

**CITY OF BIRMINGHAM  
PLANNING BOARD ACTION ITEMS  
OF WEDNESDAY, AUGUST 22, 2012**

Item	Page
<p><b>OLD BUSINESS</b></p> <p><b>Preliminary Site Plan Review</b>  <b>33779 and 33757 Woodward Ave.</b> (postponed from the meeting of July 11, 2012)  <b>Dunkin Donuts (formerly Woodward Gardens/Bordines)</b>  <b>To allow construction of a single-story building with one retail space and one bakery space</b></p>	2
<p style="padding-left: 40px;"><b>Motion by Mr. DeWeese</b></p> <p><b>Seconded by Mr. Koseck to approve the Preliminary Site Plan for 33779 &amp; 33757 Woodward Ave. pending receipt of the following:</b></p> <ol style="list-style-type: none"> <li><b>1. Obtain City Commission approval for use of parking in the right-of-way;</b></li> <li><b>2. Obtain a parking variance or a variance to allow use for parking of the current landscape area on the northwest corner of the property;</b></li> <li><b>3. Install two additional trees along the frontage of the subject parcels or obtain a waiver from the staff arborist;</b></li> <li><b>4. Obtain a permit from MDOT for changes in the right-of-way along Woodward Ave.</b></li> <li><b>5. The bike rack used in the right-of-way must be the new city standard inverted "U" shaped rack;</b></li> <li><b>6. Address Engineering and other City Department concerns;</b></li> <li><b>7. Screen all rooftop units or obtain a variance from the BZA;</b></li> <li><b>8. Address trash container concerns;</b></li> <li><b>9. Submit a photometric plan and specification details on all proposed and existing fixtures at Final Site Plan Review;</b></li> <li><b>10. Obtain Design Review approval for the existing building and all signage from the Design Review Board.</b></li> </ol>	4
<p><b>Motion carried, 7-0.</b></p>	5

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**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, AUGUST 22, 2012  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held August 22, 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  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**08-137-12**

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING  
HELD AUGUST 8, 2012**

**Motion by Ms. Whipple-Boyce  
Seconded by Mr. DeWeese to approve the Minutes of the Regular Planning Board  
Meeting of August 8, 2012 as presented.**

**Motion carried, 7-0.**

**VOICE VOTE**

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

Nays: None

Absent: None

**08-138-12**

**CHAIRPERSON'S COMMENTS**

Chairman Boyle announced that this evening's items will cover a range of different activities.

**08-139-12**

**APPROVAL OF THE AGENDA (no changes)**

**OLD BUSINESS**

**Preliminary Site Plan Review**

**33779 and 33757 Woodward Ave.** (postponed from the meeting of July 11, 2012)

**Dunkin Donuts (formerly Woodward Gardens/Bordines)**

**To allow construction of a single-story building with one retail space and one bakery space**

Mr. Baka advised that the applicant appeared at the July 11, 2012 Planning Board meeting with a similar proposal that included a drive-through window. At that time the Planning Board postponed the review to allow the applicant time to reconsider the drive-through. Both the Planning Division and the Planning Board recognized that due to the site limitations the drive-through would be a detriment to the adjacent businesses and residential properties. The latest proposal has been revised to eliminate the drive-through.

The subject site is located at 33779 & 33757 Woodward Ave., on the west side of Woodward Ave. between Humphrey and Bennaville 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 B-2B General Business. The applicant proposes to demolish the existing greenhouse and construct a one-story multi-tenant retail building and retain the brick structure on the corner. The proposed tenant of the northern parcel will be a Dunkin Donuts/Baskin Robbins in the majority of the building with a small separate office tenant space at the rear of the building. The tenants for the proposed building on the southern parcel have not yet been identified.

