

**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, SEPTEMBER 12, 2018**

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PUBLIC HEARINGS	
1. OVERLAY SIGN STANDARDS - PROPOSED AMENDMENTS TO CHAPTER 126, ZONING, OF THE CITY CODE TO DELETE ARTICLE 03, OVERLAY DISTRICTS, SECTION 3.04 (f) SPECIFIC STANDARDS, SECTION 3.04, DOWNTOWN OVERLAY DISTRICT TO ELIMINATE THE OVERLAY SIGNAGE STANDARDS	2
<p style="text-align: center;">Motion by Mr. Williams Seconded by Mr. Koseck to recommend approval to the City Commission to eliminate the Overlay Sign Standards in Article 03, section 3.04 (f) of the Zoning Ordinance in their entirety.</p>	3
Motion carried, 6-0.	3
2. CHURCHES/RELIGIOUS INSTITUTIONS - PROPOSED AMENDMENTS TO CHAPTER 126, ZONING, OF THE CITY CODE AS FOLLOWS:	3
1. TO AMEND ARTICLE 2, SECTION 2.03, R1A (SINGLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;	
2. TO AMEND ARTICLE 2, SECTION 2.05, R1 (SINGLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;	
3. TO AMEND ARTICLE 2, SECTION 2.07, R2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;	
4. TO AMEND ARTICLE 2, SECTION 2.09, R3 (SINGLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;	
5. TO AMEND ARTICLE 2, SECTION 2.11, R4 (TWO-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;	
6. TO AMEND ARTICLE 2, SECTION 2.13, R5 (MULTIPLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES	

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<p>REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>7. TO AMEND ARTICLE 2, SECTION 2.15, R6 (MULTIPLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>8. TO AMEND ARTICLE 2, SECTION 2.17, R7 (SINGLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>9. TO AMEND ARTICLE 2, SECTION 2.21, O1 (OFFICE) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>10. TO AMEND ARTICLE 2, SECTION 2.25, P (PARKING) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>11. TO AMEND ARTICLE 2, SECTION 2.27, B1 (NEIGHBORHOOD BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE PERMITTED USES, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>12. TO AMEND ARTICLE 2, SECTION 2.29, B2 (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE PERMITTED USES, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>13. TO AMEND ARTICLE 2, SECTION 2.31, B2B (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE PERMITTED USES, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>14. TO AMEND ARTICLE 2, SECTION 2.33, B2C (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE PERMITTED USES, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>15. TO AMEND ARTICLE 2, SECTION 2.37, B4 (BUSINESS-RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE PERMITTED USES, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>16. TO AMEND ARTICLE 2, SECTION 2.39, MX (MIXED USE) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>17. TO AMEND ARTICLE 2, SECTION 2.43, TZ2 (TRANSITION ZONE) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p> <p>18. TO AMEND ARTICLE 2, SECTION 2.45, TZ3 (TRANSITION ZONE) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;</p>	

