moving the screenwall out toward the street in order to have extra parking spaces.
 - Market is scheduled to open at the beginning of June.
 - Walgreen's opening date is coming up soon.

04-65-13

PLANNING DIVISION ACTION ITEMS

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

04-66-13

ADJOURNMENT

No further business being evident, board members motioned to adjourn at 9:12 p.m.

Jana Ecker
Planning Director

APPROVED