

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, June 8, 2022
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on June 8, 2022. Chair Scott Clein convened the meeting at 7:30 p.m.

A. Roll Call

Present: Chair Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin; Student Representatives MacKinzie Clein, Andrew Fuller

Absent: None

Administration:

Nick Dupuis, Planning Director
Leah Blizinski, City Planner
Brooks Cowan, Senior Planner
Laura Eichenhorn, City Transcriptionist
Bruce Johnson, Building Official

B. Approval Of The Minutes Of The Regular Planning Board Meeting of May 25, 2022

Mr. Share said 'recognized' should be inserted before 'environmental condition' on page three of the minutes.

06-124-22

Motion by Mr. Williams

Seconded by Mr. Share to approve the minutes of the Regular Planning Board meeting of May 25, 2022 as amended.

Motion carried, 6-0

VOICE VOTE

Yeas: Share, Clein, Jeffares, Boyle, Whipple-Boyce, Williams

Nays: None

Abstain: Koseck

C. Chair's Comments

Chair Scott Clein welcomed everyone to the meeting and reviewed the meeting's procedures.

D. Review Of The Agenda

E. Unfinished Business

F. Rezoning Applications

G. Special Land Use Permits (SLUPs) and Site Plan and Design Reviews

1. 1160 Grant St. – Ortiz Educare – Request for childcare center in B1 zoning district

SP Cowan presented the item.

Patrick Howe, attorney, and Amy Ortiz, proposed operator of Ortiz Educare, spoke on behalf of the project.

It was noted during the discussion that vehicles sometimes hit the site's masonry screening wall and that the landlord would consequently like to replace the screening wall with evergreen landscaping.

Mr. Emerine said he lives in the neighborhood of 1160 Grant and passes by the building often. He said the proposed landscaping would look much better than a masonry screening wall.

Mr. Koseck asked for assurance that the landscaping proposed to replace the screening wall would be of adequate height and width.

In reply to Board inquiry, Ms. Ortiz stated:

- There would be approximately 16 students total at any given time;
- Morning drop-off would occur at 9 a.m., which is after any school bus traffic would be occurring in the neighborhood;
- Ortiz Educare Staff would retrieve children from the vehicles, which means that drop-off vehicles do not need to be parked;
- There is sufficient parking for meetings with parents;
- The two afternoon leaving times would minimize traffic during pick-up times;
- An estimated half of her families would walk to drop-off their children.

Chair Clein noted that Google Earth showed a loop for vehicles that would facilitate drop-offs and pick-ups onsite.

Mr. Emerine confirmed that he drove the loop the morning of June 8, 2022.

Mr. Jeffares noted that there have been multiple pizza restaurants at 1160 Grant and said they were likely a higher intensity use than the currently proposed use. He said this proposed use would also generate more predictable traffic. Mr. Jeffares opined that this is a good location for this use given the proximity to a park, and said there should be no difficulty in growing sufficient evergreen screening to replace the masonry wall.

Mr. Emerine stated that the laundromat generates no traffic weekdays at 9 a.m. He stated that the busy times are on the weekends. He said that while vehicular speeds on Grant can be fast,

that should not be an issue because the cars for Ortiz Educare will generally be queueing onsite. He said Ms. Ortiz would just have to keep an eye on that process. Mr. Emerine stated he agreed with all six points of Mr. Howe's letter, noted that this property has been vacant for at least five years, and said this would be a particularly beneficial use for the neighborhood. Mr. Emerine encouraged Ms. Ortiz to keep vehicles from parking right in front of the building to maintain views of the front door.

Ms. Whipple-Boyce agreed with Messrs. Jeffares and Emerine that this proposed use would be beneficial to the community. She also concurred with Mr. Jeffares that this would be a less intensive use than the previous pizza restaurants and with Mr. Emerine that there is no significant traffic from the laundromat at 9 a.m. on weekdays. She said her only concern was the maintenance and height of the proposed evergreen screening. She said the plants currently in front of the masonry screening wall were not in good condition, and that evergreen screening that is too high could block drivers' views when leaving the site. For these reasons, she said keeping the masonry screening wall would be a better solution.

