City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: June 14, 2016

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director
Bruce R. Johnson, Building Official

SUBJECT: Current Planning Issues for Discussion

(1) Transitional Zoning (TZ2 District)

Background:
In September 2015, the City Commission held a continued public hearing on the transitional zoning proposals for many properties that had been identified as transitional properties given their location on major streets, and their proximity to both commercial and single family uses. After much discussion and public input, the City Commission took action to create the TZ-1 and TZ-3 zoning classifications, and rezoned several properties into each of these zone districts. However, the City Commission referred the portion of the ordinance related to TZ-2 back to the Planning Board, along with those properties that had been recommended for rezoning to the new TZ-2 zone district.

The Planning Board has since conducted further study on the proposed TZ-2 zone district intent, development standards and permitted uses. The Planning Board remains committed to their previous recommendations on the intent and development standards for the proposed TZ-2 district, but conducted a further review of the permitted uses recommended in TZ-2. The Planning Board also evaluated each use proposed for TZ2 in relation to the uses permitted in TZ1 and TZ3 to ensure a graduated use system was proposed. Consensus was reached on which uses should be permitted in each of the transitional zoning district. Please see the attached updated chart based on the consensus reached on June 8, 2016.

Discussion:
Planning Board members wish to discuss their suggested changes for TZ-2 with the City Commission at the joint meeting. In addition, the Planning Board and City Commission may wish to discuss whether to include any recommendations for specific properties to be rezoned to TZ2, or to simply recommend approval of the TZ2 classification and allow individual property owners to apply for rezoning to the district as the need arises.

(2) Private Development Parking Requirements

Background:
Currently, parking is required to be provided for all commercial uses on properties that are not located within a Parking Assessment District ("PAD"). Many commercial uses fall under the office or retail classification, which requires one parking space / 300 sq.ft. of building space. Other common commercial uses include medical office space, which requires one parking space / 150 sq.ft. of floor area, restaurants, which require one parking space / 75 sq.ft., and barber shops, beauty salons and tanning salons which require two off-street parking spaces per service chair, booth or bed, or 1 off-street parking space per 300 sq.ft. of floor area, whichever is greater.

The availability of parking is an ongoing concern, particularly in the downtown area where demand is high. The need to increase the parking requirements has been raised to alleviate parking concerns. However, increasing the parking requirements for commercial uses may resolve parking issues in some areas of the City, but will not alleviate parking problems in the downtown area as most of the CBD is within the Parking Assessment District. All properties located within the PAD are not required to provide any off-street parking on site, regardless of use as they have paid into the public parking system.

At the same time, a desire to reduce or eliminate parking standards has also been raised in order to reduce the cost of development, thus reducing the amount charged for the sale or lease of building space. The Planning Board has discussed this issue several times over the past 10 years, and has reduced the parking requirements for senior living options, and removed the parking requirement for outdoor dining areas. Both of these decisions were made to encourage senior living developments and outdoor dining options in the City, and this strategy has successfully attracted both as desired.

Discussion:
Should a formal review and discussion on the City's parking requirements be conducted?

(3) Existing Commercial Non-Conforming Buildings

Background:
Currently, the City has several legal, non-conforming commercial buildings throughout the downtown. Concerns often arise with regards to the non-conforming height and bulk of these buildings, and the desire to make improvements or changes to these buildings. Recently, the owners of 555 S. Old Woodward expressed a desire to renovate and potentially expand the existing building, by replacing the exterior building curtain wall system, adding new residential units along S. Old Woodward, as well as adding an addition to the south of the existing residential tower for new retail space and residential units. It was determined that many of the proposed renovations and additions were not permitted as the building was legal non-conforming, and non-conformities could not be increased without seeking numerous variances from the Board of Zoning Appeals. The Planning Board began discussions regarding options to render the existing building at 555 S. Old Woodward as a legal, conforming building that could then be renovated and expanded. Planning Board members discussed addressing other non-conforming buildings with ordinance amendments and to review proposed ordinance

amendments within the spirit, vision and context of the entire downtown, and not to create a new zoning classification around a specific building.

In addition to the 555 S. Old Woodward building, the Merrillwood Building and Birmingham Place are also legal non-conforming buildings with regards to their height and bulk. The Planning Board and the City Commission may wish to consider ordinance amendments that would allow the renovation or expansion of non-conforming buildings such as these to ensure their relevance and viability in the future.

Discussion:
Should a further discussion on the City's legal, non-conforming commercial buildings be conducted?

(4) Definition of Retail

Over the past decade, there has been an ongoing desire by City Boards and Commissions to review the current definition of retail to ensure that we are encouraging true retail downtown, and not allowing office and other service uses to dominate.

