

**CITY OF BIRMINGHAM
 PLANNING BOARD ACTION ITEMS
 OF WEDNESDAY, APRIL 24, 2013**

Item	Page
PUBLIC HEARING TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:	2
To amend Article 7, Regulated Uses, Section 7.08 Requirements to eliminate redundancy in the review process by no longer requiring duplicate design reviews for projects by the Planning Board and Design Review Board.	2
Motion by Mr. Williams Seconded by Mr. DeWeese to postpone this matter to May 8, 2013.	2
Motion carried, 4-0.	
a. <u>Communications</u>	9
Motion by Mr. DeWeese Seconded by Ms. Whipple-Boyce to grant an extension of the Final Site Plan Review for 2000 – 2080 Villa St. for six months.	9
Motion carried, 6-0.	9

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, APRIL 24, 2013
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held April 24, 2013. Vice-Chairperson Gillian Lazar convened the meeting at 7:30 p.m.

Present: Chairman Robin Boyle (arrived at 7:56 p.m.); Board Members Scott Clein (arrived at 7:45 p.m.), Carroll DeWeese, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Student Representative Arshon Afrakhteh

Absent: Bert Koseck

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

04-67-13

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
HELD APRIL 10, 2013**

Motion by Mr. DeWeese

Seconded by Mr. Williams to accept the Minutes of the Regular Planning Board Meeting of April 10, 2013 as presented.

Motion carried, 4-0.

VOICE VOTE

Yeas: DeWeese, Williams, Lazar, Whipple-Boyce

Nays: None

Absent: Boyle, Clein, Koseck

04-68-13

CHAIRPERSON'S COMMENTS (none)

04-69-13

APPROVAL OF THE AGENDA

The agenda was amended to place the first item, administrative approval request for 820 E. Maple Rd., further down until more board members arrived.

04-70-13

**PUBLIC HEARING
TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF
BIRMINGHAM:**

To amend Article 7, Regulated Uses, Section 7.08 Requirements to eliminate redundancy in the review process by no longer requiring duplicate design reviews for projects by the Planning Board and Design Review Board.

Postponed to the May 8, 2013 meeting due to noticing.

Vice-Chairperson Lazar opened the public hearing at 7:33 p.m.

**Motion by Mr. Williams
Seconded by Mr. DeWeese to postpone this matter to May 8, 2013.**

Motion carried, 4-0.

VOICE VOTE

Yeas: Williams, DeWeese, Lazar, Whipple-Boyce

Nays: None

Absent: Boyle, Clein, Koseck

The vice-chairperson closed the public hearing at 7:34 p.m.

04-71-13

**STUDY SESSION
Oakland/Park/Woodward Sub-Area Plan
Presentation by consultant LSL Planning, Inc.**

Brad Strader, President of LSL Planning, and Kathleen Duffy, Project Planner, were present. Mr. Strader said they were asked by the City to look at the current land uses by type and compatibility, land use conflicts, the zoning, and what are some of the planned land uses for this sub-area. They extended the study to the north from what was originally talked about at the last meeting and they looked at the west side of N. Old Woodward Ave., not just stopping at the middle of the street.

Mr. Strader went on to talk about:

- Land use transitions and buffers between single-family and commercial.
- Factors that influence property values.
- Key parcels susceptible to change because they are on the edge, the adjacent use is different, and there may be a request to make a change.
- Each key parcel was reviewed in terms of types of uses, traffic, setbacks, buffering, views, and physical conditions.
 - Brookside/Ravine – no change in land use recommended.
 - Ravine/Ferndale – no reason to consider land use change.
 - Euclid – recommendation is no change in land use, work toward additional buffer, and consider traffic calming treatment such as curb bump-out.
 - Brookside Terrace – recommendation is could be planned for redevelopment into office or mixed-use.
 - Ferndale – no change in land use recommended.
 - Oakland – could support urban-style buildings (mixed-use or attached residential) that front along Oakland with meaningful buffers behind to “mark the line” and protect the neighborhood.
 - Oakland/Park/Woodward, 404 Park – appropriate for a well-designed, transitional use (owner-occupied attached residential) that also would buffer the neighborhood.
- Next steps
 - Finalize report based, in part, on discussion.
 - Provide recommendations on zoning.
 - City may adopt as part of the City’s Master Plan and/or initiate any zoning change.

Ms Duffy then passed out paper to the audience for them to write questions for the speaker.

