

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

Absent: None

Also Present: Village Manager, Wilson  
Council Liaison, Oen  
Planning Consultant, Brian 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/AMEND AGENDA**

Abboud asked to place an item on the agenda to present an update on the Religious Land Use and Institutionalized Persons Act of 2000.

Ostrowski proposed removing agenda item #7, request for signage, for the reason that Taco Bell did not submit its information in time to be considered at this meeting.

Motion by Ostrowski, second by Westerlund, to approve the agenda as amended.  
Motion passed (7 – 0).

### **PUBLIC COMMENTS**

None

### **REVIEW AND CONSIDER APPROVAL OF MINUTES OF PLANNING BOARD MEETING HELD MARCH 23, 2011**

Motion by Ostrowski, second by Abboud, that the minutes of a regular Planning Board meeting held on March 23, 2011 be approved as submitted.

Motion passed (7 – 0).

### **BIRMINGHAM PLANNING DIRECTOR JANA ECKER TO ADDRESS THE BOARD ON THE CONCEPT OF AN OVERLAY DISTRICT**

Stempien introduced Jana Ecker, Planning Director for the City of Birmingham, who was present to talk about the process undertaken to develop an overlay district for their downtown and Triangle District areas. Ecker inquired about the Village's proposal for the Southfield Road corridor.

Jensen related that the Planning Board has been looking at implementing an overlay zoning district for the Southfield Road commercial corridor. The master plan for the corridor prepared by Urban Planner Robert Gibbs envisioned that the private sector with its own resources would redevelop the area into a walkable village town center with mixed uses that could include current and new businesses. The Planning Board has inventoried the area. There has been discussion about what the area should look like in terms of design along with dialog about the obstacles and opportunities.

Ecker proceeded with a presentation that covered two overlay districts in the City of Birmingham. The first one is the downtown Birmingham overlay, which came out of the 2016 Master Plan done in 1996. Birmingham had a traditional downtown with buildings located close to the street, retail on the first floor with some residential above. They wanted to add to that form by stimulating new commercial activity downtown and to drive residential growth.

Their Master Plan recommended streetscape improvements, park expansions, and traffic-calming measures. As part of its Master Plan, Birmingham implemented a form-based overlay zoning district, which prescribed building dimensions and placement, building forms and materials, and permitted uses. Elements included in the Master Plan were also incorporated in their zoning ordinance as the overlay district.

Initially, developers had a choice to follow the regular underlying zoning or they could follow the overlay zoning. All of the new downtown construction followed the overlay district standards. Ecker said that this was changed two years ago to require developers to follow overlay standards if a developer was doing new construction or increasing the size of the building by 40% or more. Using the overlay zoning, developers must follow the city's rules with regard to design and footprint, but they received incentives such as extra density, extra floors, and waiver of the floor area ratio.

Ruprich entered the meeting at 7:43 p.m.

Ecker described in some detail how the overlay district was developed to reflect what the community wanted to see in the downtown area. It was important to maintain retail density in the historical commercial area. The plan allowed one floor of office and one floor of residential in the district with the lowest height. Ecker described what was allowed in the various zoning district designations. It was attempted to bring more residential units downtown. Building form, design, and use were stipulated in the overlay zoning.

A PowerPoint program was used to present examples of buildings developed under the overlay zoning district. Ecker referred to photographs to illustrate design standards implemented in the downtown district. The master plan addressed details that were put into the city ordinances such as the city run news rack program, the Wayfinding and Signage Design program, and streetscape design. Ecker recommended that Beverly Hills include design standards that it thinks are best for the community in its ordinance and stick by them.

The second overlay district that was adopted was the Triangle District overlay east of Woodward and south of Maple running over to Adams. This was a result of a master planning process accomplished with LSL Planning in 2007. The Master Plan and the form based code was adopted by the City Commission at the same time. People participated in the public input process during charrettes and public meetings for the plan. Ecker said that there was very little opposition to this plan.