One of the key issues exists around the definition of "Retail Use" in the Zoning Ordinance. Many people would like the Retail Use definition to be more specific in terms of what types of businesses are permitted, while others believe the current definition is sufficient and already allows the right mix of uses to occur organically downtown. The existing definition for Retail Use and the related definitions are stated in Article 9, section 9.02 of the Zoning Ordinance as follows:

> **Retail Use:** Any of the following uses: artisan, community, commercial, entertainment (including all establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 3, Licenses for Economic Development), bistro or restaurant uses.
>
> **Artisan Use:** Any premises used principally for the repair, manufacture, and sale of domestic furniture, arts, and crafts. The work must take place entirely within an enclosed building using only hand-held and/or table-mounted manual and electric tools.
>
> **Community Use:** Premises used principally for education, worship, cultural performances, and gatherings administered by nonprofit cultural, educational, and religious organizations; premises used principally for local, state, and federal government, administration, provision of public services, education, cultural performances, and gatherings.
>
> **Commercial Use:** Premises used generally in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services.
>
> **Office:** A building or portion of a building wherein services are performed, including professional, financial (including banks), clerical, sales, administrative, or medical services.

As defined in Article 9, retail uses include the direct sale of products from the premises, but also include restaurants, entertainment and personal services. Both the Planning Board and the Birmingham Shopping District Board have expressed concern with this definition, and have considered alternative definitions for retail to tighten the definition of retail to include only shops which sell products, not financial, real estate or other such services. On the other hand, many property owners have concerns about tightening up the definitions as they desire the flexibility to lease space to a wider range of users to avoid vacancy.

Discussion:
Should a further discussion on the definition of retail be conducted?

(5) Dormer Considerations

Background:
Over the past couple of years, residents have questioned the number of stories within recently constructed homes. The concern is that some of the homes appear to be three stories in height when the Zoning Ordinance allows only two. The ordinance does limit the number of stories in all single-family districts to two, but also allows a portion of the attic to be habitable. Habitable attics are typically located behind dormers projecting from the roof of the home. Dormers are utilized to provide windows and additional ceiling height within the habitable attic. Article 9, section 9.02 of the Zoning Ordinance defines dormer and habitable attic as follows:

> **Dormer:** A subunit of a main structure interrupting a roof slope of the main roof structure with its own walls and roof, and characterized by the roof shape of the dormer including but not limited to: flat, deck, hipped, shed, gabled, inset, arched, segmental, and eyebrow style roofs.
>
> **Habitable Attic:** An attic which has a stairway as a means of access and egress and in which the ceiling area at a height of 7 feet, 4 inches above the attic floor is not more than one-third of the area of the next floor below.

The Zoning Ordinance does not regulate the maximum width of dormers on single-family homes. The Building Department has been applying the regulations of the detached garage limits (50% of the elevation) to regulate dormer size, but there is no language in the ordinance to limit dormers on houses. The increased width of these dormers on smaller lots began when the Building Code lowered the minimum ceiling height from 7.5 feet to 7 feet about fifteen years ago. That change lowered the minimum code ceiling height to less than the 7 feet, 4 inch limitation in the ordinance definition and effectually increased the allowable area for habitable attics. In theory, a habitable attic with a ceiling height between 7 feet and 7 feet, 4 inches is not limited in area. The Building Department has been strongly encouraging the living space of the habitable attic to 1/3 of the second floor to follow the intent of the Zoning Ordinance.

Discussion:
Should the City's Zoning Ordinance be reviewed to refine current dormer and habitable attic requirements?

(6) Lot Consolidation

Background:
A lot combination occurs when an owner of two or more platted lots next to each other chooses to combine them into one parcel of land. Property owners typically combine lots to increase recreational open space, construct a detached garage, or add onto their existing home. The process typically begins with the owner meeting with Building Department staff to discuss purchasing a neighboring lot and to verify that their plans to use the property will meet City requirements before they actually purchase the lot.

The City Code and its Zoning Ordinance lacks regulations specific to lot combinations. There are detailed requirements for separating previously combined lots, but the rules for combining them are for the most part policy.

There is an application to combine lots that must be submitted along with certified surveys of each individual lot and one of the combined parcel with its new property description. The Building Official verifies that the proposed combination will not create any code or ordinance nonconformities with any existing buildings and structures. The Treasurer's Office verifies that there are no outstanding fees, taxes, and/or special assessments owed to the City. Treasury staff updates the City's assessing records and sends the combination information to Oakland County Equalization to complete the combination process and issue a new parcel ID number.

Requests to combine lots have historically consisted of two lots side by side to each other. However, there is no limit to the number of lots that could be combined. The Building Department has also noticed an increase in non-typical combination inquiries. Examples include requests to combine back-to-back lots in the interior of a block, or combining a corner lot with two abutting interior lots plus the lot on the side street directly behind the corner lot. The Building Official has been denying these types of combinations because they are inconsistent with how the block was intended to develop based on its layout and standard zoning principles for front, rear and side open spaces.

Discussion:
Should a formal review of the City Code and Zoning Ordinance be conducted to refine the City's current lot consolidation review process?

(7) Planning Board Action List

Background:
In March of each year the Planning Division prepares an Annual Report to the City Commission outlining the activities of several boards and commissions over the previous year, as well as an action list of identified priority items for consideration over the coming year. In addition, the action lists outline the actions taken to date on each item. From this list, the Planning Board as well as the City Commission has the opportunity to evaluate the Planning Board's goals and objectives, and make any needed amendments based on current priorities. The Planning Board's Action List for 2016-2017 is attached for your review and discussion.

