

**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, SEPTEMBER 19, 2012**

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Plan and Design review.	
Motion carried, 4-0.	9

APPROVED

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, SEPTEMBER 19, 2012
Department of Public Services Meeting Room
851 S. Eton Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held September 19, 2012. Chairman Robin Boyle convened the meeting at 7:38 p.m.

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

Absent: Board Members Carroll DeWeese, Gillian Lazar; Student Representative Kate Leary

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

09-157-12

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
HELD AUGUST 22, 2012**

**Motion by Ms. Whipple-Boyce
Seconded by Mr. Williams to approve the Minutes of the Regular Planning Board
Meeting of September 12, 2012 as written.**

Motion carried, 5-0.

VOICE VOTE

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

Nays: None

Absent: DeWeese, Lazar

09-158-12

CHAIRPERSON'S COMMENTS (none)

09-159-12

APPROVAL OF THE AGENDA (no changes)

09-160-12

REZONING REQUEST

404 Park St. Parcel ID#1925451021

Lots 66 and 67 Oak Grove Addition (currently vacant land at Park, Oakland and Woodward Ave.)

Ms Ecker explained that in accordance with the requirements of the Zoning Ordinance the property owner of parcel #1925451021, being lots 66 and 67 of Oak Grove addition (vacant property on the corner of Park, Oakland, and Woodward), commonly known as 404 Park, is requesting that the Planning Board hold a public hearing to consider the rezoning of said property from R-2 (Single-Family Residential) to B-2C (General Business). The applicant included a letter from the property owner in the application package indicating that there is a binding purchase agreement in place.

Following receipt of the written report and recommendations from the Planning Board, the City Commission may grant or deny any application for the amendment for rezoning.

The Planning Division finds that the proposed rezoning of the subject property at 404 Park from R-2 to B-2C would not adversely affect the surrounding property. When considering the existing development in the area, development of this parcel as a single-family home has proven improbable and would result in a home that is less desirable than the neighboring homes. The development of the parcel as a multi-family building provides a strong buffer for the single-family homes if property executed. Considering the applicant's proposal to offer contract zoning providing exclusively residential uses, the Planning Division has concluded that the proposed rezoning would provide a suitable transition from the commercial zone to the south, while protecting the stable neighborhood to the north.

Mr. Williams was not clear why the applicant applied for this particular zoning designation rather than some other. Ms. Ecker said it had to do with development standards for other zoning districts that didn't seem to work with what they wanted to do. Mr. Koseck observed that the criteria in terms of how the board evaluates this contract rezoning is probably different than with a regular rezoning. Chairman Boyle noted this contract rezoning gives the board an indication of footprint, bulk, height, etc. Ms. Ecker added with contract zoning the applicant volunteers to restrict their uses.

Discussion considered whether the applicant would be likely to get a variance from the Board of Zoning Appeals ("BZA") for their setbacks with a regular rezoning. Ms. Ecker said they would have to show a hardship before the BZA. They would be better with contract rezoning as opposed to wondering how the BZA would rule. The proposal is to lock the development down to residential only; no commercial.

Ms. Ecker advised the subject parcel has been considered for rezoning twice before, once in 1960 and once in 1988. The application was denied on both occasions. The property has been vacant since 1989 when a previously existing single-family home was razed. The applicant's letter indicates the property has been for sale since 2006. Mr. Williams thought it is part of the Planning Board's task to understand the history of

surrounding properties as well as the property in question. Mr. Clein wanted to see a complete site plan analysis of the proposal. Ms. Ecker explained the setbacks are zero and there isn't a specific standard for parking in the B-2C Zoning District.

Mr. Chuck DiMaggio from Burton Katzman; Mr. Tom Phillips, Architect from Hobbs & Black; and Mr. Frank Flynn, the broker representing the property owners, were present. Mr. DiMaggio listed a number of Burton Katzman developments in Birmingham and gave a PowerPoint that showed the site layout, floor plans, and conceptual elevation of the proposed project. With this request for contract zoning the petitioner is offering to restrict the site to multi-family housing that the board will approve. The B-2C classification allows the building to be sited on the property so the applicants don't have to go before the BZA and show a hardship for a setback variance. The proposal is for 14 units w/grade-level parking.

Mr. DiMaggio listed reasons why a rezoning is necessary for the preservation and enjoyment of the rights of usage associated with property ownership, as the current R-2 Single-Family Residential zoning does not provide the owner with a reasonable use of its property. The long-time vacancy of the property, negative land use and traffic impacts, and similar placement to other adjacent property zoned for high density multiple-family purposes exacerbate the difficulty of the current zoning.

Mr. DiMaggio maintained the existing zoning classification is no longer appropriate because of the non-residential land use changes which have occurred on adjacent properties. The premises are no longer ingrained within an established neighborhood, but has become an edge property.