Ecker stated that the overlay standard was mandatory for new construction or a significant renovation to an existing building. They looked at height, scale, and massing within the district. There is a stable residential neighborhood in the middle, so they went with attached multi-family

three stories. The Triangle District calls for mixed use, five stories or more under certain circumstances and incentives. Ecker outlined the commercial and residential architectural requirements put in place.

Parking was the number one problem identified in this district. Since the overlay was put in place, the city set up a corridor improvement authority in order to capture extra tax revenue with new development and use it to finance public parking. Birmingham has talked with developers about doing a public/private partnership to get this kick-started. They have tried to encourage shared parking in the area. Streetscape improvements are included in the overlay district ordinance.

Ecker addressed a few questions from Board members about the overlay districts. She indicated that the process of community involvement was started in house by inventorying the conditions and property ownership. Property owners were approached to make sure they were included in the public process; key stakeholders were identified. There were several public meetings and a two-day charrette. Addresses were randomly selected and invitations were sent to residents; notices were posted in key establishments in the Triangle District. The neighborhood association was notified. Engineers from Birmingham and surrounding communities were invited. There was a developers breakfast and a residential coffee hour. All of the presentations were open to the public. They had a triangle district subcommittee that was overseeing the process. Ecker concluded that there was a lot of public involvement and not much negativity.

In answer to inquiries, Ecker said that overlay district requirements are better received by developers and stakeholders when they are voluntary; however, the overlay zoning is well incentivized. She said that developers are glad when the city knows what it wants and has guidelines in place from the beginning. Ecker related that parking structures in the downtown area were funded through a special assessment process. A formula was applied to property within a certain distance based on their square footage; the city kicked in a percentage of the cost.

Ecker left to attend a Birmingham Commission meeting. She agreed to return to a future Planning Board meeting and answer additional Board questions about the Birmingham overlay districts.

#### **DISCUSS NEXT STEPS FOR SOUTHFIELD ROAD CORRIDOR PLAN – STEMPIEN AND WESTERLUND**

Westerlund outlined ideas that he and Stempien discussed in order to formulate the direction of the Planning Board and move forward with the Southfield Road corridor redevelopment. He distributed a sheet of items listed under three categories with related tasks for each grouping.

- A) Stakeholders – identify stakeholders and develop goals and strategies
- B) Resources – contact to gain knowledge and strategize
- C) Technical Aspects of the plan/ Guidelines
- D) Open Items/ Topics/ Thoughts

Westerlund suggested that Board members take some time to review this material and arrive at their individual ideas for discussion next month. The Board needs to discuss the proposal and arrive at a consensus on the vision, goals, and scope of the project in order to move forward. Westerlund proposed that the Board undertake the task of defining the vision and mission at its next meeting, define the boundaries of the district, and the scope of the project. It was thought that planning consultant Borden could assist the Board with initiating the process of developing an overlay district.

Jensen commented on a balanced approach of discussing the vision that recognizes limitations. Limitations may include the lack of planning or administrative staff to advance and execute this process.

Freedman asked if there was a step by step outline of the process of developing a strategy, receiving public input, and drafting and implementing an overlay district for the Southfield Road corridor. She questioned the availability of grant money that could be used to engaged someone to assist the Village through the redevelopment process. Stempien will ask Jana Ecker if she could provide the Planning Board with a written summary of the process for development and implementation on an overlay district.

Abboud proposed that, once the plan is defined and the process is in place, a subcommittee be created to work towards this vision. The subcommittee could consist of Board members, stakeholders, business people, administration, Council liaison, and other advocates. Bi-weekly meetings could help move the process along.

The next steps in the Southfield Road corridor plan will be a topic for the next Planning Board meeting.

#### **UPDATE ON RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000 (RLUIPA)**

Abboud distributed copies of the Religious Land Use and Institutionalized Persons Act of 2000 along with information on the Act. RLUIPA was proposed and enacted by Congress in response to actions taken by local government to exclude houses of worship within communities.

Abboud referred to a sheet that listed the five separate causes of action for religious discrimination. The paragraph headings are as follows: Substantial Burden, Equal Terms, Nondiscrimination, Exclusions, and Unreasonable limitations. Abboud asked Board members to obtain an understanding of these causes of action and consider how to maintain a balance without discrimination against religious entities that may want to exist the Village of Beverly Hills.