Discussion:
Should the Planning Board's Action List be amended following City Commission review and discussion?

(8) Public Facility Review Process

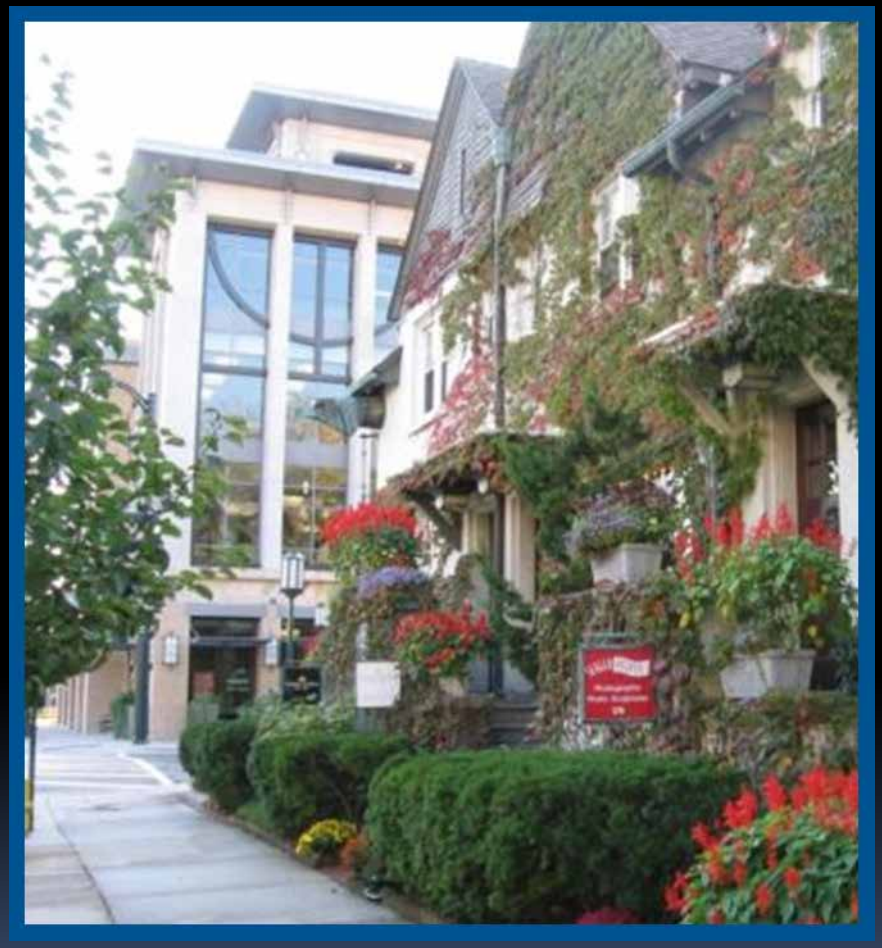
Background:
In accordance with the Zoning Code, there is no site plan review required, nor are there any specific development standards that apply for property zoned PP (Public Property), which includes all property owned by the City of Birmingham. Therefore, for many years it has been the policy of the City to have facilities on public property undergo a courtesy review by one or more relevant boards/commissions, and then to have a final review by the City Commission. New construction or the expansion of existing public facilities happens very infrequently and thus a detailed review process has not been formally adopted by the City. However, issues were raised over the past year regarding the City's courtesy review process of the proposed Chesterfield Fire Station. Concerns included lack of public notice to surrounding property owners, lack of input during the Request for Proposal ("RFP") preparation and evaluation phase, and a desire to hold City facilities to the same standards to which the City would hold a private developer with regards to placement, massing, site planning and design.

As a result of the concerns raised during the Fire Station review, the City has already implemented a noticing procedure for the review of public facilities. A new process for the review of public facilities is also proposed based on the model that was used for the Chesterfield Fire Station. Under the proposed process, the cost of public facilities will continue to be managed by the City Commission, while the site plan and design review will be handled by an ad hoc committee. The City Commission would maintain responsibility and accountability for all project costs. The following elements of review are proposed for public facilities in the future:

1) Creation of an ad hoc committee to participate with staff in review of the use requirements and conceptual design of the public facility (perhaps including members of relevant boards such as the Architectural Review Board, Planning Board, Historic District Commission, etc.), within the cost parameters established by the City Commission;
2) City Commission approval of the issuance of an RFP for the public facility;
3) Ad hoc committee participation in the review of submissions with staff;
4) City Commission approval of a contract with the selected consultant;
5) Consultant works in conjunction with City staff to prepare plans and seek input from the ad hoc committee throughout the site plan and design process;
6) Use of development standards for an adjacent zoning classification to assist in the evaluation of the proposed public facility, as applicable;
7) Public notification will be provided online, on site, through the local press and by letters sent by mail to all property owners within a minimum of 300' of the public property under consideration;
8) Ad hoc committee to provide recommendation(s) to the City Commission regarding the final development plan for the public facility;
9) Courtesy review by the Planning Board at a public hearing; and
10) Final review by the City Commission, which is the final approval authority for the public facility.

