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PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, JULY 11, 2012**

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Motion carried, 7-0.	11

APPROVED

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, JULY 11, 2012
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held July 11, 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; Student Representative Kate Leary (arrived at 7:35 p.m.)

Absent: None

Administration: Matthew Baka, Planning Specialist
Robert Bruner, Jr., City Manager
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

07-105-12

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
HELD JUNE 13, 2012**

Motion by Mr. DeWeese

Seconded by Ms. Whipple-Boyce to approve the Minutes of the Regular Planning Board Meeting of June 13, 2012 as presented.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Recused: Williams

Absent: None

07-106-12

CHAIRPERSON'S COMMENTS (none)

07-107-12

APPROVAL OF THE AGENDA

Ms. Ecker announced that the city manager wishes to address the Class C Liquor Licensing Policy.

07-108-12

CLASS C LIQUOR LICENSING POLICY

Mr. Bruner advised that in the past Chapter 10 of the City Code has been the City's primary regulatory ordinance for liquor licenses in the City. It isn't dealt with extensively in the Zoning Ordinance where it ought to be because it makes a lot of sense to deal with uses in the Zoning Ordinance.

On June 21 the Michigan Liquor Control Commission ("MLCC") issued a Bulletin advising local units of government of changes to the liquor license application process. Effective July 1, the MLCC changed the procedure for submitting applications to the City Commission and obtaining approvals for licenses. Approvals from local units of government are required only for the issuance of new licenses, which means 18 "On Premises Transactions" no longer require local legislative body approval. This has basically stripped the City of a lot of controls that are in Chapter 10 of the City Code.

Therefore, Mr. Bruner indicated he is proposing to the City Commission and the Planning Board that the Zoning Ordinance be changed to require Special Land Use Permits ("SLUP"s) for all on-premises consumption Liquor License establishments. He feels this requires immediate action by scheduling a public hearing sooner rather than later. In advance of the public hearing, the draft ordinance along with background material will be made available to the Planning Board.

At 7:47 p.m. the chairman offered members of the public the opportunity to comment and no one responded.

Motion by Mr. DeWeese

Seconded by Mr. Williams to schedule a public hearing on this issue at the August 8 Planning Board meeting, and at the July 25 meeting to have a study session where everything possible is in our hands to consider.

Motion carried, 7-0.

ROLLCALL VOTE

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

Nays: None

Absent: None

Mr. Bruner advised that he and the city attorney will be present for both the study session and public hearing.

OLD BUSINESS

Preliminary Site Plan and Community Impact Study (“CIS”) Review

820 E. Maple Rd.

All Seasons of Birmingham (formerly Hamilton Funeral Home)

To allow construction of a five-story/three-story independent senior living residence, including 123 apartments and eight live/work units

Mr. Clein said he will recuse himself from this hearing because his company, Giffels Webster, is currently involved in a contractual obligation with the applicant.

Ms. Ecker advised that the subject site, 820 E. Maple, is currently the site of the former Hamilton Funeral Home, and has a total land area of 1.84 acres. It is located on the southeast corner of E. Maple Road and Elm St. The parcel is zoned MU-5 in the Triangle Overlay District, and the southern portion is zoned MU-3 in the Triangle District.

The applicant is proposing to demolish the existing buildings and surface parking lot to construct a 150,449 sq. ft., five-story building along E. Maple Rd., with a three-story section on the southern portion of the property. The building will provide independent senior living units, including 123 multiple-family dwelling units and eight live/work units along E. Maple Rd. Parking will be provided at grade behind and/or under the building along the southern property line. The applicant was required to prepare a Community Impact Study 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.

Community Impact Study

The CIS acts as a foundation for discussion between the Planning Board and the applicant, beyond the normal scope of information addressed in the preliminary site plan review application. The Planning Board “accepts” the CIS prior to taking action on a Preliminary Site Plan. Ms. Ecker discussed the CIS, noting that the following issues remain outstanding with regards to the CIS:

- (1) Entrances: characteristics along Maple Rd., main entrance in rear;
- (2) Noise impacts on the single-family residential south of the site;
- (3) Information on all life safety issues and Fire Dept. approval;
- (4) Information on the details of on-site recycling;
- (5) Information on the proposed security system for approval by the Police Department;

Mr. Williams pointed out that emergency vehicles cannot get through with people illegally parked in the alley. “No Parking” is up to the City to enforce. Further he noted there may be space to move the generator further to the north to separate it from residential.

