

**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, MAY 9, 2012**

Item	Page
PUBLIC HEARINGS	
<p>1. To amend Chapter 126, Zoning, of the City Code as follows:</p> <p style="padding-left: 40px;">TO AMEND ARTICLE 2, SECTIONS 2.03 (R-1A), 2.05 (R-1), 2.07 (R-2), 2.09 (R-3), 2.11 (R-4), 2.13 (R-5), 2.15 (R-6), 2.17 (R-7), 2.19 (R-8), 2.25 (P), 2.27 (B-1), 2.29 (B-2), 2.31 (B-2B), 2.33 (B-2C), 2.37 (B-4), 2.39 (MX) TO REMOVE FENCE FROM THE LIST OF PERMITTED USES IN THESE ZONE DISTRICTS.</p>	5
<p>2. To amend Chapter 126, Zoning, of the City Code as follows:</p> <p style="padding-left: 40px;">TO AMEND ARTICLE 2, SECTIONS 2.27 (B-1), 2.29 (B-2), 2.31 (B-2B), 2.33 (B-2C), 2.37 (B-4), AND 2.39 (MX), TO ALLOW SHOE STORE/SHOE REPAIR AS A PERMITTED USE IN THESE ZONE DISTRICTS.</p>	5
<p>3. To amend Chapter 126, Zoning, of the City Code as follows:</p> <p style="padding-left: 40px;">TO AMEND ARTICLE 2, SECTION 2.37 (B-4), TO ALLOW REGULATED USES AS USES REQUIRING CITY COMMISSION APPROVAL.</p>	5
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<p>5. To amend Chapter 126, Zoning, of the City Code as follows:</p> <p style="padding-left: 40px;">TO AMEND ARTICLE 2, SECTIONS 2.39 (MX) TO ALLOW PARKING STRUCTURES NOT ACCESSORY TO THE PRINCIPAL USE TO THE LIST OF USES PERMITTED WITH A SPECIAL LAND USE PERMIT IN THIS ZONE DISTRICT.</p>	5

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<p>7. To amend Chapter 126, Zoning, of the City Code as follows:</p> <p>TO AMEND APPENDIX A TO REFLECT ALL OF THE CHANGES LISTED ABOVE.</p>	6
<p>Motion by Mr. DeWeese Seconded by Mr. Koseck to recommend to the City Commission approval of items 1, 2, 3, 5, 6, and 7 and bring item 4 back with a definition.</p>	6
<p>Motion carried, 7-0.</p>	6
<p><u>Draft Agenda for the Regular Planning Board Meeting on May 23, 2012</u></p>	8
<p>Motion by Ms. Lazar Seconded by Mr. Clein to cancel the May 23 Planning Board meeting because no site plan reviews have been submitted in time for noticing.</p>	8
<p>Motion carried, 7-0.</p>	9

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, MAY 9, 2012
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held May 9, 2012. 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 Kate Leary

Administration: Matthew Baka, Planning Specialist
Timothy Currier, City Attorney
Jana Ecker, Planning Director
Paul O'Meara, City Engineer
Carole Salutes, Recording Secretary

05-85-12

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
HELD APRIL 25, 2012**

Motion by Mr. DeWeese

Seconded by Mr. Clein to approve the Minutes of the Regular Planning Board Meeting of April 25, 2012 as presented.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

05-86-12

CHAIRPERSON'S COMMENTS (none)

05-87-12

APPROVAL OF THE AGENDA

It was agreed to move the second study session item to the top of the agenda.

05-88-12

STUDY SESSION

Zoning Ordinance Amendment

Request by Engineering Dept. for rear yard setbacks where utilities are present

Ms. Ecker advised that the reason this item is back before the board is because the City Manager requested that the City Engineer and City Attorney be present. This is something they would like to go before the City Commission for consideration. The City Manager recommended it go through the public hearing process and homeowners will have an opportunity to comment at that time.