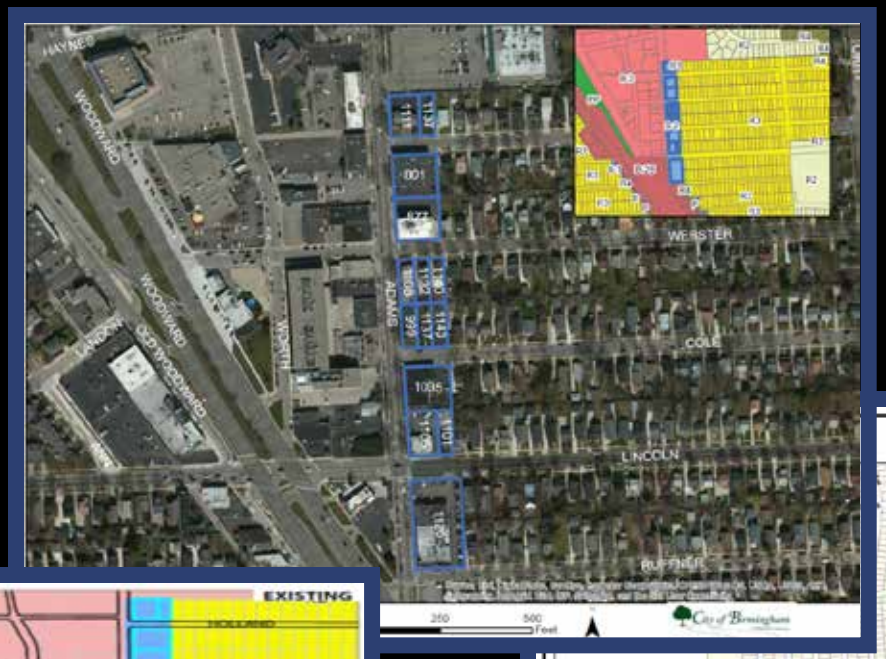
Discussion:
Should a formal review and discussion on the City's process for the review of public facilities be conducted?