The proposed rezoning will not be detrimental to surrounding properties because it will not be harmful to the Downtown properties to its south or the five-story apartment building to its east. It will form the narrowest and least intrusive edge to the south side of the Ravines Neighborhood and offer it protection from non-residential uses and encroachments. Lastly, the conditional rezoning assures the residential use of the premises.

Mr. Williams inquired why they constructed the higher portion of the building to the north rather than to the south. Mr. DiMaggio responded that is something that could be changed as they move through the process. Mr. Williams inquired further whether they developed alternate plans with ingress and egress off of Oakland rather than Park, because he would not like to see more traffic on Park than necessary. Mr. DiMaggio's reply was they had concerns about the difficulty of achieving a curb cut on Oakland because there would be safety considerations with turning.

Ms. Whipple-Boyce said the height of this building concerns her.

Mr. Koseck asked if the property has been marketed as a single-family home since 2006. Mr. Flynn replied it has been marketed as a single 80 ft. lot that could be split into two 40 ft. parcels. The asking price today is in the mid-\$300s. Mr. Koseck then

questioned if one family doesn't want to live there, why would 14 families? Mr. Flynn explained this is a gateway parcel conveniently located just steps from Downtown. He has had no single-family inquiries for the property. Mr. Koseck concluded that he understands the challenges of this property, but doesn't see that 14 units with all the associated parking is an attempt to be sensitive to the neighbors.

Mr. DiMaggio explained the proposal is for a multiple-family apartment building with for rent units. There are many people who would like to live in such a high quality neighborhood close to Downtown.

Chairman Boyle took comments from the public at 8:53 p.m.

Ms. Enid Livingston who lives in the Ravines neighborhood said the proposed rezoning serves to maximize the footprint. She hopes the board would have setback requirements that will not annihilate the property to the north of the proposal.

Ms. Catherine Gates, 343 Ferndale, was not in favor of an entrance on Park. She was cautious about an environment with 14 families moving in and out every year.

Ms. Debby Frankovich, 467 Park, listed concerns for the community:

- Having the entrance on Park really adds to the traffic there;
- The property on Poppleton is isolated and not comparable to this property;
- The project should not be a 14-unit apartment building with people living there who are not invested in the neighborhood. The applicant should take others living in the neighborhood into consideration.

Ms. Dorothy Conrad, 2252 Yorkshire, spoke to support a single-family development. This proposal is not single-family residential and she encouraged the board to hold to the single-family classification because of the need to preserve that neighborhood.

Ms. Kate Safford, 211 Ravine, hoped the Planning Board would consider that people need guest parking passes. There is no place for those cars to go. Additionally, the entrance and exit to the parking is a concern to her.

Mr. Michael Shuck, 247 Oakland, spoke in opposition to the rezoning because it is too dense for the neighborhood. Even townhouses would be a better transition. This will really change the neighborhood. The problem they are having with selling the property is the price.

Mr. Paul Gillen, the owner of three duplexes in the neighborhood, thought the tallest portion of the building should be on Oakland. People will use Park to cut through. There needs to be retention of all the water that would come down Park and flood the lower area. Also, he was not in favor of an entrance on Park.

Mr. Matt Wimble, the owner of 452 Park, was opposed to the rezoning. The lot was priced at \$380 thousand which is too high and that is why it didn't sell. He had concerns

about parking, sewers, and traffic. People don't take care of rentals as well as homeowners.

Mr. Brad Host, owner of 416 Park next door, said the rezoning request is an attempt that will compromise the integrity of their family-oriented neighborhood by allowing a looming structure as the entrance to the neighborhood and by creating a traffic nightmare. If the property were appropriately priced, it could be sold.

Mr. Jim Wilhite, 376 Ferndale, agreed that the property would sell if they would price it suitably.

Mr. Hab Chan, 330 Ferndale, observed that rental apartments aren't well taken care of by their occupants.

Ms. Ecker noted for the record that the Planning Division has received five letters with the same format that are against the rezoning request. Four other letters also expressed opposition.

Mr. Clein said he doesn't see the proposed building as being appropriate and he is not comfortable with this level of density on the site.

Mr. Williams shared those concerns. Fourteen apartment units is too many for the site and he won't support that or anything that has ingress and egress on Park. Also, three stories is too high for the parcel.

Chairman Boyle said the elephant in the room is the current market that provides opportunity for rentals of this type. The question is whether the proposed rezoned building is too big or too high or too intrusive to fit into this neighborhood. He suggested that the developer has come forward with something that doesn't fit the neighborhood. He urged them to explore less density, less height, access off of Oakland, and ownership.

