

Present: Chairperson Jensen; Vice-Chair Ostrowski; Members: Abboud, Borowski, Freedman, Prew, Stempien and Westerlund.

Absent: Wayne

Also Present: Village Manager, Wilson  
Planning consultant, Borden

Chairperson Jensen called the meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

### **APPROVE AGENDA**

Motion by Ostrowski, second by Abboud, to approve the agenda as presented.

Motion passed (6 – 0).

### **PUBLIC COMMENTS**

None

### **APPROVE MINUTES OF A REGULAR PLANNING BOARD MEETING HELD ON AUGUST 25, 2010**

A correction was made on page 10 to change the motion as follows: “Motion by Ostrowski...”.

Motion by Stempien, second by Ostrowski, that the minutes of a regular Planning Board meeting held on August 25, 2010 be approved as amended.

Motion passed (6 – 0).

### **DISCUSS POSSIBLE TREE PROTECTION AND PRESERVATION ORDINANCE**

Board member Ostrowski distributed two examples of tree preservation ordinances along with a comparison of the ordinances from Auburn Hills and Bloomfield Township. The intent is for the Planning Board to discuss whether it thinks this type of ordinance would benefit the Village. If the consensus is that a tree protection ordinance is necessary, this could be a topic of discussion at the next joint meeting of the Planning Board and Council.

Tree preservation ordinances typically require replacement trees to be supplied by a developer or whoever is removing trees at a rate specified in the ordinance. These ordinances usually allow for the removal of invasive species or weak wood species. Board members should consider whether they think this is something to pursue given that the bulk of the land in Beverly Hills is single family residential. The tree preservation issue generally comes up when there is commercial property or large parcels of land in residential areas that have a non-residential use. These ordinances normally exempt single family lots within the building envelop so as not to be onerous to someone building on their property.

Tree protection ordinances have been upheld provided that there is relief in the ordinance. A tree fund could be established to accept payment from a developer if a tree cannot be replaced; funds would then be available to the community to plant trees on public property.

Board members commented on the sample ordinances pointing out relevant factors of both ordinances. The point was made that there should be a balance between development and conservation. There was a consensus that it would benefit the overall Village to have a tree preservation ordinance in place considering the importance of trees to the character of the community. It was suggested that the Planning Board compile a list of elements to be included in tree preservation regulations for the Village in advance of recommending an ordinance to Council.

Brian Borden said that LSL Planning has written this type of ordinance for communities and that a majority of municipalities in the area have some form of tree preservation regulation in their ordinances. He has a number of samples he can reference. With respect to a requirement of tree preservation ordinances, Borden noted that the Village already calls for a tree survey as part of its site plan review process. The tree ordinance would require additional detail. Wilson added that the Village has a contract with J. H. Hart Urban Forestry, which could provide that service.

The Board will begin to review sample ordinances between now and February in order to decide on which elements would be appropriate considering the residential nature of the Village. It was requested that Borden distribute additional examples of ordinance language to Board members for discussion at upcoming meetings if funds are available. Wilson will verify the amount of money set aside in the budget for professional services.

### **PRESENTATION OF IMAGES REGARDING POTENTIAL FOR SOUTHFIELD ROAD CORRIDOR**

Planning consultants Brian Borden and Brad Strader met with urban planner Robert Gibbs this summer to discuss ideas and issues related to the development of a walkable village town center on Southfield Road. The Board has been talking about the corridor in generalities in terms of how everyone wants the finished product to look. Borden displayed several images of urban developments to help Board members identify what they think is viable for the Village of Beverly Hills.

Members commented on each photograph noting what they did and didn't like about the buildings in various downtown developments and what they would like reflected in their community. The intent was to receive feedback on the visual preferences of the Board in order to expand on those impressions. There was a consensus on the look of a two-story development in Columbus, Ohio. It was simpler and more contemporary than some of the other examples. Board members also liked the downtown Birmingham photo. There was agreement, however, that the Beverly Hills town center should have a separate identity from Birmingham.