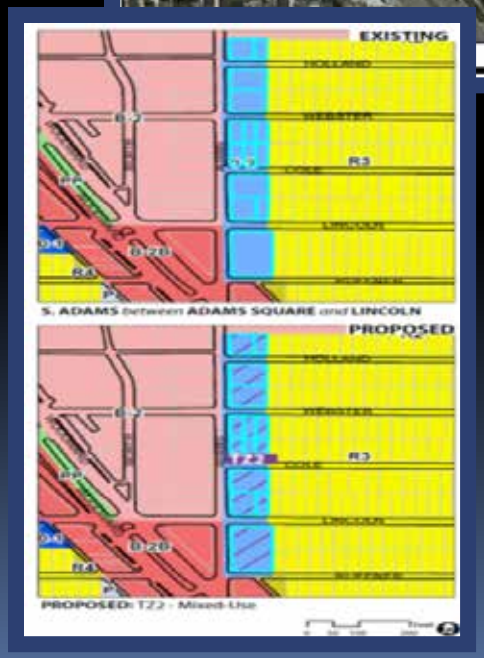
Current Planning Issues

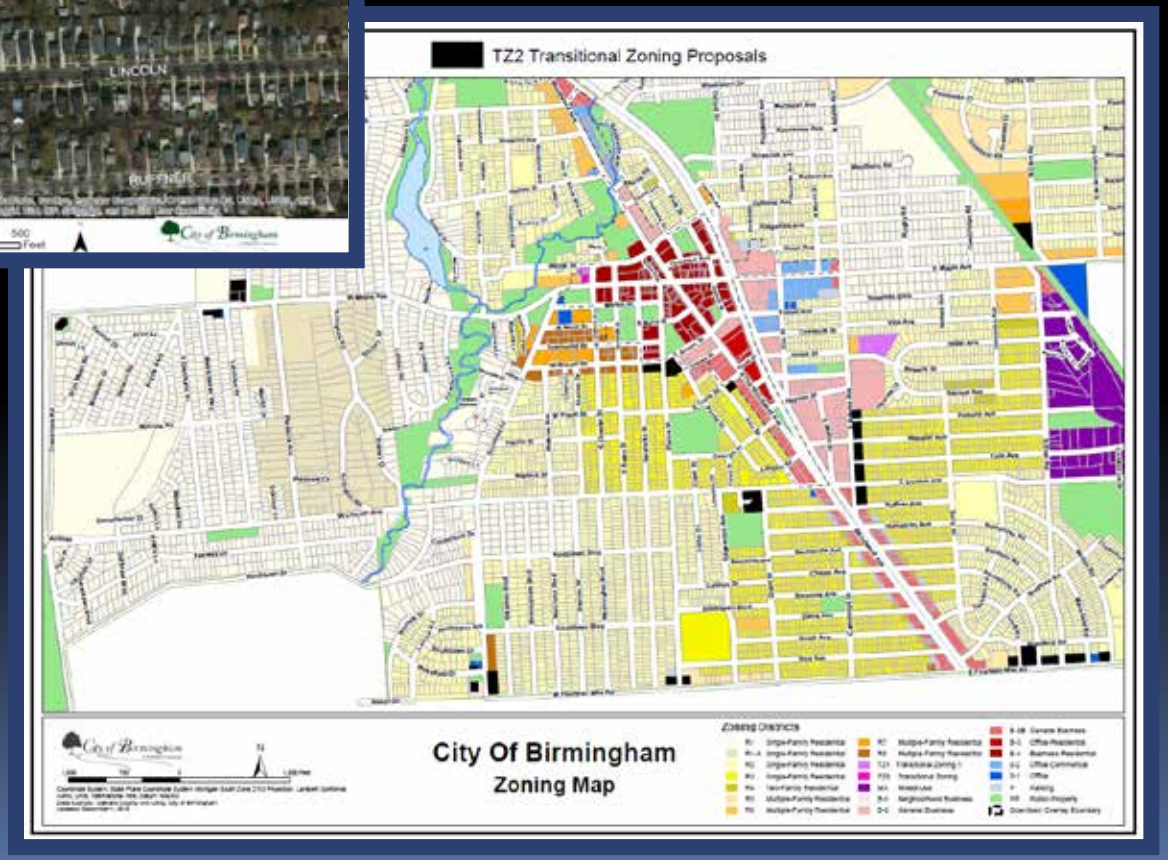


June 20, 2016

Transitional Zoning







	TZ1	TZ2	TZ3
Residential Permitted Uses	• Dwelling – attached single family • Dwelling – single family (R3) • Dwelling – multi-family	• Dwelling – attached single family • Dwelling – single family (R3) • Dwelling – multi-family	• Dwelling – attached single family • Dwelling – single family (R3) • Dwelling – multi-family
Commercial Permitted Uses		• Art gallery • Artisan use • **Bakery** • **Bank/credit union** • ~~Barber/beauty salon~~ • Bookstore • Boutique • **Coffee shop** • ~~Neighborhood~~ Convenience store • **Delicatessen** • Drugstore • **Dry Cleaner (no on site plant)** • Gift shop/flower shop • Hardware • ~~Health club/studio~~ • Jewelry store • Office • **Specialty Food Shop** • Tailor	• Art gallery • Artisan use • **Bakery** • **Bank/credit union** • Barber/beauty salon • Bookstore • Boutique • **Coffee Shop** • ~~Neighborhood~~ Convenience store • **Delicatessen** • Drugstore • **Dry Cleaner (no on site plant)** • Gift shop/flower shop • Hardware • Health club/studio • Jewelry store • Office • **Specialty Food Shop** • Tailor
Accessory Permitted Uses	• Family day care home • Home occupation* • Parking – off-street	• Family day care home • Home occupation* • Parking – off-street	• Family day care home • Home occupation* • Parking – off-street

	TZ1	TZ2	TZ3
Uses Requiring a Special Land Use Permit	• Assisted Living • Church and Religious Institution • ~~Essential services~~ • Government Office/Use • Independent hospice facility • Independent senior living • ~~Parking Structure~~ • ~~School – private and public~~ • ~~Skilled nursing facility~~	• Any permitted commercial use with interior floor area over 3,000 sq. ft. per tenant • Assisted living • ~~Bakery~~ • **Barber/Beauty Salon** • ~~Bank/credit union with drive-thru~~ • Church and religious institution • ~~Coffee shop~~ • ~~Delicatessen~~ • ~~Dry cleaner~~ • ~~Essential services~~ • ~~Food and drink establishment~~ • Government office/use • ~~Grocery store~~ • **Health club/studio** • ~~Independent hospice facility~~ • Independent senior living • ~~Parking structure~~ • ~~School – private and public~~ • ~~Skilled nursing facility~~ • ~~Specialty food shop~~ –	• Any permitted commercial use with interior floor area over 4,000 sq. ft. per tenant • Assisted living • ~~Bakery~~ • Bank/credit union with drive-thru • Church and religious institution • ~~Coffee shop~~ • ~~Delicatessen~~ • Dry cleaner **with plant** • Essential services • Food and drink establishment • Government office/use • Grocery store • ~~Independent~~ Hospice facility • Independent senior living • Parking structure • School – private and public • Skilled nursing facility • ~~Specialty food shop~~ • Veterinary clinic

Commercial Parking Requirements

Private Shared Parking

Minimum Standards

Minimum & Maximum Parking Standards?