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<p>19. TO AMEND ARTICLE 3, SECTION 3.07 – PERMITTED USES AND SPECIAL USES, TO REMOVE CHURCH IN THE LAND USE MATRIX; 20. TO AMEND ARTICLE 4, SECTION 4.45 (G)(5)(a)(ii) and (iii) – PK-01 GENERAL PARKING STANDARDS – TO AMEND THE METHODS OF PROVIDING PARKING FACILITIES, TO REPLACE CHURCH WITH RELIGIOUS INSTITUTION; 21. TO AMEND ARTICLE 4, TO AMEND TABLE A – REQUIRED OFF-STREET PARKING SPACES, TO REPLACE CHURCH WITH RELIGIOUS INSTITUTION; 22. TO AMEND ARTICLE 4, SECTION 4.66 (A)(1)(STORAGE AND DISPLAY STANDARDS), TO REPLACE CHURCH WITH RELIGIOUS INSTITUTION; 23. TO AMEND ARTICLE 4, SECTION 4.84 TU-01 (A)(2)(TEMPORARY USE STANDARDS), TO REPLACE CHURCH OR OTHER RELIGIOUS FACILITY WITH RELIGIOUS INSTITUTION; 24. TO AMEND ARTICLE 4, SECTION 4.86 TU-03 (A)(1)(TEMPORARY USE STANDARDS), TO REPLACE CHURCH WITH RELIGIOUS INSTITUTION; 25. TO AMEND ARTICLE 7, SECTION 7.21 (A)(1) – REQUIREMENTS, TO REPLACE CHURCHES WITH RELIGIOUS INSTITUTIONS; 26. TO AMEND ARTICLE 9, SECTION 9.02 – DEFINITIONS, TO ADD A DEFINITION OF RELIGIOUS INSTITUTION; 27. TO AMEND APPENDIX A, LAND USE MATRIX, TO MERGE CHURCH AND CHURCH AND RELIGIOUS INSTITUTION ROWS INTO ONE ROW UNDER RELIGIOUS INSTITUTION; AND 28. TO AMEND APPENDIX B, INDEX, TO ELIMINATE INDEXED PAGES WHERE CHURCH NO LONGER EXISTS, ADD RELIGIOUS INSTITUTION AND CORRESPONDING PAGE NUMBERS.</p>	
<p>Motion by Mr. Williams Seconded by Mr. Boyle to recommend approval to the City Commission of the above 28 amendments to Chapter 126, Zoning, of the City Code to remove all references to Church or Churches and replace the terms with religious institution(s) and provide a definition as follows:</p> <p>Religious Institution: A building housing worship by an organization founded on an established religion, such as a church, synagogue, mosque, temple, or other house of worship.</p>	6
<p>Motion carried, 6-0.</p>	6
<p>REZONING APPLICATION</p>	
<p>1. 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank) Request to reconsider application in light of new information to be presented to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building</p>	6
<p>Motion by Mr. Williams</p>	

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<p>Seconded by Mr. Koseck to include the following correspondence into the official record:</p> <ul style="list-style-type: none"> • Letter dated September 11, 2018 from Susan K. Friedlaender, Attorney with Friedlaender, Nykanen, Rogowski, PLC; • Letter dated September 10, 2018 from B. Geiger, Unit 623, 411 S. Old Woodward Ave; • Letter dated September 11, 2018 from Timothy J. Currier, Beier Howlett, City Attorney, dealing with the process of rezoning application before the Planning Board. 	7
<p>Motion carried, 7-0.</p>	7
<p>Motion by Mr. Williams Seconded by Ms. Whipple-Boyce to postpone consideration of the public hearing which was scheduled for tonight to October 10, 2018 with the condition that the Board receive the legal opinion of counsel to the City of Birmingham submitted to the Planning Board in writing as to whether the proposed site (former Mountain King and Talmer Bank) is eligible to be rezoned to the D-5 category.</p>	8
<p>Motion carried, 7-0.</p>	8
<p>STUDY SESSION</p>	
<p>1. Payment in Lieu of Parking in Triangle District</p>	
<p>Motion by Mr. Williams Seconded by Mr. Koseck to set a public hearing date of October 10, 2018 to consider amending Article 3, section 3.08 (E) (1) of the Zoning Ordinance to adjust the payment-in-lieu of parking amount to \$27,500/space with a 3% yearly increase.</p>	9
<p>Motion carried, 7-0.</p>	10

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, SEPTEMBER 12, 2018**
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on September 12, 2018. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Janelle Whipple-Boyce (arrived at 7:45 p.m.), ~~Daniel Share~~, Bryan Williams; Alternate Board Member Jason Emerine; Student Representative Madison Dominato

Also Present: Nasseem Ramin

Absent: Board Member Daniel Share; Student Representatives Sam Fogel, Ellie McElroy

Administration: Jana Ecker, Planning Director
Brooks Cowan, Planner
Carole Salutes, Recording Secretary

09-149-18

APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF AUGUST 8, 2018

Motion by Mr. Williams

Seconded by Mr. Koseck to approve the minutes of the Regular Planning Board Meeting of August 8, 2018 as presented.

Motion carried, 6-0.

