

Present: Council: President Koss; President Pro-Tem Briggs; Members: Mercer, Mooney, Oen and Prew

Planning Board: Chairperson Jensen; Vice-Chair Ostrowski; Members: Abboud, Borowski, Freedman, Ruprich, Stempien, Wayne and Westerlund.

Absent: none

Also Present: Village Manager, Wilson
Assistant Manager, Marshall
Planning Consultant, Brad Strader

Chairman Jensen called the meeting to order at 7:30 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road. He welcomed members of Council to the joint meeting.

ADDITIONS TO AGENDA/APPROVE AGENDA

Motion by Freedman, second by Ostrowski, to approve the agenda as published.

Motion passed.

PUBLIC COMMENTS

None

TREE PROTECTION/PRESERVATION ORDINANCE

Ostrowski stated that it has come to the Board's attention during review of past projects that the Village lacks tree protection measures and a mechanism for requiring trees to be replaced as part of site development. The intent of a tree preservation ordinance is to restrict the removal of existing trees on a site while compelling the replacement of trees in some manner specified in the ordinance. The idea is not to punish or restrict development but to protect the natural resources of the Village. This concept is outlined in the Village Master Plan as a goal of the Village.

The scope of tree preservation ordinances varies across Southeastern Michigan. They most commonly affect larger developments and not individual single family lots. Ostrowski distributed a handout outlining ordinances from Auburn Hills and Bloomfield Township in order to illustrate differing approaches; both offer advantages and disadvantages.

Until there is a sufficient mechanism in place to require protection of the Village's natural resources, there is not much Beverly Hills can do prevent the loss of natural habitat and woodland areas. The Planning Board would like to hear if there is any interest from Council to pursue an ordinance.

Questions and comments on a possible tree preservation ordinance were addressed by Ostrowski. The concern was expressed that a tree preservation ordinance could restrict homeowners from removing trees from their property. It was suggested that an ordinance may be onerous and burdensome from a developer's point of view. The point was made that the Village would have to regulate itself if it regulated others, which would involve costs for removal of dead trees, etc.

There may be an ordinance that serves the needs of the Village. There was no opposition from Council to the Planning Board looking into a tree protection ordinance.

UPDATE ZONING ORDINANCES

Brad Strader from LSL Planning suggested that the Council and Planning Board select priority items rather than conduct a complete overhaul of the Zoning Ordinance at a time when budgets are tight. He noted that LSL Planning has developed a number of tree preservation ordinances. A tree ordinance was rewritten for Grosse Isle, a community that has similar issues to Beverly Hills. Strader proposed drafting a practical ordinance that would protect trees when there is a large wooded lot. LSL could compile various sample ordinances and provide pros and cons on different ways to proceed. The Planning Board should agree on its philosophy before writing an ordinance.

Strader listed other priority items in terms of ordinance updates. The Village's sign ordinance could be improved to be consistent with changes in case law relative to sign regulations at the federal and state level. Another ordinance in need of revision would tie into the Southfield Road corridor redevelopment and the goal of providing more green space. The Village's ordinance standards for parking are higher than what is commonly considered necessary and should be updated.

Woodlands, signs, and parking ordinances are three important areas to evaluate in the view of LSL Planning. Strader said that there is also a need to update the ordinance to be more flexible with uses allowed in zoning districts. Ordinances should be updated to comply with changes in State Law and case law.

Koss supported addressing ordinance revisions a few at a time on a priority basis. She thought that the fence ordinance warrants review.

Manager Wilson stated that the Zoning Board would like the ordinance regulating outside sales to be reviewed. The Board suggests adding language to the ordinance that would provide administrative discretion for approval of recurring outside sales that have been granted annually by the ZBA. The Zoning Board has also suggested that the Planning Board address weaknesses in the ordinance that regulate day care establishments. The ordinance should provide better definitions and be updated to conform with changes in State Law.

Strader agreed that Village ordinances should be updated to reflect changes in State Law relative to day care regulations as well as memberships and terms of office on planning commissions.

Council asked Strader to provide the Planning Board and Council with a memo outlining a work plan and costs for updating ordinances discussed at today's meeting. Strader said that he would provide the information and ask the Planning Board to prioritize the projects.