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 applicant is proposing to add two additional planting beds, one at the rear of the proposed new building and a second in the MDOT right of way at the corner of Humphrey and Woodward Ave. ***A permit from MDOT will be required for any changes in the right-of-way along Woodward Ave.***

The applicant is proposing to add ten new street trees along either side of Humphrey. However, only five of the trees are on the frontage of the subject property. ***The applicant is required to install two additional trees along the frontage of the subject parcels or obtain a waiver from the staff arborist.***

In addition to the on-site parking, the applicant is proposing to count fourteen right-of-way parking spaces towards the parking total, which includes seven along Woodward

Ave. and seven on Humphrey. Article 04 section 4.45 PK-01 of the Birmingham Zoning Ordinance permits on street parking abutting the property to be counted towards the total parking requirement with the approval of the City Commission. However, four of the fourteen right-of-way spaces are across Humphrey and abut the neighboring property. **Accordingly, the applicant will be required to obtain approval from the City Commission for the use of the abutting right-of-way parking. In addition, the applicant must obtain a variance to use the four spaces across Humphrey towards their parking requirement or obtain a variance in lieu of three parking spaces.** The Planning Division recommends the applicant seek a variance for the three spaces rather than apply over the objections of the neighboring Neighborhood Hardware.

***The applicant must appear at the Design Review Board for approval of the changes to the existing building and for approval of signage. The Design Review for the new building will be performed by the Planning Board at the time of Final Site Plan Review.***

The Engineering Dept. has called out that the trellis, wood panels and trees being proposed for the front could be an issue with vision clearance. The Planning Division does not see how this would obstruct the view of drivers coming from the north traveling south.

Mr. Williams favored moving the 32 in. wall at the northwest corner of the parking lot in order to create a couple more parking spaces. Mr. Baka stated the wall has to stay even with the front setback of the single-family homes to the west. Mr. Williams observed that he would rather see a variance which puts parking in the lot as opposed to on the street.

Mr. Roman Bonaslawski from Ron and Roman Architects was present with Mr. Ron Rea. Mr. Bonaslawski liked the suggestion for pulling additional parking off the street. They do not believe the embellishment they are proposing in order to enhance the outdoor café area will block proper visibility of motorists, pedestrians, and bicyclists. With regard to removing the concrete island on Woodward Ave. and installing plantings along the entire block, the current owner is willing to maintain that strip. If they put in the curbs for that purpose it would be easy to remove half of them in the future if a new owner does not have the same level of interest. They want to beautify both sides of Humphrey by planting street trees within ADA compliant grates directly adjacent to the curb. They estimate that would leave the required 5 ft. between those trees and the building. Mr. Rea added that the trellis in front of Dunkin Donuts allows them to brand in an interesting way that doesn't relate to the typical Dunkin Donuts.

Ms. Ecker commented about improving the median along Woodward Ave. that the more it can be softened with landscaping, the better. Chairman Boyle noted the planting as suggested on both sides would create a nice entrance to the residential neighborhood.

Ms. Lazar suggested situating the handicap parking behind the retail space and Mr. Bonaslowski felt that was a good suggestion.

Mr. Clein asked that during the course of completing the final site plan the applicant work with the Engineering Dept. on modifications at the northeast corner of the property to ensure proper visibility.

Mr. DeWeese likes the direction that the plan has taken. He thinks this is a better place for a donut/ice cream shop than where it was. It is more visible and attractive. In response to his question, Mr. Bonaslowski indicated the applicants wish to have a 24-hour operation. Chairman Boyle suggested they close the rear entrance at night because it will keep cars away from the residential area.

The chairman asked for comments from members of the public at 8:05 p.m.

Mr. Brian Blaesing, former Planning Board member, complimented the applicant for eliminating the drive-through and for hiring Ron and Roman Architects. The corner location will provide better visibility for the donut/ice cream store. He feels the store will work without the drive-through and is pleased to see Dunkin Donuts in Birmingham. He went on to discuss several concerns with drive-throughs.

Ms. Dorothy Conrad, 2252 Yorkshire, asked what will happen to the old building on the corner. Mr. Bonaslowski said they are maintaining the shape and form and just installing a new storefront system so that people can see inside. Ms. Conrad went on to express her concern with a 24-hour operation.