Public Parking

Residential Parking Only

Existing Non-Conforming Commercial Buildings

Birmingham Place

555 S. Old Woodward

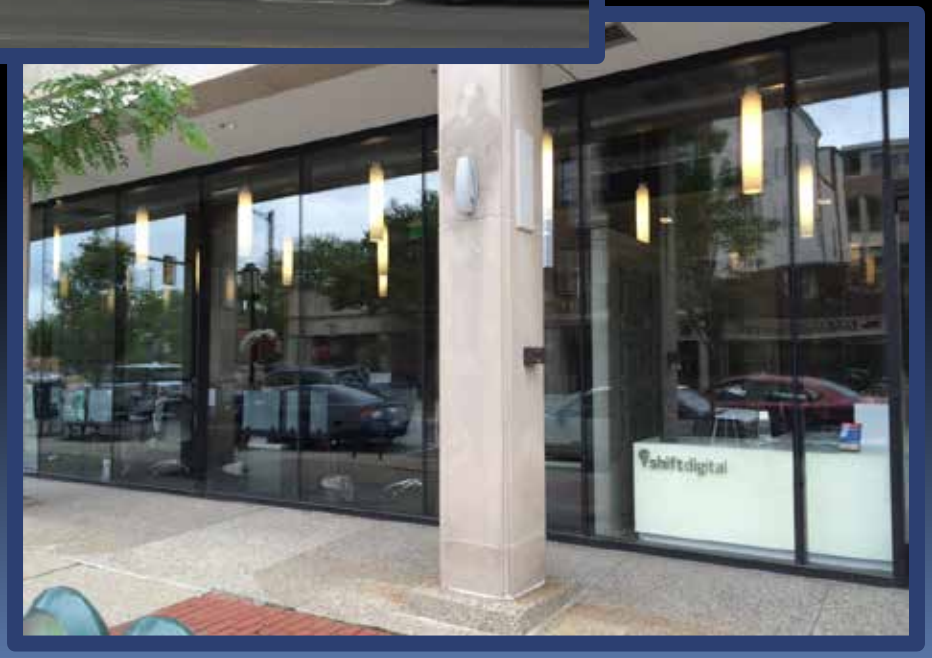
Merrillwood Building

Traditional Retail

Questionable Retail

Former GSTV Space

Real Estate / Personal Service



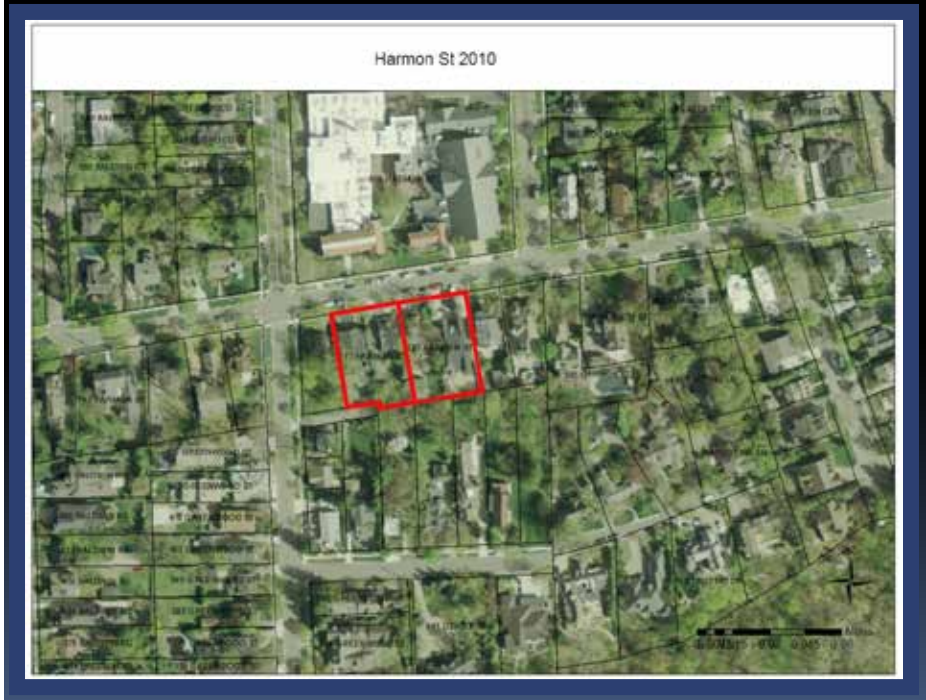
Creative Office/Retail

Dormers

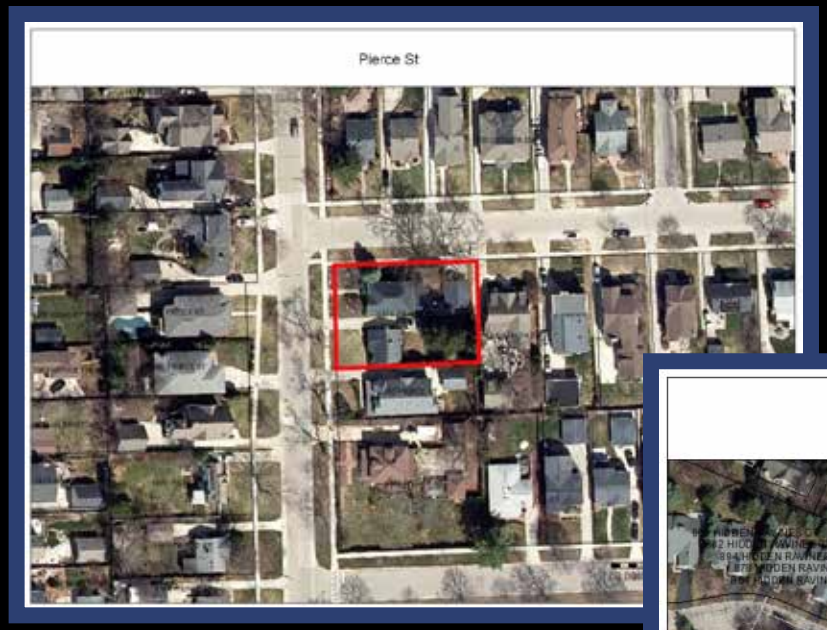
Lot Consolidation

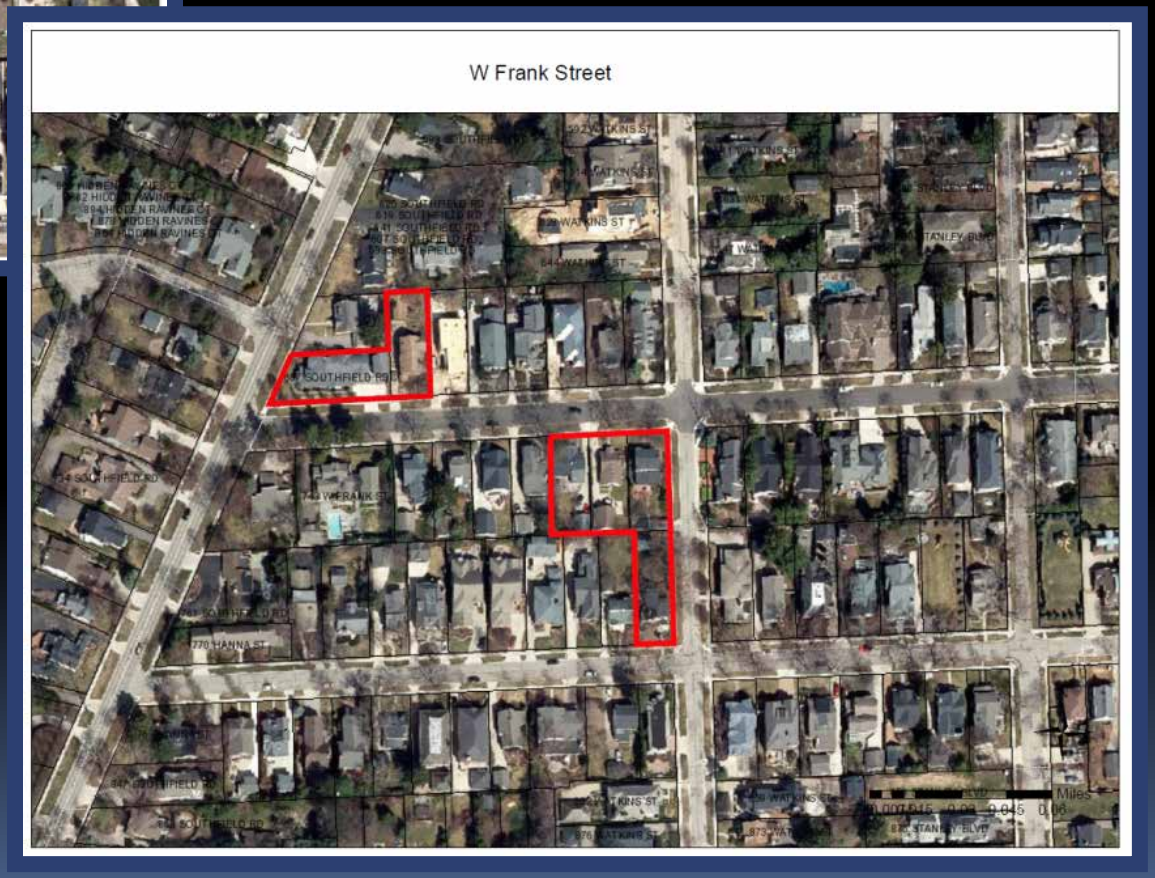
Harmon Street Homes

Harmon St. 2010 / 2015



Typical Lot Combination





Irregular Lot Combinations

Planning Board's Action List

	TOPIC	STUDY SESSION	PUBLIC HEARING	STATUS	NOTES
1	Southern Downtown Overlay Gateway	5/13/2015, 6/10/2015, 7/08/2015, 9/09/2015, 9/30/2015		In Progress	Consideration of a new D5 overlay zone requested by the owners of the 555 Building.
2	Zoning Transition Overlay	2/27/13, 4/10/13 4/24/13, 5/8/13 5/22/13, 6/12/13 7/24/13, 8/28/13 9/11/13, 11/13/13 1/8/14, 3/12/14 10/8/14, 2/25/15 4/08/15, 5/15/15	10/9/13 2/26/14 4/9/14 4/23/14 6/24/15 PB 08/24/15 CC	In Progress	CC approved rezoning of parcels to the TZ1 and TZ3 zoning classification on 8.24.15. TZ2 sent back to the Planning Board for further studt of permitted uses.
3	Consider outdoor storage and display standards	4/10/13 4/24/13 6/12/13 8/14/13 8/28/13 1/22/14		In Progress	Develop standards for Outdoor storage and displays
4	Glazing Standards	8/28/2013, 3/11/2015, 4/22/2015, 10/14/2015	9/11/13, 9/25/13, 1/27/14, 11/11/2015 PB, 11/23/15 CC	In Progress	CC approved changes to the Triangle Overlay and Article 04 of the Z. O. on 11.23.15 to be consistant with the DB Overlay by measuring Glazing between 1 and 8 feet above grade. Further changes to be considered at future study sessions.