In response to Chairman Boyle, Mr. Strader noted other places in suburban communities where he found similar conditions. E. Grand Rapids has used an optional transitional overlay requiring additional buffering. Rochester Hills came up with a transitional zoning mechanism. Grand Haven has granted use variances.

Mr. Williams observed the lack of depth n/s makes the 404 Park Street parcel more difficult. When anything is put on there the buffer becomes critical between that and the neighborhood.

Ms. Whipple-Boyce inquired why they do not recommend that the parcel (two lots) front Park as they did originally. Mr. Strader explained that in order to get enough units to make it work they need to line on Oakland, because an awkward design would be necessary along Park.

Mr. Strader noted that a use variance is not the best zoning practice; however in this case it may be an alternative to look at if it is felt this is an isolated case. If the board thinks there are other similar spots in Birmingham, perhaps a special Overlay District

would be appropriate and design would be part of it. The Planning Board and City Commission would look at it and there would be a public hearing.

Mr. Clein asked Mr. Strader why he would not look at a single-family residence fronting Park. Mr. Strader said he considered all the factors and did not think he could defend single-family. Even in the highest market conditions there was no interest in developing a single-family home there.

Mr. Williams said a less intense development that fronts on both Oakland and Park is something he doesn't think they have looked at. The challenge is that kind of development may not fit with any of the existing zoning classifications. Mr. Strader thought they could drop different footprints onto the lot configuration to see what could fit. Mr. Williams indicated it makes sense to him to push the parking as far to the east as possible and to push the development the furthest south possible, because that gets it away from the residential area. Mr. Strader said his thought would be to shift the development closer to Oakland with a zero or 3 ft. setback in order to provide a better demarcation to the north. Mr. Williams suggested looking at a development that wraps around.

Mr. Strader answered some of the questions that were given to him from members of the audience:

- There are two recorded lots but they are viewed as one parcel by the City.
- Owner occupied attached means there is a common wall.
- Density in Birmingham is the number of units/acre.
- This was identified as a sensitive area in the 1978 City-Wide Master Plan.
- LSL plans to come back with a recommendation in terms of the type of unit, size, and number of units.
- He has had considerable experience with contract zoning. Under Michigan law on conditional re-zoning the developer offers the conditions. If there are conditions the City wants that the developer is not willing to commit to in writing, they cannot be required.
- A use variance is not spot zoning but it could look that way to some people.
- He has a good feel for at least the last 20 years of Birmingham's history.
- Change should not be perpetuated so that it continues in a domino effect. That is why methods are employed such as buffering, or finding some very unique circumstances that do not apply to the next-door property.
- He tries to look out for the best interests of the City, and not the developer's profit. The idea with an incremental change is how to have the least negative impact and the City gets the best land use and tax base out of any redevelopment.
- He has not looked at changing the sidewalk setbacks for the Belford Bldg. at Oakland/Ferndale if the building ever needs to be rebuilt. However that is a good idea.

At this time the vice-chairperson allowed comments from the public.

Ms. Michelle Irwin, 356 Ferndale, appreciates the consultant looking at the Belford Bldg. In terms of Oakland, she would love it to be planned multi-family, owner-occupied, similar to Brown St. With the plan she would like the consultants to look at parking. The multi-family residents should not have access to the neighbor's permit parking. Make sure the curbs force the traffic out onto Oakland and not down Park or Ferndale. That would reduce cut-through traffic.

Mr. John Miller, 544 Brookside, said he hasn't heard anything about pedestrian flow, and in particular the attachment of their neighborhood to the Downtown which is across Oakland. He would like to see some options and if all of the different roads are really needed. Another thing is that the retaining walls within the neighborhood are in bad shape. He would like the study to recognize how they could be enhanced and made a little safer.

Mr. Richard Najerian, 439 Park, said the parcel in question was purchased as an investment. There is no right of return when one invests. There is no reason why another residence cannot be built on this parcel, or why the land would not be sold if the owner allowed it to be sold. The owner has had offers over the years and has turned them down. At the intersection a "No Turn on Red" sign would solve the issue of sight lines.

Mr. Benjamin Gill, 520 Park, did not think zoning should be changed just to make the speculator happy. He won't do the development with anything less than six units because it is not advantageous to him. Mr. Gill did not think he should be rewarded.

Mr. Brad Host, 416 Park, said his house is right up against this property. He questions the fact this is a shallow lot. This parcel is shallow only because the planners are saying it fronts on Oakland. It is two buildable lots and if it is not two buildable lots then all the houses that way made a big boo-boo.