VOICE VOTE

Yeas: Williams, Koseck, Boyle, Emerine, Jeffares, Koseck

Abstain: None

Absent: Share, Whipple-Boyce

09-150-18

CHAIRPERSON'S COMMENTS

The Chairman noted tonight's diverse agenda and the procedure that will be followed.

09-151-18

APPROVAL OF THE AGENDA

- The pre-application discussion for the Bowers and Elm Project has been withdrawn.

09-152-18

PUBLIC HEARINGS

1. OVERLAY SIGN STANDARDS - PROPOSED AMENDMENTS TO CHAPTER 126, ZONING, OF THE CITY CODE TO DELETE ARTICLE 03, OVERLAY DISTRICTS, SECTION 3.04 (f) SPECIFIC STANDARDS, SECTION 3.04, DOWNTOWN OVERLAY DISTRICT TO ELIMINATE THE OVERLAY SIGNAGE STANDARDS

The Chairman opened the public hearing at 7:39 p.m.

Ms. Ecker recalled that the Board has talked about this on several occasions. She explained that the City of Birmingham has two sets of standards that are used to regulate signage throughout the City. There is the standard Sign Ordinance which governs most of the City, and there is the Overlay Sign Ordinance which regulates signage on buildings that were constructed under the Downtown Overlay development standards. The amount of signage permitted by the standard Sign Ordinance provisions is based on the amount of building frontage. The width of the building determines the amount of square footage that can be used for signage. The allowable signage can be divided among any of the building tenants regardless of which floor they are located on provided that they meet all other provisions of the Sign Ordinance.

In contrast to the standard Sign Ordinance, the Overlay Sign Regulations do not limit the amount of signage or number of signs. Instead the number of signs permitted is dictated by the number of entrances and only tenants whose primary square footage is located on the first floor may have a sign.

On June 18, 2018 at the joint City Commission/Planning Board joint meeting there was consensus that the Sign Ordinance should be studied and amended as deemed appropriate.

In July the Planning Board talked about this twice and the consensus was to set a public hearing date of September 12, 2018. The standard Sign Ordinance is not impacted; the change is to consider eliminating the Overlay Sign Standards in Article 03, section 3.04 (f) of the Zoning Ordinance in their entirety so that the same sign standards apply throughout the whole City.

Mr. Baka has indicated that the Design Review Board has also considered this issue recently, and is in agreement with eliminating the Downtown Overlay District Sign Standards. They plan to hold a public hearing to consider some changes to the Sign Ordinance.

No one from the public wished to comment.

Motion by Mr. Williams

Seconded by Mr. Koseck to recommend approval to the City Commission to eliminate the Overlay Sign Standards in Article 03, section 3.04 (f) of the Zoning Ordinance in their entirety.

Motion carried, 6-0.

There was no discussion on the motion from members of the audience.

VOICE VOTE

Yeas: Williams, Koseck, Boyle, Clein, Emerine, Jeffares

Nays: None

Absent: Share, Whipple-Boyce

The Chairman closed the public hearing at 7:39 p.m.

09-153-18

Chairman Clein opened the public hearing at 7:40 p.m.

2. CHURCHES/RELIGIOUS INSTITUTIONS - PROPOSED AMENDMENTS TO CHAPTER 126, ZONING, OF THE CITY CODE AS FOLLOWS:

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2. TO AMEND ARTICLE 2, SECTION 2.05, R1 (SINGLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
3. TO AMEND ARTICLE 2, SECTION 2.07, R2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
4. TO AMEND ARTICLE 2, SECTION 2.09, R3 (SINGLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
5. TO AMEND ARTICLE 2, SECTION 2.11, R4 (TWO-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
6. TO AMEND ARTICLE 2, SECTION 2.13, R5 (MULTIPLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
7. TO AMEND ARTICLE 2, SECTION 2.15, R6 (MULTIPLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
8. TO AMEND ARTICLE 2, SECTION 2.17, R7 (SINGLE-FAMILY RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
9. TO AMEND ARTICLE 2, SECTION 2.21, O1 (OFFICE) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
10. TO AMEND ARTICLE 2, SECTION 2.25, P (PARKING) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
11. TO AMEND ARTICLE 2, SECTION 2.27, B1 (NEIGHBORHOOD BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE PERMITTED USES, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;