Motion by Mr. DeWeese

Seconded by Mr. Koseck to accept the CIS for the proposed development at 820 E. Maple Rd., All Seasons Birmingham, as provided by the applicant.

Motion carried, 6-0.

ROLLCALL VOTE

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

Nays: None

Recused: Clein

Absent: None

Preliminary Site Plan Review

Ms. Ecker reported the applicant is requesting a waiver from the Planning Board in accordance with Article 3, section 3.08 (F) (1) of the Zoning Ordinance for the proposed front setback along Maple Rd. in order to provide the required sidewalk width. ***In addition, the applicant must provide a 14 ft. first-floor ceiling height or obtain a variance from the Board of Zoning Appeals (“BZA”).***

The Zoning Ordinance requires that all new trees be a minimum of 3 in. caliper. The street trees are proposed to be 2.5 in. The applicant has provided details indicating 1,600 sq. ft. of interior landscaping (1,194 sq. ft. required) and seven canopy trees (eight required) The ***applicant will be required to provide one additional canopy tree in the parking lot interior and increase the size of all the proposed trees from 2.5 in. to a minimum of 3 in. or obtain variances from the BZA.***

The applicant will be required to provide a complete streetscape plan at the time of Final Site Plan Review that meets all streetscape standards or obtain a variance from the BZA for each.

The Zoning Ordinance requires that one pedestrian entry be provided every 50 ft. for buildings with facades greater than 100 ft. The Maple Rd. façade is 300 ft. in length and thus six entry doors are required and one must be within 25 ft. of the corner of the building. One entrance on the Maple Rd. frontage must be inset 3 ft. ***Accordingly, the applicant will be required to provide one pedestrian entrance that is inset 3 ft. from the front building wall or obtain a variance from the BZA.***

Mr. Alex Bogaerts, Architect from Alex Bogaerts & Associates was present along with one of the owners, Mr. Doug Etkin and one of his assistants; Mr. Mark Highland and Mr. Bob Selna from the Beztec Companies; Mr. Steve Sorenson, Civil Engineer; and Mr. Mark Abernatha, Sr. Vice President with Alex Bogaerts & Associates. The Etkin Company and the Beztec Companies are the developers and organizers of the project.

Mr. Bogaerts explained the reason for the fencing at the front is the necessity to provide a protective guardrail because of the grade.

Mr. Abernatha thought this project will set a precedent for what happens on Maple Rd. and this entire area. He thinks it is exactly what the Triangle District is looking for. The

reason the building is locked is because the residents are seniors who will be living in a very secure environment. He feels they meet the spirit and intent of the Ordinance as far as having a main entrance on Maple Rd. as well as Elm St.; however the intent is to have access through the Maple Rd. door but have a secure, controlled environment.

Mr. DeWeese suggested it should be made clear how people can access the building.

Ms. Whipple-Boyce thought it seems a bit uncomfortable for clients of the live/work units to be buzzed in, walk through the living room, the billiard room, multi-purpose room, and past the kitchen to get to where they are supposed to go. She had trouble understanding how this would work well for people who want to rent the spaces and work from them on the Maple Rd. side. In response to another question Mr. Abernatha said the live/work units vary from 750 to 950 sq. ft.

Mr. Koseck was surprised the plan is not rotated 90 degrees so that the public space is located along Maple Rd. and the more private space on the interior. Mr. Bogaerts said people occupying the live/work units don't have to live there. From all of the studies they went through, this is the right thing to do from an operational standpoint to achieve maximum use of the facility.

Mr. Mark Highland, the project manager for the development, showed how their design was driven by the way the site laid out.

Mr. DeWeese pointed out that accessibility for ambulances as well as fire trucks and police cars needs to be addressed at the final approval. Mr. Williams noted that residences to the south along Forest will be adversely affected by noise from the generator. Mr. Bogaerts replied that is the best spot to place the generator from a functional standpoint. The only time the generator runs is during a power outage, other than once a month when it is turned on for a short period of time for testing. It can be run at a time when there is least impact on the residents. There are insulated covers for the generators that will muffle the sound. Mr. Williams emphasized that the sound must be muffled.

Ms. Whipple-Boyce said the trash receptacle is in a bad location as it is so close to people's homes. The smells and noise will be awful. Mr. DeWeese added that kitchen smells should not waft out into the neighborhood.

In response to questions, Mr. Abernatha said the height on the first floor is 14 ft. floor to floor. He went on to describe where the bike racks will be located.

Chairman Boyle invited members of the public to join the discussion at 9:48 p.m.