Mr. Frank Hamilton, owner and operator of the Pancake House, specified that the last parking space is on his property rather than on Dunkin Donuts' property. Additionally, he thinks the trash removal area is a major problem because in its proposed location his property would have to be used to remove trash. He doesn't want them to use his property. Also, there are utility wires above where the trash would be lifted out.

**Motion by Mr. DeWeese**

**Seconded by Mr. Koseck to approve the Preliminary Site Plan for 33779 & 33757 Woodward Ave. pending receipt of the following:**

- 1. Obtain City Commission approval for use of parking in the right-of-way;**
- 2. Obtain a parking variance or a variance to allow use for parking of the current landscape area on the northwest corner of the property;**
- 3. Install two additional trees along the frontage of the subject parcels or obtain a waiver from the staff arborist;**
- 4. Obtain a permit from MDOT for changes in the right-of-way along Woodward Ave.**
- 5. The bike rack used in the right-of-way must be the new city standard inverted "U" shaped rack;**
- 6. Address Engineering and other City Department concerns;**
- 7. Screen all rooftop units or obtain a variance from the BZA;**

- 8. Address trash container concerns;**
- 9. Submit a photometric plan and specification details on all proposed and existing fixtures at Final Site Plan Review;**
- 10. Obtain Design Review approval for the existing building and all signage from the Design Review Board.**

Mr. Koseck said one of the things he likes about what is there now is that there is some variety in the architecture. Mr. Roman assured that their project will not be boring.

There were no final comments from the public at 8:25 p.m.

Chairman Boyle was pleased that the applicants listened to the board's comments and that the plan is being pursued. Mr. Williams noted this is especially significant because it is new development on Woodward Ave. with no further intrusion into the neighborhood.

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: None

**08-141-12**

## **STUDY SESSION**

### **S. Woodward Ave. Gateway Corridor Plan Review of proposals received**

Ms. Ecker advised the City of Birmingham is pursuing the development of an urban design master plan for the area in Birmingham along the Woodward Ave. corridor between Fourteen Mile Rd. and Lincoln, which acts as the southern gateway to the City of Birmingham.

The plan will address the area generally defined by the commercial properties on Woodward Ave. from Fourteen Mile Rd. to Lincoln, hereafter referred to as the "study area." The areas surrounding the study area will also be addressed, in order to determine the impact and/or influence on the residentially zoned districts, Downtown, or the Triangle District.

The plan is envisioned to have two major sections. The first section is a conceptual plan which includes elements relating to Planning and Design, and Land Use and Market Development. The second section includes Strategic Implementation Policies.

The purpose of the S. Woodward Corridor Master Plan is to define policy objectives and develop physical plan concepts which will guide public and private decision making

in the Corridor study area.

Planning Board member discussed who would conduct the evaluation process. Chairman Boyle recommended dismissing the priciest proposal at the onset. Other board members wanted to review it. Ms. Ecker said the board will discuss in advance what they want to hear from each applicant and how to evaluate the proposals on an evaluation sheet. Staff will factor in its evaluation on each proposal.

Chairman Boyle suggested that the board would evaluate the proposals at home, and then hold a public meeting to discuss them and identify a group to bring in for an interview.

Mr. Clein disclosed that he has contractual relationships with two of the firms that have submitted proposals. Also, he has a familial relationship with a third. Mr. Williams thought that staff should check with the city attorney to see whether Mr. Clein should be included in the process, because he does not want the procedure to be subject to attack because of a conflict of interest on the part of a board member.

Chairman Boyle said that where the City has made an error in the past is not making it clear as to where they want to go. Mr. Williams added it would be a huge mistake not to go to the residential communities and include them in the process. Ms. Ecker said after a consultant is selected they envision setting up a steering committee that would guide their progress.

Board members concluded they would consider this matter on September 12 and the meeting will start at 6:30 p.m.

**08-142-12**

**STUDY SESSION**  
**Regulated Uses**  
**Review and analysis of existing regulations**

Ms. Ecker recalled 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. Over the last several months, there have been issues with a local nightclub (which has since closed its doors) that have raised public concern over the control of such establishments.