Mr. Koseck remembered that at the last meeting he wanted to see how many properties are affected. Mr. Williams recalled there was recognition that existing detached structures and landscape within the 10 ft. area would be grandfathered. However, the question was whether they could be replaced if damaged, based on the design of the home on the lot. Mr. DeWeese said the board is not aware that the residents have been informed about alternatives and consequences. He needs more information before going to a public hearing.

Mr. O'Meara advised this ordinance idea wasn't discussed previously with the homeowners because it wasn't being considered then. However, if the necessity for a 10 ft. setback from the rear utilities is put into the ordinance, it will alert people who are buying property of that requirement. Currently, the City doesn't have the right to ask for an easement, but it doesn't make sense to allow buildings to be constructed 5 ft. from an 80 year-old sewer.

Mr. Currier provided a history of how the rear yard sewers came to be built, primarily in the Quarton Lake Estates neighborhood. The neighbors were upset about the City's proposal to move all of the sewers out to the street and made the decision to line the rear yard sewers instead. That led to discovering the easements. Based on a sampling, one third of 350 properties have a 5 ft. easement. Some have an 8 ft. easement, and another third have no easements. These 5 ft. and 8 ft. easements are not adequate to get in and work on the properties. Half of the residents have already provided blanket easements to allow access. However, that doesn't preclude properties being rebuilt from constructing on top of the sewer main, and that is a legitimate health and safety concern for the entire community.

Mr. DeWeese noted there is no awareness in town of what is going on, and that is why he suggested informing the homeowner's associations before scheduling a public hearing.

Mr. Currier clarified the Engineering Dept. is asking for 10 ft. from the property owner on each side which totals a 20 ft. easement. The typical lot size in Quarton Lake is

approximately 80 ft. x 140 ft. Mr. Clein said that 10 ft. is a standard that is used throughout the construction industry, and he feels it is extremely reasonable when dealing with a sewer of this depth. He would prefer to send this forward and see what the public says.

Mr. O'Meara stated the City of Birmingham has four subdivisions where public water and/or sewer facilities were constructed along the back lot lines, rather than in the public right-of-way, but Quarton Lake Estates is by far the biggest. Discussion continued that intention would be for the proposed easements to apply everywhere, both for the rear utilities and for the overhead wires so that if they come loose they don't hit houses.

Mr. Koseck said that information should be disseminated to the public in a well presented format. Mr. Williams indicated he does not favor giving limited notice. Mr. DeWeese observed the board does not have wording for the ordinance. A specific proposal including the implications is needed. Ms. Whipple-Boyce said she learned that notice to everyone in the City can be included in the water bills.

Chairman Boyle called for public comments at 8:10 p.m.

Ms. Dorothy Conrad, 2252 Yorkshire, said her sewer runs at the rear. She served on the committee that made the decision to reline the sewers in the Quarton Lake area rather than build new sewers out in the street. A 10 ft. easement is fine in a brand new subdivision, but it is too much given the size of some of the established properties that would be affected. She questioned whether they have considered the possibility of applying this ordinance to new construction only. Mr. Currier responded the ordinance would only apply to new construction because all of the existing structures would be grandfathered.

Ms. Conrad went on to say that new methods of doing sewer and water work don't require digging everything up anymore. All kinds of things can be bored under. Mr. O'Meara commented there is always a way if the City wants to spend enough money.

Mr. Clein hoped to get the language to what staff feels it needs to be and then hold a public hearing. Chairman Boyle thought the board should focus on Quarton Lake Estates and the other three neighborhoods affected. Mr. Clein suggested eliminating any mention of overhead wires and making it strictly an issue of underground utilities.

Ms. Ecker noted the City Manager has said not to do more noticing than is required unless the City Commission directs it.

Mr. DeWeese also asked staff to look at the implications on other parts of the Code so they can be dealt with simultaneously. It was generally agreed that most people will recognize the necessity of this issue once they understand it.