12. TO AMEND ARTICLE 2, SECTION 2.29, B2 (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE PERMITTED USES, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
13. TO AMEND ARTICLE 2, SECTION 2.31, B2B (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE PERMITTED USES, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
14. TO AMEND ARTICLE 2, SECTION 2.33, B2C (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE PERMITTED USES, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
15. TO AMEND ARTICLE 2, SECTION 2.37, B4 (BUSINESS-RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE PERMITTED USES, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
16. TO AMEND ARTICLE 2, SECTION 2.39, MX (MIXED USE) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
17. TO AMEND ARTICLE 2, SECTION 2.43, TZ2 (TRANSITION ZONE) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
18. TO AMEND ARTICLE 2, SECTION 2.45, TZ3 (TRANSITION ZONE) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT, TO REMOVE CHURCH AND REPLACE WITH RELIGIOUS INSTITUTION;
19. TO AMEND ARTICLE 3, SECTION 3.07 – PERMITTED USES AND SPECIAL USES, TO REMOVE CHURCH IN THE LAND USE MATRIX;
20. TO AMEND ARTICLE 4, SECTION 4.45 (G)(5)(a)(ii) and (iii) – PK-01 GENERAL PARKING STANDARDS – TO AMEND THE METHODS OF PROVIDING PARKING FACILITIES, TO REPLACE CHURCH WITH RELIGIOUS INSTITUTION;
21. TO AMEND ARTICLE 4, TO AMEND TABLE A – REQUIRED OFF-STREET PARKING SPACES, TO REPLACE CHURCH WITH RELIGIOUS INSTITUTION;
22. TO AMEND ARTICLE 4, SECTION 4.66 (A)(1)(STORAGE AND DISPLAY STANDARDS), TO REPLACE CHURCH WITH RELIGIOUS INSTITUTION;
23. TO AMEND ARTICLE 4, SECTION 4.84 TU-01 (A)(2)(TEMPORARY USE STANDARDS), TO REPLACE CHURCH OR OTHER RELIGIOUS FACILITY WITH RELIGIOUS INSTITUTION;
24. TO AMEND ARTICLE 4, SECTION 4.86 TU-03 (A)(1)(TEMPORARY USE STANDARDS), TO REPLACE CHURCH WITH RELIGIOUS INSTITUTION;
25. TO AMEND ARTICLE 7, SECTION 7.21 (A)(1) – REQUIREMENTS, TO REPLACE CHURCHES WITH RELIGIOUS INSTITUTIONS;
26. TO AMEND ARTICLE 9, SECTION 9.02 – DEFINITIONS, TO ADD A DEFINITION OF RELIGIOUS INSTITUTION;
27. TO AMEND APPENDIX A, LAND USE MATRIX, TO MERGE CHURCH AND CHURCH AND RELIGIOUS INSTITUTION ROWS INTO ONE ROW UNDER RELIGIOUS INSTITUTION; AND
28. TO AMEND APPENDIX B, INDEX, TO ELIMINATE INDEXED PAGES WHERE CHURCH NO LONGER EXISTS, ADD RELIGIOUS INSTITUTION AND CORRESPONDING PAGE NUMBERS.

The Chairman opened the public hearing at 7:40 p.m.

Ms. Ecker advised that the City of Birmingham has allowed churches and religious institutions across the city for many years. She explained the City of Birmingham Zoning Ordinance does not define churches or religious institutions. One issue is that the term "church" is meant to only refer to Christian religions and not necessarily others. So the Ordinance may have been eliminating certain religions from being located in certain zone districts. Thus, it may be more inclusive to use the term "religious institution" to replace the word "church" throughout the

Zoning Ordinance and also to define "religious institution" to ensure that all religions are included as permitted uses.

Ms. Alice Lezot, 411 S. Old Woodward Ave., Unit 511, came forward. She received clarification that the term "religious institution" will be defined in the ordinance.

Motion by Mr. Williams

Seconded by Mr. Boyle to recommend approval to the City Commission of the above 28 amendments to Chapter 126, Zoning, of the City Code to remove all references to Church or Churches and replace the terms with religious institution(s) and provide a definition as follows:

Religious Institution: A building housing worship by an organization founded on an established religion, such as a church, synagogue, mosque, temple, or other house of worship.