### **ADDRESS MICHIGAN MEDICAL MARIJUANA ACT OF 2008 REGARDING POTENTIAL GROWTH, SALE AND DISTRIBUTION OF MEDICINAL MARIJUANA IN BEVERLY HILLS**

Jensen said that he has received a 60-page packet of material compiled by County Executive L. Brooks Patterson including a summary of how 8-10 area communities have addressed the Medical Marijuana Act of 2008. Many municipalities are adopting a moratorium in order to evaluate the issues involved in establishment of medical marijuana dispensaries. Some of the communities that are dealing with this have adopted regulations through a local zoning ordinance and/or the issuance of permits. The cities of Birmingham and Bloomfield Hills have taken the

position of banning the growth, sale and distribution of medicinal marijuana to whatever extent possible.

Wilson related that this issue is changing on a monthly basis; some of the ordinances that have been adopted by communities are already outdated. How these ordinances will stand up to legal challenges is unknown. Municipalities would like more direction from the State on this matter.

The Michigan Municipal League convention in Dearborn this week held a work session yesterday called Medical Marijuana Act and Your Community, which was attended by councilwoman Koss. Ms. Koss has suggested sitting down with Wilson and Attorney Ryan to discuss information received on different options for communities. Based on the amount of uncertainty surrounding regulation of medicinal marijuana dispensaries, Wilson thought that it was a possibility that Council could seek to extend the moratorium to give the Planning Board more time to look at the issues.

Planning Board members proposed deferring their discussion of an ordinance to regulate medical marijuana until additional direction is available from Council and Attorney Ryan. Freedman suggested that the Planning Board might want to give the medical marijuana issue some thought and consider providing Council with suggestions on what it views as the best direction for the community. Wilson commented that it would be appropriate for Council or Administration to provide some level of direction to the Planning Board so it could proceed with a clear understanding of where we want to end up.

#### **PLANNING BOARD MEMBERS' COMMENTS**

Westerlund reminded everyone that the Halloween Hoot will be held in Beverly Park on Sunday, October 24 at 6 p.m. It is a fun event for kids and adults.

#### **ADMINISTRATION COMMENTS**

Wilson updated the Board on the Detroit Country Day School baseball field proposal. The Village required DCDS to resubmit their plans after conducting a survey to determine where the flood plain lies within that proposed area and how their building plans for the baseball field fit within the flood plain. He is aware that the survey is ongoing, but Wilson has had no contact with the School or the landscape architect firm. At this point, the Village is waiting for DCDS to resubmit plans. Wilson will keep the Planning Board advised.

Wilson informed the Planning Board that the franchise owner of the Taco Bell on Southfield Road came before the Zoning Board of Appeals on September 13, 2010 to seek a variance from the front yard setback. The intent is to rebuild the old-style restaurant originally constructed in 1981 to meet the standards of the new prototype buildings.

The applicant was seeking a variance from the required 35 foot front setback to 16 feet in order to construct the prototype building, which includes improvements to the kitchen area bringing it up to current health, ADA and safety codes. The Zoning Board approved a 14 foot variance to allow the structure to be built 21 feet from the front lot line. Taco Bell is preparing plans based on the variance that was allowed. The site plan will be coming to the Planning Board when completed.

In response to an inquiry, Wilson stated that the hardship had to do with the amount of square footage needed for the improved prototype building and to be able to have parking on both sides of the building with drive-through lanes. The hardship was based on the size of the lot and square footage of the building.

Wilson brought the Board's attention to a parking issue on the site. He reviewed that the ordinance required 25 parking spaces at the time the drive-through feature was added in 1983. Taco Bell received a variance of five spaces to allow 20 parking spaces. Under the current ordinance, Taco Bell would need up to 52 parking spaces. Wilson brought this to the attention of the Planning Board because Taco Bell may need another variance for parking. Board members discussed parking issues on this site with the planning consultant and Wilson.

The façade of the building was questioned. The Planning Board had indicated that it was looking for more than the standard EIFS exterior building. Borden said that the Taco Bell representatives were made aware of the Village's building design standards at the pre-application conference. Taco Bell has not formally submitted the site plan.

Borowski commented that it was incumbent on the Planning Board to provide direction on the Taco Bell redevelopment in order to better manage the process and fit it into an improvement of the whole Southfield Road corridor.

#### **PUBLIC COMMENTS**

Kathleen Berwick thought that a tree restoration ordinance was a good idea and long overdue.

Motion by Ostrowski, second by Borowski, to adjourn the meeting at 8:49 p.m.

Motion passed.

**David Jensen, Chair**  
**Planning Board**

**Ellen E. Marshall**  
**Village Clerk**

**Susan Bernard**  
**Recording Secretary**