Jensen observed that there have been petitioners going to the Zoning Board of Appeals to have a variance granted in advance of coming to the Planning Board with a site plan. The Village charges only \$65 for an application to appear before the ZBA. Jensen expressed the view that the Zoning Board grants most of the cases that come before it regardless of whether the threshold is

met to prove a hardship. He suggested that Zoning Board members be provided with information on proven case law relative to hardships. Jensen mentioned that Taco Bell is building a larger structure and received a parking variance and a front setback variance from the Zoning Board of Appeals before the site plan was reviewed by the Planning Board.

Strader offered comments and suggestions in response to the concerns expressed by Jensen on the activity of the Zoning Board. Some communities require that a variance needed for new construction or major reconstruction first go to the Planning Board for review and comment and then to the Zoning Board. Strader said that new ZBA members could receive training at a meeting on how to interpret a hardship and practical difficulty. Another option is to look at the criteria for a variance and tweak the language to provide standards. The Village could also include stronger language on the application form to let applicants know what they will need to prove in terms of a practical difficulty or unnecessary hardship. Some communities have a higher fee for review of a commercial building than a residential building. Strader will add this to the memo and list of ordinance changes for Council and Planning Board review.

Wilson referred to the recent Detroit Country Day School case that ended up in a lawsuit because a site plan was approved that did not meet code. The Village took it on good faith that the petitioner would adhere to the decision of the Zoning Board of Appeals. The petitioner did not get the decision they wanted from the Zoning Board and took the Village to court.

Wilson related that he has been careful about sending site plans to the Planning Board that do not meet Village ordinances. There is probably room to look at the Village's entire process for site plan approval. In the Taco Bell example, the amount of parking that would have been required under the ordinance would allow them to construct a parking lot only. They did not have half the number of spaces that the ordinance required.

Strader stated that many communities wrestle with whether the Planning Commission or the ZBA comes first, and there is no set way to proceed. If developers know a variance is needed, they do not want to spend money to design a plan for submission to the Planning Board. Some communities allow the developer to provide a simple sketch plan to indicate what they generally plan to do and what it would take to meet the ordinance. In that way, the Planning Board has a chance to comment and even work out a site plan that may not need a variance. The downside is another meeting for the applicant. In most of the communities served by LSL Planning, it is the call of administration whether to send a project to the ZBA or to the Planning Board first.

Stempien, Mercer, Ruprich and Westerlund entered the meeting at 8:17 p.m.

MEDICAL MARIJUANA ACT

Freedman related that the Planning Board wanted to get out in front of the medical marijuana issue before an applicant applied a portion of our ordinance for a use that the Village does not condone. Board members heard divergent opinions from Village residents on the medical marijuana topic. One individual supported marijuana clubs but not home use. Another resident thought that people should use medical marijuana only in their own homes, and there should not be a public option.

The medical marijuana issue is made more difficult because the Oakland County Prosecutor interprets the law one way with no public options. In Washtenaw and Ingham Counties, there are public options with a number of marijuana clubs operating. Enforcement of the law is up to the prosecutors.

A judge reviewing the issue suggested that the law needed legislative help. Freedman distributed copies of Senate Bill No. 17, which was introduced on January 19, 2011 and referred to the Committee on Health Policy. Section (2) forecloses a person from knowingly allowing land or a structure to be used as a marijuana bar. This bill has just started working its way through the legislative process. Freedman supports the Village extending the moratorium until there is more clarity regarding how the Michigan Legislature is going to come out on this. This is what Village Attorney Ryan is suggesting in his February 8, 2011 memo to the Council and Planning Board.

Wilson was asked if anyone has come forward and asked for a permit or license to open a clinic in the Village. He responded that he was contacted via email by an individual; he referred the inquiry to the Village Attorney with the information that a moratorium is in place but that there is an appeal process. There has been no response to this inquiry to his knowledge.

SOUTHFIELD ROAD CORRIDOR

Westerlund stated that the Planning Board has been working on the Southfield Road corridor project for a couple of years. The Board is at a point where it has a direction to pursue and a rough outline to discuss with Council on how to proceed in the next year. Westerlund referred to the presentation by urban planner Robert Gibbs on the development of a town center in Beverly Hills. The concepts presented by Gibbs generated excitement about the potential and possibilities for revitalizing the Southfield Road Corridor. This was a vision, and the Planning Board has had a number of discussions on the plan.

The Board presented an overview of the last year and outlined the steps that would further develop the plan in the coming year. It is the goal of the Board to provide reports throughout the year to inform Council where it is at and what needs to be done. This is a huge undertaking that will not happen quickly. If the correct steps are taken now, redevelopment of the Southfield Road corridor will benefit the Village in the future.