Motion carried, 6-0.

No one from the public stepped up to comment on the motion.

VOICE VOTE

Yeas: Williams, Boyle, Clein, Emerine, Jeffares, Koseck

Nays: None

Abstain: Whipple-Boyce, who had just arrived.

Absent: Share

The Chairman closed the public hearing at 7:45 p.m.

09-154-18

REZONING APPLICATION

**1. 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank)
Request to reconsider application in light of new information to be presented to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed-use building**

Chairman Clein recalled that on June 27, 2018, the Planning Board reviewed a rezoning request for 469 – 479 S. Old Woodward Ave. (former Mountain King and Talmer Bank sites) to rezone from B-3/D-4 to B-3/D-5. This request was made pursuant to Article 7, section 7.02 of the Zoning Code. After much discussion, the Planning Board voted to recommend denial of the rezoning request to the City Commission for 469 – 479 S. Old Woodward Ave. The City Commission then set a public hearing date for August 13, 2018 to review the rezoning request.

On August 13, 2018, the applicant submitted a letter requesting that the City postpone the public hearing that was previously set at the City Commission to allow the applicant to present new information to the Planning Board for their review and consideration. Accordingly, the City Commission cancelled the public hearing and the matter was sent back to the Planning Board for reconsideration.

Therefore, the Board's next step is to enter into a discussion of whether or not the application for 469-479 S. Old Woodward Ave. should receive a re-hearing. If they decide that there is

substantial new evidence or new facts under section 7.02 (6) to warrant a re-hearing, the Board will at that point decide on the next steps.

Motion by Mr. Williams

Seconded by Mr. Koseck to include the following correspondence into the official record:

- **Letter dated September 11, 2018 from Susan K. Friedlaender, Attorney with Friedlaender, Nykanen, Rogowski, PLC;**
- **Letter dated September 10, 2018 from B. Geiger, Unit 623, 411 S. Old Woodward Ave;**
- **Letter dated September 11, 2018 from Timothy J. Currier, Beier Howlett, City Attorney, dealing with the process of rezoning application before the Planning Board.**

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: Share

Mr. Williams pointed out the Planning Board has opinions of opposing counsel dealing with the issue as to whether the D-5 Ordinance can in fact apply to the two properties in question (former Mountain King and Talmer Bank sites). That is a legal question for the City Attorney to decide.

The second issue is whether the two parcels are or are not in the Parking Assessment District. It is important to know from the City's standpoint why this property is or is not in the Parking Assessment District based on the records of the City at the time the Parking Assessment District was created. Further, if they are in the Parking Assessment District, then the analogies to the other five-story buildings in the City in Downtown which are in the Parking Assessment District and don't have to provide on-site parking is relevant. If they are not in the Parking Assessment District and the applicant is required to provide on-site parking, then that is a different conclusion. He wants the opinion of the City Attorney before proceeding because if the conclusion is that the properties are not eligible for D-5 zoning then having a hearing is a waste of time.

Mr. Williams further noted that Ms. Friedlaender's letter questions what the City Commission intended by approving the D-5 category. He would like the opinion of the City Attorney on that narrow question and whether these two parcels are eligible to be rezoned into the D-5 category based on all the evidence to date.

Chairman Clein thought the question before the Board is whether there will be a rehearing; or since they are all present, whether they feel they have enough information to have that conversation tonight on the very narrow basis of whether there is new information that wasn't brought up at the original hearing.

Mr. Rick Rattner, Attorney, 380 N. Old Woodward Ave., was present to represent the applicant. They believe this site not only is eligible for D-5 Zoning, but they also think that they have new information. Further, they accept that the site is not in the Parking Assessment District. They feel they have enough information to go forward at this time and also believe their position relative to the eligibility and the new information is solid.

Ms. Ecker recommended that the Board should stick to the first question of whether there is new information that wasn't considered before that is brought forward now and thus warrant a re-hearing.