Ms. Annie Thomas, 397 N. Old Woodward Ave., said her concern is that when multi-use buildings start going into a wonderful residential area, the walkability of the area is lost. She feels that walkability has to be preserved.

Mr. Bob Powell, 680 Brookside, said he is very much in support of what others have said. There is no need to change anything. It is a single-family residence. If the parking is moved east and the building is moved south, a viable single residence can be constructed that someone can sell for \$1 million.

Mr. Bill Finnicum, 404 Bates, said he is an architect and developed the Cinderella Patch project at Brown and Bates and two other similar projects in town. The transition aspect of this project interests him. He doesn't believe there is any hardship for a use variance. If there is a hardship, it is self-created because the owner tore down an existing house. If the parcel is going to be used for residential Mr. Finnicum thinks it should be looked at under an existing residential zoning classification and not a commercial classification so the developer re-designs the Zoning Ordinance to their

advantage. He thinks the R-8 density should be followed if it is found advisable to change from Single-Family Residential.

Ms. Sharon Self, 227 Euclid, said she remembers the house at 404 Park. It was torn down soon after it was bought and the lot has been vacant ever since. It is priced as if it were an internal lot in the neighborhood but the owner did not pay an internal lot price when he bought it. She agrees with her neighbors who have spoken that this is a person who wants to max out his profit, which is at the expense of all the surrounding residents.

Mr. Strader addressed some of the points that were made by members of the audience:

- This would not be a self-created hardship because the factors are the views, the traffic, the noise, and other things not having to do with the fact that the parcel is vacant.
- An improved pedestrian crossing at Ferndale and across Oakland is an intriguing suggestion.
- This lot cannot be compared with lots to the north because it is a corner lot with different setbacks and it has different physical factors than the internal lots. Sometimes a lot on the edge is priced more because various factors make it desirable for something other than single-family. The Supreme Court in landmark decisions has said property owners have a right to a reasonable rate of return on their property.
- A No Turn on Red sign could solve part of the problem on Oakland but not everyone obeys. A clear distance corner is not just for the turning traffic but also for the southbound traffic.

There was no further discussion from Planning Board members and the vice-chairperson thanked Mr. Strader for this presentation.

04-72-13

OLD BUSINESS

Administrative Approval request for 820 E. Maple Rd. Independent Senior Living

Mr. Mark Abernatha with Alexander Bogaerts Architects was present with Mr. Mark Highland with the Beztec Companies. Mr. Abernatha advised they are at the final stage of preparing construction drawings and are looking at making some minor changes to the exterior of the building. They think the changes will enhance the aesthetics.

On the Elm St. elevation they propose to go from brick to cement fiber board siding in several places in order to get more play and interest. Now they have elements that punch up and different types of detail and bracketing. In their opinion this will not detract from the overall design integrity.

On the courtyard interior façade they are looking at changing the material at the base which was all stone to some stone and some brick. Now they don't have just total banding, but a play of up and down.

On the east elevation they propose to pull out some of the brick to allow the pattern to go up and down.

There has been consideration about lowering the corner element and that is still up for discussion. He passed around material samples of the cement fiberboard and noted it has a 50-year warranty.

On the Maple Rd. façade they have dropped the brick from 67.1% to 61.1%. That increases the cement fiberboard by 6%. They are not changing any percentage of stone or brick on the courtyard; they are just changing from stone to brick in order to get the patterning. They are only reducing the size on the east elevation by 890 sq. ft.

Board members concurred that the tower has already been approved but it can be lowered. The materials are fine and the proposal should be administratively approved.

04-73-13

STUDY SESSION

Outdoor Display and Storage

Ms. Ecker continued the discussion from the last meeting on April 10, 2013 when the Planning Board began considering outdoor display and storage issues around the City. Board members reviewed the existing ordinance language, and requested staff to prepare draft ordinance language to define outdoor display and outdoor storage. Board members felt that each use should be distinguished by the short-term or long-term nature of the outdoor display, and that limited hours should be considered. In addition, the board requested the addition of standards to control the location, size and looks of both outdoor display and storage areas, without imposing extensive and detailed standards. It was also discussed that ice machines, propane storage and similar displays may be best around the side or rear of buildings, and not in the front. Board members also expressed the need for improved code enforcement for outdoor storage.

Ms. Ecker advised that based on the direction of the Planning Board, draft ordinance language to define and regulate outdoor display and outdoor storage has been provided along with additional regulations and information from various cities.