Mr. Share wondered if granting the evergreen screening in this case might set an inadvertent precedent. He said he saw no difference between this parking lot and other lots that would necessitate evergreen screening over masonry screening in this case. He said that vehicles just unfortunately sometimes hit screening walls. He noted the ordinance has a preference for masonry screening wall, and said he saw no land use reason to diverge from that in this case.

Mr. Williams agreed with Ms. Whipple-Boyce and Mr. Share that a masonry screening wall would be more appropriate. He said he was surprised that the Planning Department did not discuss traffic in the area as part of its report. He continued that there is a lot of traffic in this neighborhood stemming from the fact that vehicles cannot make a right left turn onto Lincoln from Woodward. As a result, vehicles make a right on Ruffner, a left on Grant, and then a left onto Lincoln. He said this is a consistent issue for Ruffner. While he said this should not disqualify this particular project, he said it is imperative that the City address the issue of Lincoln and Woodward with the State.

Mr. Emerine added that there is additional traffic on Ruffner because it is difficult for residents south of Adams to head north on Woodward, so they often enter Woodward from Ruffner instead, turn around in front of CVS, and then head north from there. He said he agreed with Mr. Williams that this issue does not impact the project.

Mr. Williams said the best way to alleviate the issue would be a no left turn sign from Grant onto Lincoln.

In reply to Mr. Williams' comment about traffic, PD Dupuis noted that the Police Department generally notes if there are any particular traffic concerns that might arise from a project. He noted that they did note any for this project. PD Dupuis said Planning could, in the future, ask the Police Department for specific comments regarding projects in known high-traffic areas.

Chair Clein endorsed PD Dupuis' proposal.

Public Comment

A nearby resident named Joumana expressed concern about the potential for increased traffic congestion in the neighborhood.

Jeff Hotaling, resident at Grant and Ruffner, also expressed concerns about the potential for increased traffic congestion. He noted that the tennis courts, park, and laundromat are already congestion-generating uses in the area.

06-125-22

Motion by Mr. Jeffares

Seconded by Mr. Koseck to recommend approval of the final site plan for 1160 Grant St, Ortiz Educare, with the following conditions:

- 1. The applicant submit a Photometric Plan indication all lighting requirements for the parking lot circulation area have been met; and,**
- 2. The applicant provide details relating to the size and materials of the sign to be administratively approved by staff.**

Public Comment

Gerry Szczepaniak, owner of 1160 Grant, explained why he believed evergreen screening should be allowed, that traffic congestion in the area largely attenuates after the summer, and that a previous daycare center on this site caused no issues in the neighborhood.

Motion carried, 7-0

VOICE VOTE

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

Nays: None

06-126-22

Motion by Mr. Jeffares

Seconded by Mr. Koseck to recommend approval of the SLUP for 1160 Grant St, Ortiz Educare, with the following conditions:

- 1. The applicant submit a Photometric Plan indication all lighting requirements for the parking lot circulation area have been met; and,**
- 2. The applicant provide details relating to the size and materials of the sign to be administratively approved by staff.**

Motion carried, 7-0

VOICE VOTE

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

Nays: None

2. 36877 Woodward – Gasow – Request for new 2-story commercial building and associated site improvements

SP Cowan presented the item.

Mike Matthys, architect, and Mike Bailey, property co-owner, spoke on behalf of the request.

Mr. Matthys confirmed:

- There will be a six-foot masonry screening wall with design elements running the length of the parking spots abutting the parcel to the west; and,
- There will be screening of parking towards Woodward and towards the alley.

In reply to Board inquiry, Mr. Bailey stated:

- Screening has been added to the south and the west at the request of the neighbors; and,
- Conversations with the property owner to the north are ongoing.

Mr. Boyle expressed disappointment that the property to the north of 36877 Woodward would be one of the first parcels one sees driving south on Woodward from Bloomfield Hills, given that parcel's current condition.

Mr. Williams said that the project, with the changes integrated between preliminary and final site plan, was tremendous. He said it would be a positive addition to that parcel and visually pleasing for drivers entering Birmingham from the north.

Public Comment

Brady Blaine, neighbor, thanked the City and the ownership for taking his previously expressed concerns into account. He said he was pleased to hear that a screening wall would extend all the way to the southwest corner.