Mr. Williams pointed out that the CIS contained a reference that this particular property is in the Parking Assessment District. So, the information from the City that was provided at the time of the hearing was incorrect. Therefore, the record needs to be corrected. He didn't think the Board should start down that road until they receive Mr. Currier's opinion.

Mr. Rattner indicated they have no objection, if that is what the Board decides.

Chairman Clein opened up public comment at 8:15 p.m.

Ms. Susan Friedlaender, Attorney representing Birmingham Place Residential Condominium Assoc., corrected that the applicant actually mentioned during the hearing that they are not in the Parking Assessment District and that is one reason they were asking for the rezoning, and one reason why they needed to be rezoned because they cannot meet the needs of a hotel in four stories.

Mr. Michael Schwartz, 411 S. Old Woodward Ave., Birmingham Place asked the Board to consider once they have a legal opinion, if it is that the process should move forward. Possibly decide that in October and then have the hearing for the project itself at future meeting.

Motion by Mr. Williams

Seconded by Ms. Whipple-Boyce to postpone consideration of the public hearing which was scheduled for tonight to October 10, 2018 with the condition that the Board receive the legal opinion of counsel to the City of Birmingham submitted to the Planning Board in writing as to whether the proposed site (former Mountain King and Talmer Bank) is eligible to be rezoned to the D-5 category.

There were no public comments on the motion at 8:15 p.m.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: Share

09-155-18

STUDY SESSION

1. Payment in Lieu of Parking in Triangle District

Mr. Cowan explained that the Triangle District has height limits and an extension on the height is allowed for one to two stories if two of the requirements in section 3.08 (E). One requirement is the applicant may provide payment-in-lieu to the City for construction of parking in a public parking deck at an offsite location at the rate of \$15,000 per parking space. This was written in 2007 and since then the price/parking space has gone up.

After doing some research it was found that a study performed by Carl Walker, Inc. determined that the median cost per parking space in a parking deck in the Detroit Metropolitan Area in 2017 was \$20,250. The Royal Oak Parking Deck that was built in 2016 came out to be about \$29,750/space. The City of Rochester recently built two parking decks that came out to cost \$21,818/space (three levels each).

Some factors that lead to higher priced parking structures are retail first-floor space and enclosed stairways.

The Planning Board has been asked to look into increasing the required payment-in-lieu price in the Triangle District.

Chairman Clein recalled at the last meeting a question came up about the intent of this. Ms. Ecker replied she spoke to the City Manager regarding that question. The City Manager has advised that the intent is not to provide incentives. The goal of the proposed ordinance amendment is to ensure that the payment in lieu of parking amount stays current based on actual construction costs, inflation and material costs (etc.) now and into the future.

Mr. Koseck said his experience is the cost is not driven so much by enclosing an elevator or stair; it is more about the shape, the size, and the footprint. So, he would expect the Royal Oak number is about correct.

Everyone was comfortable with \$27,500/space and a 3% yearly increase.

Motion by Mr. Williams

Seconded by Mr. Koseck to set a public hearing date of October 10, 2018 to consider amending Article 3, section 3.08 (E) (1) of the Zoning Ordinance to adjust the payment-in-lieu of parking amount to \$27,500/space with a 3% yearly increase.

The Chairman called for comments on the motion from members of the public at 8:25 p.m.

Mr. Michael Schwartz, 411 S. Old Woodward Ave., Birmingham Place, noted the American Institute of Architects gives out annual awards for the best parking structure. He knows that the Z Garage in Downtown Detroit is a tourist attraction. He encouraged the Planning Board to consider those things in any new structure that is built in this great city.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: Share

2. Review of Planning Board's Action List

Ms. Ecker noted at the July 25, 2018 meeting of the Planning Board during a review of proposed design changes to the Daxton Hotel at 298 S. Old Woodward, several board members raised questions regarding the prohibition on glass railings in the Downtown Overlay. In addition, board members questioned why metal panels were not included in the list of permitted high quality materials which must be used on at least 90% of the building facades. A request was made to consider adding these items to the Planning Board's 2018 Action List.