Mr. John Gaber, Attorney at Williams, Williams, Rattner & Plunkett spoke on behalf of Mr. Mark Turnbull who owns the building at 219 Elm St. He outlined some of Mr.

Turnbull's concerns:

- Parking is at a premium in this area;

- Parking allowances for live/work units should be treated differently than the parking for senior living which is one-half space per unit;
 - Restaurant, salon, banking services should be treated from a parking standpoint like similar facilities elsewhere;
 - The intensity of the uses that will be coming down Elm St. which is not wide;
 - Trash pick-up and deliveries make Elm St. more of a main thoroughfare;
 - They would like a reconfiguration so there is an entrance off of Maple Rd.;
 - Parking and large trucks in the alley will cause a problem accessing their site;
 - The trash area should be enclosed;
 - Incorporate a green landscaping buffer on their side between the sites on south and west edges of the subject property; and
 - Concerns with noise from trucks that back up, plus noise from construction.
- He asked the City to consider those concerns as they move forward with the process.

Mr. Abernatha agreed to discuss the green buffer and bring the results to Final Site Plan Review. He went on to explain that the commons areas within the facility are for the residents and will not require additional parking.

Mr. Williams thought the City has to interject itself on the usage of the alley. This type of intensity will increase usage in an alley that is already maxed out.

Ms. Dorothy Conrad, 2252 Yorkshire, received confirmation that the residential units will also be 750 and 950 sq. ft. including a small kitchen. Further, storage areas outside the units will be provided on the lower level.

Ms. Ecker summarized the key points from the Fire Dept. report. Chairman Boyle said the applicant needs to meet with the fire marshal to make sure the turning movements and heights meet their requirements.

Motion by Mr. DeWeese

Seconded by Mr. Williams to approve the Preliminary Site Plan for 820 E. Maple Rd. subject to the following conditions:

- (1) The Planning Board approves a waiver in accordance with Article 3, section 3.08 (F) (1) of the Zoning Ordinance for the proposed front setback along Maple Rd. in order to provide the required sidewalk width;**
- (2) Applicant provide all required screening and elevations detailing the dimensions of the screen walls, mechanical equipment and the materials and colors proposed for screening at Final Site Plan Review;**
- (3) Applicant provide 3 in. caliper trees and one additional canopy tree in the parking lot or obtain variances from the BZA;**
- (4) Applicant provide hanging planters on all street lights and provide a complete streetscape plan at the time of Final Site Plan Review;**
- (5) Applicant provide details demonstrating parking space for 50 bicycles on-site and add pedestrian walks along or within the parking area south of the main entrance at the rear of the building;**

- (6) Applicant provide one pedestrian entrance that is inset 3 ft. from the front building wall or obtain a variance from the BZA; and**
- (7) Applicant provide a photometric plan and building material samples and color selections at Final Site Plan Review.**
- (8) Applicant provide gates for each live/work unit on Maple Rd. in front between the street and the live/work units;**
- (9) Applicant provide installation of soundproofing on the generator sufficient to provide adequate noise control or take other equipment measures;**
- (10) Applicant provide all information on all life safety issues for Fire Dept. approval;**
- 11) Applicant provide information on details of site recycling;**
- (12) Applicant provide information on the proposed security system for approval of the Police Dept.;**
- 13) Provision of required easements for portions of public sidewalk on private property and easements for the water main connection to the fire hydrant which the Engineering Dept. pointed out in their review;**
- 14) Applicant provide adequate control of any smells emanating from the kitchen and dumpster.**
- 15) Applicant provide a landscape plan to screen the adjacent site at the southwest corner to be resolved before Final Site Plan Review.**

Ms. Lazar indicated she is still concerned if there may be an increased parking requirement for the live/work units. Certain grey areas need to be clarified. Mr. Williams was not convinced there will not be a big problem along Elm St., plus he is not satisfied with ingress and egress from Elm St. and from the alley. Access only from Elm St. creates problems for adjacent property owners. Ms. Whipple-Boyce wanted the review postponed in order to allow the applicant to address all of the issues that have been raised. Mr. Koseck agreed.

Chairman Boyle took public comment on the motion at 10:21 p.m.

Mr. John Gaber supported the suggestion to postpone because there are a lot of large issues to be dealt with. They would be willing to work with the applicant.

Mr. Mark Highland pointed out that some of the 15 items are housekeeping. He felt they have plenty of parking on-site to accommodate residents whose median age is 84. They won't come back for Final Site Plan Review until all of the concerns are addressed.