Mr. Williams concurred. The extent of the development and the height concerns him. Mr. Koseck indicated this proposal seems wrong to him.

**Motion by Ms. Whipple-Boyce
Seconded by Mr. Williams to postpone the rezoning request for 404 Park St.
Parcel ID#1925451021 to November 14.**

Motion carried, 5-0.

VOICE VOTE

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

Nays: None

Absent: DeWeese, Lazar

Mr. DiMaggio appreciated the opportunity to work on this further with the board.

Mr. Williams suggested that the developer meet with the neighborhood association officers before coming back.

Chairman Boyle summed up that there is strong support for this site to be developed for residential use.

The board took a brief recess at 9:35 p.m.

09-161-12

SPECIAL LAND USE PERMIT (“SLUP”) REVIEW

2400 E. Lincoln, Pristine Properties

Request to construct new office building with associated parking facilities

PRELIMINARY SITE PLAN REVIEW

2400 E. Lincoln, Pristine Properties

Request to construct new office building with associated parking facilities

Mr. Williams announced he will recuse himself from this review as he has a conflict of interest because his law firm is involved in the project.

Ms. Ecker advised the subject site, 2400 E. Lincoln, is currently vacant, and was previously the site of the Stanley Door industrial complex. The 6.093 acre site is located at the far east end of E. Lincoln. The applicant is proposing to construct a one-story 8,260 sq. ft. dental office building and a large parking facility on a portion of the site. **A SLUP will be required to allow construction of the 8,260 sq. ft. building as it exceeds 6,000 sq. ft. in size.** The City Commission will make the final determination on the SLUP after receiving a recommendation from the Planning Board on the Final Site Plan and Design.

In addition, the applicant is proposing to split the existing site into two or three parcels. Parcel 1 is proposed to be 179,244 sq. ft. at the south end of the existing site. Parcel 2 is proposed to be 50,931 sq. ft. in the center of the existing site. Parcel 3 is proposed to be 16,364 sq. ft. at the north end of the existing site. Based on the size of the parcels, the applicant may combine parcels 2 and 3 together, thus creating only two parcels through a lot split. The remaining 18,861 sq. ft. of the existing site would be used for R.O.W. for the proposed north/south (“N/S”) connector street between Lincoln and Cole as recommended in the Eton Road Corridor Plan (“ERCP”). The new dental office building is proposed to be constructed on Parcel 2, with the associated parking facility to be located on both Parcels 2 and 3. **Any recommended approval by the Planning Board must be conditional upon the granting of the requested lot split by the City Commission.**

The group that purchased the property is a partnership of dentists including some of the owners of 2388 Cole St. One of the things they would like to get out of the redevelopment of this area is extra parking for their facility. That is why extra parking is being provided over and above what the ordinance requires. The parking lot will serve both buildings.

With regards to the building placement, the applicant will be required to have the building front on at least one public street, and the front façade to be placed between 0 ft. and 3 ft. from the front property line, or obtain a variance from the Board of Zoning Appeals (“BZA”). It would make most sense for the parcel to front on the proposed N/S connector street.

In addition, the applicant will be required to provide a minimum first floor height of 12 ft. or obtain a variance from the BZA.

The applicant will be required to provide 13 canopy trees within the parking facility or obtain a variance from the BZA.

Chairman Boyle observed there is no mixed use in this development. He received confirmation there have been no discussions regarding the Grand Trunk rail extension which ends in the middle of this area. Also, he indicated this proposal doesn't feel anything like the sort of developments that the Planning Board has had in the Rail District and it seems not to fit. It supplies 50 percent more parking than is even required. Discussion considered several options for positioning street trees if the road was in place and the right-of-way was established.

Mr. Victor Saroki, Architect, introduced Mr. Mark Farlow, Architect from his office; Mr. Michael Dul, Landscape Architect; along with owners Dr. Scott Tyler, Orthodontist; Dr. Aby Sied, Oral Surgeon; and Dr. Justin Newingham, Dentist.

Mr. Saroki explained their proposal is part of a large six acre site. He provided a history of how everything came together and how it can proceed. The largest development opportunity for the site is over four acres that could allow for future mixed-use type buildings. However, today Drs. Sied and Newingham are ready to move ahead with their building on parcel 2 which is just a little over an acre. Parcel 3 would be used by Dr. Tyler because as the road goes through he will lose parking for his building which houses his orthodontist practice, the Goldfish Swim School, a brokerage firm, and a salon. When the road goes in Mr. Saroki feels unique proposals for mixed-use type buildings will come in for parcel 1. He thinks they can work through all of the Engineering Dept. issues. The owners have been talking about raising the height of the building since the ceilings will be raised to provide the required 12 ft. minimum first floor height. They hope the board will approve the landscape hedge in lieu of a brick wall because it is a nicer edge treatment. The required number of parking lot trees can certainly be accommodated. He passed out a sketch that shows what happens to their site if the N/S street does not go in during the early stages. They can move ahead with the building.