Other issues submitted for discussion included:

1. Ability to add a covered Pergola to a detached garage;
2. Penalties available to Code Enforcement concerning properties (ie. lien properties that do not pay and much stronger penalties/fines);
3. Modular/prefab homes, shipping container homes, mobile homes;
5. Lit window signs in business windows;
6. Temporary signs in easements (garage sale, open house, wayfinding for a birthday party);
7. Review of ordinance allowing a full six months with no work before a project can be reviewed/fined; and
8. Maximum residential project completion period – i.e., two years, 30 months.

Ms. Ecker mentioned that there is a joint Planning Board/City Commission meeting on October 15, 2018.

Ms. Whipple-Boyce suggested adding a miscellaneous category containing simple issues that can be handled easily by a minor amendment. Mr. Williams suggested they just want an understanding with the City Commission that when something like this comes up the Board will deal with it.

Ms. Ecker agreed that is a perfect discussion to have at the joint meeting.

Mr. Koseck hoped that through the Master Plan process some of these items would be contemplated.

09-156-18

PRE-APPLICATION DISCUSSION

1. Bowers and Elm Project - New Construction (withdrawn)

09-157-18

2. 33877 Woodward Ave. - CVS (former Sav-On Drugs)

Ms. Julie Krieger from Norr Architects said CVS wants to make the windows better by lowering the shelving down to 5 ft. They hope to apply paneling to the back of the shelving so there is an 8 in. clear space between it and the glass. The panel can either be graphic or a color.

Ms. Ecker noted if the graphic is within 3 ft. of the window it is considered a window sign. If it is 3 ft. back it is considered an interior sign and not regulated. Recently, the City passed an ordinance saying that shelves backing up to the window are illegal. What they have is grandfathered, but any changes would require a variance from the Board of Zoning Appeals.

Mr. Koseck suggested taking a look at Walgreens across the street because they comply by having a full aisle against the window and merchandise behind that. Also, their checkout backs to a window.

Ms. Krieger observed they don't need approval to just take out the shelving.

09-159-18

3. 800 N. Old Woodward Ave. - Building Addition

Mr. John Marisich, Marisich Architecture, 36880 N. Old Woodward Ave. discussed a proposal to do an addition to the north and to the top of the existing 800 Building adjacent to the Pearl Building that is presently under construction. There is an 11 ft. easement that was part of the Norman Ziegelman property. The Pearl is being constructed with that easement still intact. Mr. Frank Simon has purchased the 800 N. Old Woodward Building from Mr. Norman Ziegelman and is now proposing the addition. Their plan is to add one floor of residential to the top and to infill the building to the north (The Pearl) with 11 ft. of office.

So the first and second floor of office will have an additional 1,000 sq. ft. and the upper floor will have four one-bedroom units. The four one-bedroom, 1,100 sq. ft. units would have accessibility to the Pearl. They propose to use the existing materials of the building and extend to the top. A terrace in the front will be set back in accordance with the zoning regulations. In the rear the windows will extend up. The existing building is 28 ft. and the new height would be 43 ft., well within the height limitation of 56 ft. The four residential units will require six additional parking spaces. Those spaces will be accommodated within the lower level of the Pearl Building which currently has an excess of eight spaces.

In response to Mr. Williams, Mr. Marisich confirmed the residential units will be apartments. He added for Mr. Koseck that everything they have proposed complies with the Zoning Ordinance.

Mr. Williams stated this plan achieves two purposes: It fills in the 11 ft. gap between the buildings and it adds small residences. The proposal was well received by the Board members.

09-160-18

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications (none)

b. Administrative Approval Requests

- 700 Graefield Ct. - Rear, remove and replace porch and 4-4 ft. swk per contract dated 09-19-17.
- 696 Graefield Ct. - Rear, remove porch and 4 ft. swk per contract dated 09-19-17.
- 684 Graefield Ct. - Rear, remove porch and 4 ft. swk per contract dated 09-19-17.
- 1905 Graefield - Rear, remove porch and 4 ft. swk per contract dated 09-19-17.
- 1901 Graefield - Rear, remove porch and 4 ft. swk per contract dated 09-19-17.
- 622 Graefield Ct. - Rear, remove porch and 4 ft. swk per contract dated 09-19-17.
- 1703 Graefield - Remove asphalt curb. Sawcut. Install 18 in. curb and gutter plus or minus 61 lf per contract dated 09-19-17.
- 1675 Graefield - Remove asphalt curb. Sawcut. Install 18 in. curb and gutter plus or minus 25 lf per contract dated 09-19-17.
- 1711 Graefield - Remove asphalt curb. Sawcut. Install 18 in. curb and gutter plus or minus 78 lf per contract dated 09-19-17.
- 1783 Graefield - Remove asphalt curb. Sawcut. Install 18 in. curb and gutter plus or minus 34 lf per contract dated 09-19-17.