Robert Runco, neighbor, asked that a deflector be added to the one light post that would cast light towards the residences to the rear of 36877 Woodward. He said that the neighbors to the rear of the property in question are otherwise enthused about the current proposal.

06-127-22

Motion by Mr. Share

Seconded by Mr. Williams to recommend approval of the SLUP for 36877 Woodward Ave, Gasow Veterinary Clinic, with the following conditions:

- 1. The applicant ~~apply for~~ obtain a lot combination to consolidate the parcels where the updated veterinary clinic is proposed;**
- 2. The Planning Board approve the use of evergreen landscaping in lieu of a masonry screenwall for parking along the far northeast and far northwest corners of the parking lot screening;**
- 3. The applicant submit an updated photometric plan with the updated parking lot and pedestrian plaza layout;**

4. **The applicant provide additional glazing on the western façade of the second floor to break up the blank wall longer than 30 feet;**
5. **The applicant submit updated signage plans satisfying the canopy signage requirements to be approved administratively;**
6. **The applicant install traffic ingress/egress signage within the parking lot as approved by the Engineering Department;**
7. **The material on the fence of the southwest corner of the property be administratively approved; and,**
8. **The applicant comply with the requests of all City Departments.**

Motion carried, 7-0

VOICE VOTE

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

Nays: None

06-128-22

Motion by Mr. Share

Seconded by Mr. Williams to recommend approval of the final site plan for 36877 Woodward Ave, Gasow Veterinary Clinic, with the same eight conditions listed for the SLUP approval.

Motion carried, 7-0

VOICE VOTE

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

Nays: None

H. Study Session

1. Side Yard A/C Units

CP Blizinski presented the item.

In reply to Messrs. Jeffares and Koseck, the Chair said that decibel levels of a/c units could be looked at in the future if appropriate, but was not related to the current discussion of permitted a/c unit locations.

BO Johnson concurred. He noted that noise complaints stemming from a/c units are infrequent unless the unit is starting to fail.

Ms. Whipple-Boyce noted:

- Homeowners with failed a/c units could replace them easily and quickly as long as they are put in an ordinance-compliant location;
- It is therefore not a health and safety issue that some homeowners prefer to go to the Board of Zoning Appeals (BZA) to try and locate their replacement a/c unit in the same non-compliant location;

- If having a/c units closer to the furnace makes them more efficient, then locating a/c units closer to the furnace should be allowed for new builds and homeowners replacing their units;
- The ordinance standards should be the same for new builds and replacement units.

Mr. Jeffares said allowing replacement units to be put in the previous a/c unit location could help preserve some of the older homes in Birmingham. He said that while new builds can easily install a/c units in an appropriate location, requiring that can be more burdensome for current residents.

In reply to Ms. Whipple-Boyce, Mr. Share said:

- The classic view of non-conformities is that if an entire use or structure can no longer exist, then the replacement must be brought into compliance;
- If a piece of a non-conforming use or structure needs be repaired or replaced, however, then that should be permitted;
- The question of increased efficiency by locating an a/c unit closer to the furnace must be weighed against the question of a non-conforming location;
- While energy efficiency and climate change is an important issue, he would prioritize the non-conforming location.

Mr. Share continued that homeowners replacing non-conforming units should be required to locate those units in a roughly similar location.

In reply to a question from Mr. Share, Chair Clein suggested that the proposed language for Article 3, Section 4.03(M)(2) be struck since receiving a permit is inherently required for an a/c unit given its status as an accessory structure.

There was further discussion about whether ordinances should specify that permits are required for a/c units.

BO Johnson noted that the building code specifies that a/c units require a permit.

PD Dupuis said that there are instances of specifying that certain items require a permit even though the code already indicates that elsewhere.

The Chair said that specifying the requirement of a permit here could make it seem like permits are not required for other items or uses.

Mr. Share said it might be appropriate to make a section of the ordinance that generically lists out all items or uses that require permits.

PD Dupuis said he might ask the City Attorney to determine where language about a permit would most appropriately be located.

Mr. Jeffares said it could be useful to clarify the definition of 'accessory structure' in the ordinance.