Chairman Boyle commented that a number of board members want to see the project designed in such a way that it doesn't negatively impact the residential neighborhood to the south.

Motion failed, 1-5.

ROLLCALL VOTE

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

Motion by Mr. DeWeese

Seconded by Mr. Williams to make the same motion with the wording to postpone Preliminary Site Plan Approval to the Planning Board meeting on August 8.

There was no discussion from the audience at 10:35 p.m.

Motion carried, 6-0.

ROLLCALL VOTE

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

The board recessed for five minutes at 10:40 p.m.

07-110-12

SPECIAL LAND USE PERMIT (“SLUP”) REVIEW

33779 and 33757 Woodward Ave.

Dunkin Donuts (formerly Woodward Gardens/Bordines

To allow construction of a single-story donut bakery with drive-thru

PRELIMINARY SITE PLAN AND COMMUNITY IMPACT STUDY (“CIS”) REVIEW

33779 and 33757 Woodward Ave.

Dunkin Donuts (formerly Woodward Gardens/Bordines

To allow construction of a single-story donut bakery with drive-thru

Nine letters and one phone call have been received by the Planning Dept. regarding this development. There was one letter in support and eight against.

Mr. Baka advised that the subject site is located at 33779 & 33757 Woodward Ave., on the west side of Woodward Ave. between Humphrey Ave. and Bennaville Ave. and was formerly Woodward Gardens/Bordine’s.

The proposal includes the parcel that currently contains the greenhouse structure, the existing brick structure on the corner of Humphrey and Woodward Ave. and the parking lot in the rear of the parcels. The property is zoned B2-B General Business. The applicant proposes to demolish the existing greenhouse and construct a new multi-tenant one-story retail building. The proposed tenant will be a Dunkin Donuts with a

drive-thru. In addition there will be two additional retail spaces whose tenants will be determined at a later date.

The proposed drive-thru is permitted in this zone with a valid SLUP. Accordingly, the applicant is required to obtain City Commission approval after being reviewed by the Planning Board. ***As this is a SLUP, all signage details must be reviewed and approved by the City Commission after Planning Board review.***

No information on rooftop mechanical has been provided at this time. ***All rooftop units must be screened in accordance with the Ordinance requirements or the applicant must obtain a variance from the Board of Zoning Appeals (“BZA”).***

The subject has a total of 285.5 ft. of road frontage, and thus seven trees are required to be planted within the right-of-way surrounding the site. The applicant is proposing to add two new street trees (Cleveland Pear trees) along Woodward Ave., and no street trees along Humphrey. ***Accordingly, the applicant will be required to add five new street trees, or obtain a variance from the BZA. A permit from MDOT will be required for any changes in the right-of-way along Woodward Ave.***

The Planning Division cannot recommend the approval of the drive-thru lane as it will likely be in conflict with traffic moving through the alley. As recommended by the Engineering Dept., information regarding the peak and average expected drive-thru customer count should be provided if the applicant intends to pursue the drive-thru.

The proposed site plan includes the provision of 21 parking spaces in the rear parking lot, plus parking for five vehicles in the Woodward Ave/ right-of-way, three vehicles in the right-of-way on Humphrey, and queuing space for five vehicles in the drive-thru lane. A total of 34 parking spaces is proposed. ***Thus, the applicant will be required to obtain a variance from the BZA for eight parking spaces or reduce the size of the proposed building. All of the proposed spaces must meet the 180 sq. ft. size requirement.***

Mr. DeWeese wondered if the soil is contaminated beneath the building at the northern end which was a mechanical garage.

Motion by Mr. DeWeese

Seconded by Ms. Whipple-Boyce to extend the meeting to midnight.

Motion carried, 6-1.

VOICE VOTE

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

Nays: Williams

Absent: None

Mr. Roman Bonaslovski and Mr. Ron Rea of Ron & Roman Architects were present along with the property owner, Mr. Duane Barbat. Mr. Bonaslovski explained that the drive-thru will be enclosed with a hard cover, acid etched glass panels, and trellising. It will be screened by the Original Pancake House building on the north wall. They are convinced that the proposed five-car queuing is adequate. Two parking spaces need to be removed. They have offered additional amenity by backing the building off the sidewalk in order to provide the opportunity for planting along the fronts of the buildings, and to provide small café opportunities there.