- 1791 Graefield - Remove asphalt curb. Sawcut. Install 18 in. curb and gutter plus or minus 58 lf per contract dated 09-19-17.
- 1683 Graefield - Rear, remove and replace 4x5 porch and swk per contract dated 09-19-17.
- 1898 Graefield - Remove and replace 8 in. 17x8 and remove old railroad ties. Install plus or minus 80 lf of curb and gutter per contract dated 09-19-17.
- 1699 Graefield - Remove asphalt curb. Sawcut. Install 18 in. curb and gutter plus or minus 64 lf per contract dated 09-19-17 .
- 1687 Graefield - Remove and replace 4x5 porch and swk per contract dated 09-19-17.
- 1679 Graefield - Rear, remove and replace 4x5 porch and swk per contract dated 09-19-17.
- 732-730 Graefield Ct. - Remove and replace 21x8 porch and swk per contract dated 09-19-17. Remove and replace two door sills 5 lf each.
- 720 Graefield Ct. - Remove and replace three sections of 4 in. swk per contract dated 09-19-17.
- 714-718 Graefield Ct. - Rear. remove and replace 4 in. swk per contract dated 09-19-17.
- 718 Graefield Ct. - Rear, remove and replace porch 4x5 per contract dated 09-19-17.
- 712 Graefield Ct. - Rear, remove and replace porch and 4 in. swk per contract dated 09-19-17.
- 710 Graefield Ct. - Rear, remove and replace porch and 4 in. swk per contract dated 09-19-17.
- 708 Graefield Ct. - Rear, remove and replace porch and 4 in. swk per contract dated 09-19-17.
- 706 Graefield Ct. - Rear, remove and replace porch and 4 in. swk per contract dated 09-19-17.
- 704 Graefield Ct. - Rear, remove and replace porch and 4 in. swk per contract dated 09-19-17. Replace one sill.
- 702 Graefield Ct. - Rear, remove and replace porch and 4 in. swk per contract dated 09-19-17.
- 420 E. Frank, The Bristol - Enclose second and third floor terrace. Add windows to match existing north and west elevations. Add brick veneer. Extend roof over third floor terrace. Add 7 windows to north and west elevation at second and third floors, for a total of 14 windows.

Temporary Use Permits:

- 35075 Woodward Ave., Hunter House Hamburgers - Sale of food and drinks in our parking lot. Customers will be seated under tents. Food will be cooked in food trucks and in restaurant, 2018 Dream Cruise.
- 255 E. Brown St., Wells Fargo Advisors - Use private parking lot for private event 11 to 3 p.m. on 08-18-18 Dream Cruise.

Ms. Ecker advised that the Balmoral Building has requested administrative approval and wants to add space and extend the terrace of the fifth floor residential unit along Woodward Ave. This will all be within the footprint of the building and in the middle of the roof. The sun shades will be removed and the metal railing will be extended. Everyone was in favor of staff granting administrative approval for these changes.

c. Draft Agenda for the next Regular Planning Board Meeting of October 10, 2018

- Public hearing for the Triangle District parking;
- Public hearing for 469 - 479 S. Old Woodward Ave.;

➤ Projections into the right-of-way.

d. Other Business (none)

09-161-18

PLANNING DIVISION ACTION ITEMS

a. Staff report on previous requests (none)

b. Additional items from tonight's meeting (none)

09-162-18

ADJOURNMENT

No further business being evident, the Chairman adjourned the meeting at 9:07 p.m.

Jana L. Ecker
Planning Director

APPROVED