Chairman Boyle summarized the discussion about preparing for the study session:

- Keep it to underground utilities in the areas that are being affected;

- Ask staff to put together a report and presentation that explains the history, the age, the implications and what other communities have done;
- Make maps available that show the boundaries;
- Report the data that has already been presented to the board with an indication of those likely to be affected;
- A summary of the major issues with case study examples;
- Draft ordinance language for discussion; and
- Send notice to the affected neighbors through the neighborhood associations regarding the study session.

05-89-12

The chairman opened the public hearings at 8:33 p.m.

PUBLIC HEARINGS

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7. To amend Chapter 126, Zoning, of the City Code as follows:

TO AMEND APPENDIX A TO REFLECT ALL OF THE CHANGES LISTED ABOVE.

Mr. Baka advised that on April 11, 2012 The Planning Board set a public hearing to consider amendments to the Zoning Ordinance that are intended to correct some inconsistencies and conflicts that are existing as currently composed. None of the proposed changes are intended to substantially change the Zoning Ordinance but rather to clarify the existing intent.

The study of these issues is a result of recent inquiries that have brought conflicting aspects of the Zoning Ordinance to the attention of the Community Development Department. At the March 28th Planning Board meeting two issues were brought forward for discussion and the board directed the Planning Division to research any additional inconsistencies and bring them forward as well. Accordingly this public hearing will focus on five conflicts that were first discussed at the Planning Board study session of April 11, 2012. The following information is a summary of each issue identified at that meeting.

Fence as an accessory permitted use – The Zoning Ordinance lists “fence” as an accessory permitted use in all zones with the exception of O-1, O-2 and B-3. In section 4.10 - 4.12 of Article 04, Development Standards, there are regulations governing the construction and placement of fences in all zones.

The Planning Board consensus was that fence should be eliminated as an accessory use as the development standards in Article 04 regulate the height and construction of fences in all zones.

Shoe store and Shoe repair – Zones B-1, B-2, B-2b, B-2c and B-4 list shoe repair as a permitted use. Zone B-3 lists shoe store as a permitted use. The MX District lists Shoe store/Shoe repair as a permitted use. In the land use matrix only Shoe repair is listed and it is permitted in all of the zones listed above.

The Planning Board consensus was that shoe repair and shoe stores should be combined and both be allowed in the zones where one or the other is currently permitted.

Regulated uses in the B-4 Zone – In the B-4 Zone Regulated Uses are listed under uses requiring a Special Land Use Permit (“SLUP”). In every other zone which permits regulated uses they are listed as requiring City Commission approval but not a SLUP. Also, the land use matrix does not indicate that regulated uses are permitted in B-4 in any fashion. In addition, Article 05 section 5.12 of the Use Specific Standards that apply in B-4 does not include the language on Regulated Uses that section 5.10 does for B-2, B-2b, and B-2c.

The Planning Board consensus was that requirements pertaining to regulated uses in B-4 should be made consistent with the rest of the Zoning Ordinance and that the above referenced subsection should be added to section 5.12.

Auto Sales Agency and Auto Showroom – These two categories are listed separately in the Zoning Ordinance. When considering the nature of each use it would seem that they are intrinsically linked and should perhaps be combined. Additionally, no zones list both as permitted uses. This could be construed as meaning that while an agency may be allowed to sell cars as a permitted use, they cannot have a showroom.

The Planning Board consensus was that these two uses should be combined and that the use should be required to obtain a Special Land Use Permit (“SLUP”) in all zones where it is permitted.

Mr. DeWeese said a clear definition of what requires a SLUP is needed (Auto Sales Agency/Auto Showroom).

Parking structure in the MX District – In the MX District parking structure is listed under Accessory Permitted Uses and uses requiring a Special Land Use Permit. It may be more explicit to add “not accessory to the principal use” under the SLUP category.

The Planning Board consensus was that the language “not accessory to the principal use” should be added to clarify the difference between accessory and principal use parking structures.

The chairman called for comments from the public at 8:45 p.m.