Ms. Ecker noted the Fire Dept. has suggested that the proposed N/S public street as shown is 27 ft. wide is not wide enough to provide the required 20 ft. of unobstructed access for emergency vehicles. Either the applicant could widen the street or eliminate the parallel parking on the east side. Further, regarding the dead-end E/W drive south of the building, the Fire Department indicated a turning radius of 40 ft. must be provided at the end of that drive. Discussion concluded there is plenty of room to turn a vehicle around in the parking lot.

Mr. Koseck said that street trees in front of the building will help to create connectivity to the sidewalk to the north. It looks like they have the room to place trees between the sidewalk and the curb without negative implications.

Mr. Clein indicated he would be supportive of shifting the building to make room for a wider right-of-way, or an easement. He would like to see more substantial landscape to break up the wide expanse of parking lot. Because the proposal for six acres is broken up into three parcels, he feels this proposal for parcel 2 does not fulfill the ordinance intent of mixed use.

Ms. Whipple-Boyce wondered if the Planning Board allows this to go ahead, what would prevent the board from not allowing the other parcels from becoming a mirror image of it. She asked about the parking requirement. Mr. Saroki said overall Dr. Tyler's building will get 143 spaces, a net gain of 24 spaces. Mr. Clein concluded there will be 143 spaces north of the drive aisle and 58 to the south of it.

Chairman Boyle said the premise of this development is the need to put in the street network that may lead to the build-out of this end of Lincoln with mixed use. The N/S connector is part of the grid that the McKenna Master Plan envisioned and he needs to be sure that this infrastructure will be put in as part of the development. That will afford the opportunity to achieve the build-out of these six acres. Therefore, the chairman would be prepared to go with the proposal if they get the infrastructure. Mr. Saroki said his plan shows the road, so if it is approved it can be sent to the City Commission for their approval.

Mr. Koseck hoped the applicants can find creative ways to provide the parking so that it is buffered and the scale is broken down, and they will find ways to place buildings so there is some connectivity. Chairman Boyle backed that up by stating the board is looking for a different treatment for this amount of parking in this area that will make it better than just a big sea of asphalt. Further, the chairman believes that failure to construct the N/S connector is a deal breaker.

Motion by Mr. Koseck

Seconded by Ms. Whipple-Boyce to extend the meeting 15 minutes to 11:15 p.m.

Motion carried, 4-0.

VOICE VOTE

Yeas: Koseck, Whipple-Boyce, Boyle, Clein

Nays: None

Recused: Williams

Absent: DeWeese, Lazar

There were no comments from the public on the proposed development at 11:03 p.m.

Motion by Mr. Koseck

Seconded by Mr. Clein to recommend approval of the Preliminary Site Plan and SLUP for 2400 E. Lincoln subject to the following conditions:

- 1. Subject to approval of the proposed lot split by the City Commission and agreement upon the location and construction of the N/S street;**
- 2. Applicant provide specification sheets and elevation drawings of all required mechanical equipment, mechanical and dumpster screening;**
- 3. Applicant add two trees to the interior of the parking lot;**
- 4. Applicant provide pedestrian scale street lighting, benches, trash receptacles and broom finish concrete sidewalks in the public right-of-way;**
- 5. Applicant provide pedestrian pathways through the parking facility;**
- 6. Applicant provide specification sheets for all light fixtures and an updated photometric plan at Final Site Plan and Design review;**
- 7. Compliance with the Engineering Department's requirements; and**
- 8. Applicant provide material samples and signage details at Final Site Plan and Design review.**

Chairman Boyle added that the statement from the Fire Dept. will have implications for accessing the building and it needs to be dealt with. Also, a structural overview of landscaping around the parking lot is important.

There were no comments from the public on the motion at 11:04 p.m.

Motion carried, 4-0.

ROLLCALL VOTE

Yeas: Koseck, Clein, Boyle, Whipple-Boyce

Nays: None

Recused: Williams

Absent: DeWeese, Lazar

09-162-12

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

09-163-12

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

- a. Communications (none)
- b. Administrative Approvals (none)
- c. Draft Agenda for the Regular Planning Board Meeting on October 10, 2012
 - 820 E. Maple Rd., All Seasons Final Site Plan Review;
 - Bus lot on E. Lincoln.
- d. Other Business

09-164-12

PLANNING DIVISION ACTION ITEMS

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

09-165-12

ADJOURNMENT

No further matters being evident, the Planning Board motioned to adjourn at 11:10 p.m.

Jana Ecker
Planning Director