5	Ordinance adjustments and corrections			On Going	Review current Zoning Ordinance for inconsistencies.
6	Consider looking at principal uses allowed and add flexibility("and other similar uses")				
7	Comprehensive Master Plan				Discussed at the long range planning meeting.
8	Potential residential zoning changes: MF & MX garage doors, garage house standards, dormers	1/22/2014, 11/14/14, 1/28/15, 2/11/15	3/11/2015	In Progress	Ordinance Amendment recommended for approval to City Commission at PH
9	Dormer regulations in SF zones				Requested by the Building Official
10	S. Woodward Avenue Gateway Plan (Woodward Corridor Lincoln to 14 Mile Road)	2/27/08 9/24/08 10/20/08 (PB/CC) 2/10/09 (LRP) 10/17/2011 (Joint with CC) 1/22/2012 (LRP) 4/24/13 5/8/13		In Progress	LSL/Hamilton Anderson contracted to lead master plan process - Subcommittee formed to guide master plan process in 2013 - Charette held in May of 2013 Draft plan received from LSL early in 2014 - Project postponed in summer of 2014 due to staff shortage and pending projects
11	Sustainable Urbanism – Green building standards, impervious surface, solar and wind ordinances, deconstruction, geothermal, native plants, low impact development etc.	2/09/2005 7/11/2007 8/08/2007 9/12/2007 1/9/2008 9/10/08 1/14/09 1/28/09 2/10/09 (LRP) 5/13/09 8/12/09 11/11/09 1/23/10 (LRP) 5/12/2010 6/9/10	2/25/09 (PB - Solar) 1/13/10 (PB-Wind) 2/10/10 (PB–Wind) 6/14/2010 (CC-Wind)	Solar ordinance completed; Wind ordinance completed	Incentive option in Triangle District Guest speakers in LEED Certification, Pervious Concrete, LED Lighting, Wind Power, Deconstruction Sustainability website & Awards Native plant brochure
12	Regional Planning Projects	6/12/13 10/9/13 11/13/13 2/1/14 (LRP)		Ongoing	Woodward Complete Streets and Woodward Alternatives Analysis