Ms. Whipple-Boyce recommended the Board consider specifying materials, heights, and other similar items for the required screening in Article 3, Section 4.03(M)(3).

Chair Clein noted there is a section on landscape screening that might apply.

After brief discussion, the Board directed Staff to make the appropriate revisions to the language and to return the topic for final review at the next study session.

In reply to CP Blizinski, the Board confirmed the changes would be to add language about location to Article 3, Section 4.03(M)(1) and to strike Article 3, Section 4.03(M)(2).

Chair Clein asked CP Blizinski to also look at the sections about landscape screening to see how they might inform Ms. Whipple-Boyce's question about Article 3, Section 4.03(M)(3).

I. Miscellaneous Business and Communications

1. Pre-Application Discussions

i. Elm/Bowers Property

John Marusich, architect, presented two potential proposals for three parcels at Elm and Bowers.

Mr. Williams noted that the second proposal could not move forward without the participation of the adjacent property owner.

Mr. Marusich noted that if the second proposal was allowed to move forward, then there would be a chance to extend Worth Street to Bowers in the future. He stated that if the property were developed by-right as described in the first proposal, then extending Worth to Bowers could not occur.

Mr. Share said he would want to see drawings of both proposals in context of the neighboring buildings before weighing in on the proposals.

The Chair thanked Mr. Marusich for a creative proposal that could help the City meet a master plan goal. He continued:

- That the Board would have to consider whether a rezoning would be appropriate from a land planning perspective;
- The draft 2040 Master Plan is currently under review, and that draft changes access to this neighborhood and to Bowers and Haynes;
- He was unsure that the 2040 Master Plan would ultimately contemplate the previously recommended vehicular connection in this area;
- The Planning Board is not currently allowed by the City Commission to engage in consent or conditional zoning and the Board would therefore not be able to recommend approval;
- The initial discussion about potential options for these three parcels needs to occur between the applicant and City administration; and,
- Without knowing what the 2040 Master Plan will prescribe for Haynes Square, he was not sure that it would be worthwhile to allow this proposal to go to seven stories to gain a road connection between Bowers and Haynes and a small additional piece of land.

Mr. Williams noted that the City Commission itself can engage in consent or conditional zoning. He said that the neighbors to the north of this proposed development would likely be very

resistant to a seven story building. He said he did not see how a rezoning could be approved since a five story building on this site would be viable. Mr. Williams stated that he liked the proposal for a five story building on this site.

PD Dupuis confirmed that Staff would only bring a regular rezoning request before the Board, and not a conditional rezoning. He added that the 2040 Master Plan draft still recommends pursuing the Worth Street extension.

Mr. Boyle said it might be most useful for the owner of these three parcels to come up with a plan with the adjacent landowner that could then be proposed to City administration.

- 2. Communications**
- 3. Administrative Approval Correspondence**
- 4. Draft Agenda – June 22, 2022**
- 5. Action List - 2022**

Ms. Whipple-Boyce recommended that 'Mixed-Use Requirements for Bonus Stories in the Triangle District' be moved up higher on the list since there are areas where first-floor retail is not currently required by ordinance.

Chair Clein agreed.

Mr. Jeffares said the 180 sq. ft. rule for parking spaces would need to be reviewed in light of automated parking systems. He said that 'accessory structures' should also be defined.

PD Dupuis recommended looking further at parking once the 2040 Master Plan is adopted, since parking is addressed within the Plan.

The Chair concurred.

Mr. Williams said he would need information on the parking capacity and utilization to discuss potential updates to the City's parking requirements.

The Chair recommended the Board discuss in a later-2022 study session what a parking review might entail.

6. Other Business

J. Planning Division Action Items

- a. Staff Report on Previous Requests**
- b. Additional Items from tonight's meeting**

The Board asked Staff to compile and circulate a list of the sticking points in the draft outdoor dining ordinance revisions prior to the June 20, 2022 joint Board-City Commission meeting.

Mr. Jeffares said he also wanted to know which establishments would have their outdoor dining impacted by the updated SLUP language.

K. Adjournment

No further business being evident, the Chair adjourned the meeting at 10:27 p.m.



Nick Dupuis
Planning Director



Laura Eichenhorn
City Transcriptionist

APPROVED