Ms. Dorothy Conrad received confirmation in regard to regulated uses in the B-4 Zone that it is not necessary to add that they require City Commission approval because it is already covered.

Motion by Mr. DeWeese

Seconded by Mr. Koseck to recommend to the City Commission approval of items 1, 2, 3, 5, 6, and 7 and bring item 4 back with a definition.

Motion carried, 7-0.

VOICE VOTE

Yeas: DeWeese, Koseck, Boyle, Clein, Lazar, Whipple-Boyce, Williams
 Nays: None
 Absent: None

Chairman Boyle closed the public hearing at 8:55 p.m.

05-90-12

**STUDY SESSION
 Alleys and Passages
 Via Classification Map**

Ms Ecker noted that the 2016 Plan identified the alleys behind commercial buildings as underutilized assets within the City. The 2016 Plan recognizes the service value of the alleys as an essential function of the downtown area and states the importance of the need for that function. However, it also identifies certain alleys as pedestrian passages as they are more pedestrian oriented and used only lightly for service functions. These “passages” are considered untapped resources that can generate interest and uniqueness in the downtown. The 2016 Plan recommends the enhancement of passages to improve routes for pedestrians.

In addition to developing the guidelines and ordinance language, the Planning Division also is in the process of developing a map to identify the alleys and passages that will be affected.

Ms. Ecker presented a slide show of all of the different alleys and passages and board members determined which classification each would fall under.

ALLEY/PASSAGE	CLASSIFICATION
Social Passage	Destination via (public gathering space)
Hamilton Alley	Active via (mix of uses & modal activities)
Commonwealth Passage	Connecting via (no motor vehicle access)
Café Via Passage	Destination via
Churchill's Alley/Passage	Active via
Bates Alley	Active via
Brooklyn Pizza Alley	Active via
Peabody Alley	Active/Destination via
Willits Alley/Passage	Active via
Edison Passage	Active/Connecting via
Henrietta Alley	Active via
Daines Passage	Connecting via
Clarke Hill Passage	Destination via

Board members determined that all of the alleys running parallel to Woodward Ave. are technically active vias; however until there is a vision for the whole Gateway Area it is best to implement these classifications only within the Central Business District.

Mr. Koseck repeated what he said at the last meeting about being careful about promoting so much happening in the back that it takes away from the front. He considered combining the classifications for active and connecting vias. Chairman Boyle thought the identification of these three areas in the ordinance sends a signal to applicants about how to treat their space.

05-91-12

MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA (none)

05-92-12

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications (none)

b. Administrative Approvals

- 34000 Woodward Ave. – To allow owner to install 6 ft. high white vinyl fencing at rear of building, 25 ft. 8 in. east to west at lot line and 48 ft. from S. to N.
- 33700 Woodward Ave. – Replace defective wall pack lighting with more efficient modern wall packs and additional wall pack lighting to enhance appearance and increase visibility.
- 1516 S. Cranbrook Rd. – Temporary Use Permit. Bloomfield Twp. is participating in the Detroit Institute of Arts Inside Out program for 2012 and is seeking to allow the temporary placement of a replica of a painting from the DIA collection to be mounted on the Birmingham-Bloomfield Art Center in Birmingham.
- 735 Forest Ave., Forest Ave. Development –
 - 1) Submitting elevation sheet showing approved modifications which will not be constructed; and
 - 2) Submitting elevation sheet showing existing metal and glass window system to remain.

c. Draft Agenda for the Regular Planning Board Meeting on May 23, 2012

Motion by Ms. Lazar

Seconded by Mr. Clein to cancel the May 23 Planning Board meeting because no site plan reviews have been submitted in time for noticing.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

- d. Other Business (none)

04-83-12

PLANNING DIVISION ACTION ITEMS

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

04-84-12

ADJOURNMENT

No further matters being evident, the Planning Board motioned to adjourn at 9:34 p.m.

Jana Ecker
Planning Director