Accordingly, the Planning Division has reviewed the existing ordinance language pertaining to regulated uses. Some of the recommendations for updating this language include creating a graduated system of control for regulated uses, dependent on the level of impact on the community. For example, regulated uses that may not have a big impact on the community such as pool tables, video games and mechanical amusement devices would continue to be required to obtain approval of the City Commission, while other more intense or offensive regulated uses, such as adult bookstores or theatres and nightclubs would be required to obtain a Special Land Use Permit ("SLUP") and regulated use approval. This process would allow the City to exercise greater control over such uses, as the SLUP process includes a full site plan and design review, and adds further conditions that must be met for approval to protect the community. Other recommendations include adding definitions for nightclubs and pawnshops, clarifying existing definitions, and updating the use specific standards for regulated uses in the MX District.

The Planning Board reviewed the draft ordinance language along with research on definitions used in other communities for similar uses.

Mr. Williams commented that regulated uses don't control what really goes on within a building. They all have the potential of being disruptive to existing businesses and residential areas in the community. The only way to control them is within a SLUP. Discussion followed about whether the Planning Board in a SLUP setting can make the kind of land use related distinctions that will legally hold up in court. The conclusion was to ask the city attorney to give thought to each category of regulated use and return his decisions on whether the board can do SLUP and land use review on all of the particular regulated uses; or if not, which ones and what would the standards be. Secondly, ask if a separate kind of review with more disclosure could be set up for regulated uses. It was noted certain uses cannot be prohibited everywhere in the City if they are legal, and a detailed process must be provided to allow them.

Chairman Boyle invited comments from the public at 9:10 p.m.

Ms. Dorothy Conrad provided a history lesson of how regulated uses first came about in Birmingham as a result of some questionable businesses that wanted to move in. She asked the board to consider making some regulated uses a SLUP. Currently there is no review on the part of the Planning Board, only by the Commission.

Chairman Boyle stated this matter must go onto the Planning Board Priority List.

With respect to Article 7, Regulated Uses, section 7.23 Appeal, Mr. DeWeese suggested taking out the timing limitation.



This item will be brought forward at a future meeting.

**08-143-12**

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

**08-144-12**

**MISCELLANEOUS BUSINESS AND COMMUNICATIONS**

a. Communications (none)

b. Administrative Approvals

- 1120 E. Lincoln/1185 S. Adams Rd. – Due to the fact the City of Birmingham has been receiving complaints about tenants/customers parking alongside the building, the owners plan on installing seven large concrete planters (as depicted on site plan) with 20 in. – 24 in. round plants. These planters will be spread 5 ft. apart so that no cars will be able to park or even drive through. The concrete planters will be painted a rust color to match the building and they will not be able to be moved.
- 34244 Woodward Ave., Papa Joe's – Small revisions related to bistro stair, seating and kitchen layouts.
- 735 Forest Ave. – Approval of the venting and condenser due to boring new holes at NW corner of building.
- 36101 Woodward Ave. – Mobil/Tim Horton's – Plan of proposed patio.

Draft Agenda for the Regular Planning Board Meeting on August 22, 2012

- Public hearing on alleys and passages;
- Christian Science Reading Room rear addition;
- Woodward Corridor RFP.

c. Other Business

Mr. Koseck expressed his disappointment that the beautiful trees were removed from the Mobil Gas Station site in order to give visibility to a pole sign which is non-conforming to the Ordinance. A lower sign could have been built that would have been visible.

Ms. Lazar spoke in favor of holding a meeting on the site of a large project that requires a CIS, such as All Seasons. This would fit in with Preliminary Site Plan Review. Secondly, it was agreed that the requirement for a 3-D massing model should be placed on the application form.

**08-145-12**

**PLANNING DIVISION ACTION ITEMS**

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

**08-146-12**

**ADJOURNMENT**

No further matters being evident, the Planning Board motioned to adjourn at 10 p.m.

Jana Ecker  
Planning Director