Mr. Barbat said they are proposing a beautiful project that will be an asset for the Woodward Ave. corridor. Since Tim Horton's' drive-thru was approved on Woodward Ave. they felt it important to find a location for themselves as well, just to keep ground. He spoke about how Dunkin Donuts operates their drive-thrus and the time frames involved between ordering and pick-up – how the queuing line works. They have a Phase I Environmental on the property and it is clean.

Mr. DeWeese expressed concerns:

- Normal parking presently backs up to About Lunch;
- The net impact relative to the parking is to increase the number of cars and the backup trying to get out;
- With Baskin and Robbins people will park and walk in;
- The area by the garage building is for trucks which will block the alley;
- Their peak time of business is the same as the Pancake House so they are effectively taking away some of the parking that the Pancake House is using; and

He is supportive of postponing because the practicalities bother him.

Mr. Barbat did not think Dunkin Donuts would approve the site without a drive-thru because of the impact of their competition in the area.

Chairman Boyle opened up public discussion at 11:20 p.m.

Mr. Frank Hamilton, owner and operator of the Original Pancake House, said he is totally against the project. He sees potential problems when the drive-thru exits onto the sidewalk. Also, trucks bring food in through the alley for the Pancake House, and with Dunkin Donuts more trucks will block the alley so that vehicles cannot get through. Further, he doesn't like glass separating his building from the site. Water and snow will build up in between and cause damage.

Mr. Steve Allen, 631 Humphrey, said he isn't in favor of the proposal on any level. The noise, exhaust, and smells bother him. It is not his concern that the applicant wants to compete with Tim Horton's drive-thru less than a mile away.

Ms. Christy Hanson, 1423 Bird, received confirmation that the facility proposes to be open 24 hours.

Ms. Dorothy Conrad thought a drive-thru facility at this location is a very bad idea.

Mr. James Ryer, 1115 Chapin, believes this facility will create a hardship for Neighborhood Hardware by taking up parking spaces needed for the hardware store. Also he thinks Baskin Robbins will put Dairy Deluxe out of business.

Mr. Barbat said they don't have a problem with installing an enter-only and exit-only sign on the property.

Mr. Clein said he cannot support a drive-thru at this location. There are far too many transportation issues all around the site.

Motion by Mr. Clein

Seconded by Mr. Williams to postpone the Preliminary Site Plan and SLUP Amendment for 33779 and 33757 Woodward Ave. to the Planning Board meeting of August 22 in order to allow the applicant to decide whether this is a project that can proceed without the drive-thru.

Mr. Barbat described an alternate drive-thru configuration that they may bring back.

Chairman Boyle informed the applicant they are unlikely to get support from this board for a drive-thru in that location. They should reconsider how they use their property and exclude a drive-thru.

There were no comments from the public at 11:42 p.m.

Motion carried, 7-0.

ROLLCALL VOTE

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

Nays: None

Absent: None

07-111-12

STUDY SESSION

Alleys and Passages

Via classification map, revised graphic design of *Activating Urban Space: A Strategy for Alleys & Passages* plan

Postponed.

07-112-12

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

07-113-12

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications

- Mr. Baka announced they are revising the RFP for the Gateway Corridor Plan based on comments from the joint meeting and will release it this week.
- Mr. Clein gave an update on the Multi-Modal Steering Committee. They have narrowed the proposals down to the top three.

b. Administrative Approvals

- 33877 Woodward Ave., Birmingham Drugs – Revised landscape plantings. Approved planting changes in parking lot and along Ruffner.
- ?????? Change parking lot from asphalt to concrete.
- 750 S. Old Woodward Ave., Be Well of Birmingham – Outdoor seating, private property.
- 505 W. Brown – Proposed two-story, single-family residence w/attached garage and landscape design.

Draft Agenda for the Regular Planning Board Meeting on July 25, 2012

- Liquor License discussion;
- Iron Gate proposal which is a new building on Villa; and
- Public hearing on rear utility setbacks.

c. Other Business

- Mr. Koseck suggested that the cornice on the Mobile Gas Station should complete itself. Ms. Ecker advised they have a Temporary Certificate of Occupancy with many outstanding issues. Mr. Koseck said he has heard many comments against the project but Mr. Williams indicated he has gotten absolutely the opposite impression from the neighbors. Chairman Boyle thought it is a disgrace that there is no pedestrian crossing on Woodward Ave. at Oak.

07-114-12

PLANNING DIVISION ACTION ITEMS

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

07-115-12

ADJOURNMENT

No further matters being evident, the Planning Board motioned to adjourn at 11:45 p.m.

Jana Ecker
Planning Director

APPROVED