Westerlund related that the Planning Board has been discussing Southfield Road itself and the potential for changing the configuration of the road. It is currently five lanes of traffic with a center turn lane. There is 45 mph traffic with sidewalks located close to the road. A few businesses front the sidewalk and others are set far back. The Planning Board discussed how it could effect changes along Southfield Road to provide more space between the businesses and the roadway. LSL Planning has prepared material outlining conceptual alternatives for Southfield Road.

Brad Strader presented an overview of the documents distributed to Council and Planning Board members. He commented on an aerial view of the Southfield Road corridor from 13 Mile Road to Lincoln that includes traffic counts at the intersections. Strader discussed conceptual road alternatives using three lanes with guidelines for each configuration based on average daily traffic. Taking Southfield Road down to three lanes would provide room to add more green space

or construct a slip lane shown on one of the drawings. He noted that it is difficult to make three lanes work with over 20,000 vehicles per day. It would not be easy to accomplish the three-lane models with the volumes on Southfield Road as high as they are. It would take some modeling and convincing to make the Road Commission comfortable with a new road configuration.

Strader stated that another alternative is the median option with two lanes on either side. This is what the Road Commission is proposing for Southfield Road coming up from the Lodge Freeway all the way to 13 Mile Road. The project has been planned for years with funding available this year to do the segment between 11 and 12 Miles. Strader related that Lathrup Village did a downtown plan a couple of years ago and is rethinking the median concept in lieu of on-street parking and fewer lanes. At present, Lathrup Village is negotiating with the Road Commission on which plan to use.

Strader stated that he talked to the planner for the Road Commission yesterday about the Village's concept for Southfield Road. His advice was to start planning now if the Village has a concept for Southfield Road. The Road Commission intends to work its way up Southfield Road and would be interested in the Village's plan for a design that would work in Beverly Hills.

The Road Commission staff will be scheduling a meeting with Village administration some time in the spring. The timing would be good if the Planning Board and Council could have some concepts or alternatives for Southfield Road ready to discuss with the Road Commission at that meeting. Strader volunteered to attend the meeting with the Road commission to help present what the Village is considering and to hear their concerns. He suggested inviting advocates of the corridor plan who could present compelling arguments for reducing the lanes on Southfield Road to add character to the Village, stimulate business, and make the area more viable for pedestrians.

In response to an inquiry, Strader commented on the impact of reducing the number of lanes on Southfield Road. Decreasing the width and number of lanes would slow speed down by 5-8 mph and reduce accidents. It would make pedestrian crossings easier. The idea is to calm the traffic and energize the commercial strip. Reducing the lanes would create a more attractive looking Southfield Road corridor. There followed a discussion on the traffic counts, their meaning, and how they would affect the design of Southfield Road.

Westerlund talked about how to bring new urbanism to Beverly Hills. He described the chaotic state of the commercial district and urged everyone to think about what can be done to revitalize property and business in this segment of Beverly Hills. The Village can provide an overlay plan that would entice owners or developers to come in and reorganize the Southfield Road business district in Beverly Hills and rebuild this area.

Stempien and Westerlund narrated a PowerPoint presentation that included photographs of urban developments in the country that represent possibilities for what could be applied to the redevelopment of the Southfield Road corridor. The presentation addressed the next steps, which would include creation of an overlay zoning plan. It was proposed to initiate a topic of discussion at every Planning Board meeting to document the pros and cons of various elements in order to formulate a plan for the future. The Planning Board will be discussing elements of a corridor

plan including corridor boundaries, roadway, circulation, parking, streetscape, signage, scale of development and building materials in an attempt to define what Beverly Hills is trying to achieve.

It is the goal of the Planning Board to take one step at a time but keep the momentum going this year. After further clarification on the direction of the corridor plan, the Planning Board will sit down with the planners, the public, and business owners to explain the proposal and the process. Council members voiced positive comments on the direction of the Planning Board.

PLANNING BOARD COMMENTS

None

ADMINISTRATION COMMENTS

None

PUBLIC COMMENTS

None

Motion by Oen, second by Westerlund, to adjourn the meeting at 9:32 p.m.

Motion passed.

**David Jensen, Chairperson
Planning Board**

**Rosanne Koss, President
Village Council**

**Ellen E. Marshall
Village Clerk**

**Susan Bernard
Recording Secretary**