Wilson commented that the most pertinent issue that came up in Oakland County recently was in Ferndale with the South Oakland Shelter, which involves some serious religious land use act connotations. This is typical in a community where a church wants to operate a half-way house or rehab facility.

Wilson noted that many municipalities starting from the 1940s have excluded religious land use from their commercial district. That was driven by tax policy. Churches have moved to residential areas. This is a well meaning act passed by Congress designed to protect churches. In many respects, the Act usurps local zoning laws.

Stempien left the meeting at 9:05 p.m.

Borden reviewed that the Village ordinance allows churches and schools in residential districts under a special land use permit. The issue is that other uses that permit the gathering or assembly of people are allowed in the business district. One of the tenets of this Act is that a municipality has to treat an assembly of people the same whether it is a religious assembly, a play, or a swim club. This may be a matter of evaluating zoning districts and making sure uses are covered. Because the Village wants to maintain local control, the question becomes how far to go and what types of uses should be entitled.

**VILLAGE ATTORNEY RYAN’S RECOMMENDATION TO CHANGE CURRENT DESIGNATION OF PLANNING BOARD TO PLANNING COMMISSION**

Planning Board members are in receipt of a first draft of an ordinance changing the Planning Board to a Planning Commission pursuant to Michigan law. Ryan forwarded this ordinance to the Board requesting input on sections relating to membership qualifications that are not mandated by statute.

Wilson stated that there are items that are required by the Michigan Planning Enabling Act of 2008. This ordinance will not change Village administrative process. He pointed out a few sections for the Board’s consideration. As a planning commission, this body will be required to prepare a set of bylaws with the assistance of Tom Ryan. Wilson noted that there was language that needed clarification in the section that addresses the liaison. The section having to do with selecting new members may not apply to the Village. Another section requires the Commission to meet at least once a month.

The Board discussed the authority of a Planning Commission versus a Planning Board. Borden said that the Planning Enabling Act does not make a distinction between the authority of a planning board and planning commission. He said that the change has a lot to do with semantics. The idea of elements of review and whether the planning body should have final authority or recommendation authority are components of the zoning ordinance. There is nothing in the Act that dictates that an applicant has to go before Council for a referral to the planning commission.

Wilson suggested that an ordinance be adopted to bring the Planning Board in compliance with the law and receive the designation of planning commission. Council, administration and the legal department could address issues that it believes do not serve development well.

Freedman observed that the proposed ordinance amendment does not address powers and duties of a planning commission. Westerlund remarked that the State Act is general. The bylaws would outline how the Village planning commission works; the zoning ordinance talks about the process. Westerlund suggested that it would be easier to amend the bylaws at a future date than to go through the process of an ordinance amendment.

Borden was directed by the Board to review the draft ordinance amendment and present a recommendation on the content. Borden indicated that he has sample bylaws that he will distribute to the Board for review.

**PLANNING BOARD MEMBER COMMENTS**

Freedman mentioned that there were a number of articles in the April 3, 2011 Free Press about the standing of the Michigan Medical Marijuana Law. She will provide an updated status on what has been going on in the Legislature at next month's meeting.

Abboud stated that he was recently appointed to the Senior Executive Council for Oakland County. He will not be able to attend an upcoming breakfast meeting with L. Brooks Patterson on May 23. He asked if a member of the Planning Board would be interested in attending in his place.

**ADMINISTRATION COMMENTS**

Wilson reported that there are five applications to fill the vacancy on the Planning Board. A subcommittee of Council will meet on Tuesday, May 3 to review the applications; Council will appoint an individual to the Board on that same night.

**PLANNING CONSULTANT COMMENTS**

Borden stated that Oakland County is sponsoring a Planning Basics Workshop at no cost on Tuesday, May 17. Brad Strader from LSL Planning will be one of the main speakers at this forum. Wilson asked that interested Board members contact the Village office to register for the session.

**PUBLIC COMMENTS**

None

Motion by Borowski, second by Ruprich, to adjourn the meeting at 9:27 p.m.

Motion passed (8 – 0).

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

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

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