13	Wayfinding			On Hold	Implement way finding plan
14	Medical Marijuana	2/25/2015		On Hold	

Public Facilities Review

Chesterfield Fire Station (2016)

Adams Fire Station (1999)

Library (Various Expansion Dates)

DPS Building (1992)

Police Rifle Range (2000)

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9	Dormer regulations in SF zones				Requested by the Building Official
10	S. Woodward Avenue Gateway Plan (Woodward Corridor Lincoln to 14 Mile Road)	2/27/08 9/24/08 10/20/08 (PB/CC) 2/10/09 (LRP) 10/17/2011 (Joint with CC) 1/22/2012 (LRP) 4/24/13 5/8/13		In Progress	LSL/Hamilton Anderson contracted to lead master plan process - Subcommittee formed to guide master plan process in 2013 - Charette held in May of 2013 Draft plan received from LSL early in 2014 - Project postponed in summer of 2014 due to staff shortage and pending projects
11	Sustainable Urbanism – Green building standards, impervious surface, solar and wind ordinances, deconstruction, geothermal, native plants, low impact development etc.	2/09/2005 7/11/2007 8/08/2007 9/12/2007 1/9/2008 9/10/08 1/14/09 1/28/09 2/10/09 (LRP) 5/13/09 8/12/09 11/11/09 1/23/10 (LRP) 5/12/2010 6/9/10	2/25/09 (PB - Solar) 1/13/10 (PB-Wind) 2/10/10 (PB–Wind) 6/14/2010 (CC-Wind)	Solar ordinance completed; Wind ordinance completed	Incentive option in Triangle District Guest speakers in LEED Certification, Pervious Concrete, LED Lighting, Wind Power, Deconstruction Sustainability website & Awards Native plant brochure
12	Regional Planning Projects	6/12/13 10/9/13 11/13/13 2/1/14 (LRP)		Ongoing	Woodward Complete Streets and Woodward Alternatives Analysis

13	Wayfinding			On Hold	Implement way finding plan
14	Medical Marijuana	2/25/2015		On Hold	