For all of the zone districts where outdoor display and storage are allowed, special standards have been set up for outdoor display and a separate set of standards for outdoor storage.

Ms. Ecker explained that nothing in the draft ordinance pertains to residential; it is only for commercial and mixed-use districts. The wording does not say anything about appeals. Mr. DeWeese thought an appeal process should be included. Also, that the display must be aesthetically compatible, so there is the flexibility to turn someone down in an egregious situation. Ms. Whipple-Boyce wanted to see some language about height of the display.

In calculating the percentage of space for display, Mr. Clein suggested language to the effect that 20% of the building gross floor area, or not to exceed "x" sq. ft., would be allowed. Also, he thought they may want to be more lenient in requiring businesses to meet their parking requirement before taking up a space for display purposes.

Chairman Boyle said to say that outdoor displays should not be located within handicap accessible parking spaces, and that's all. That way, it leaves the option for someone to take up more spaces.

It was noted that decorative displays in commemoration of national holidays should be allowed and that inflatables are prohibited.

Consensus was that outdoor display permits can be issued for seasonal use. It was thought that if a display is valuable it will be brought in at night by the retailer.

Discussion determined that having temporary and permanent outdoor displays should not require that goods sold on a regular basis must also be displayed within the principal building. They can remain outside.

The language for outdoor storage suggests the storage areas be limited to 10% of the gross floor area of the primary building. Mr. DeWeese suggested having no limits in terms of the percentage of space but include maintenance and shielding requirements.

This discussion will be continued at a future meeting.

04-74-13

STUDY SESSION

S. Woodward Corridor Plan update

Mr. Baka reminded everyone that the design charrette will be held on May 1st and 2nd in the vacant office space at 34140 Woodward Ave. The consultants, LSL/Hamilton Anderson/Land Use USA, have been collecting data and compiling reference materials for the market study for the past three months.

The charrette will be a two-day design and workshop. The first day will be working with stakeholder groups and then a public visioning session will be held at night from 6:30 to 9 p.m. That will be the best opportunity for the general public to give their ideas to the consultants. Then on day two, a business roundtable will be held and also some

individual interviews with city officials, neighbors, and business owners. In the evening the consultants will make a final presentation of all of their findings for the two days from 7 to 9 p.m. Once the charrette is over the consultants will start work on a draft plan which should be ready by August to come back to the Steering Committee and to the Planning Board for feedback. The plan will then be refined and presented to the City Commission for adoption.

Mr. Williams pointed out that everyone in Birmingham is resistant to change; however, change is coming along Woodward Ave. The businesses need to understand that the likelihood is they will have fewer parking spaces. If they think it is bad now, take away a lot of parking and see what happens – it will just get worse. Chairman Boyle thought it would be very valuable to have at the beginning of the first session an overview of where we are on Woodward Ave. and the likely shape of the reconfiguration of the State corridor. That needs to be done for the business owners in that area and for the residents immediately adjacent who will be affected.

04-75-13

MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA (no one spoke)

04-76-13

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

b. Communications

Ms. Ecker said she has received a request to extend the Final Site Plan Review for 2000 – 2080 Villa St., eight units on the south side of Villa St. just east of S. Eton. The applicant has been working with financing and believes the loan will be finalized this Spring. However they are not in a position to move ahead with permits to the Building Dept. without a lender commitment.

Motion by Mr. DeWeese

Seconded by Ms. Whipple-Boyce to grant an extension of the Final Site Plan Review for 2000 – 2080 Villa St. for six months.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Absent: Koseck

b. Administrative Approvals (none)

- c. Draft Agenda for the Regular Planning Board Meeting on May 8, 2013
- Public Hearing regarding no longer requiring duplicate design reviews;
 - Draft of the Oakland/Park/Woodward Sub-Area Plan from LSL Planning (neighborhood associations to be notified);
 - S. Woodward Ave. Charrette update.
- d. Other Business
- Jim Singelyn, a new part-time planner, has been hired to replace Sue Weckerle.
 - Ms. Whipple-Boyce reported that the Joint Library Building Committee has narrowed applicants down to five who will give formal presentations next week. One group will be selected to go forward with a Phase 1 proposal for library renovations, as approved by the City Commission.
 - Ms. Lazar observed that the parking around Papa Joe's is bedlam.

04-76-13

PLANNING DIVISION ACTION ITEMS

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

04-77-13

ADJOURNMENT

No further business being evident, board members motioned to adjourn at 10:33 p.m.

Jana Ecker
Planning Director