NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION
SPECIAL LAND USE PERMIT AMENDMENT

Meeting Date, Time, Location:	Monday, April 13, 2015, 7:30 PM Municipal Building, 151 Martin Birmingham, MI
Location of Request:	Toast Birmingham 203 Pierce
Nature of Hearing:	To consider a Special Land Use Permit and Final Site Plan amendment to allow an outdoor dining platform.
City Staff Contact:	Jana Ecker 248.530.1841 jecker@bhamgov.org
Notice Requirements:	Mailed to all property owners and occupants within 300 feet of subject address. Publish March 22, 2015
Approved minutes may be reviewed at:	City Clerk's Office

Persons wishing to express their views may do so in person at the hearing or in writing addressed to City Clerk, City of Birmingham, 151 Martin, Birmingham, MI 48009.
Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at 248.530.1880 (voice) or 248.644.5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.

MEMORANDUM

Community Development Department

DATE: **March 9, 2015**

TO: **Joseph A. Valentine, City Manager**

FROM: **Jana L. Ecker, Planning Director**

SUBJECT: **Public Hearing for Final Site Plan & Special Land Use Permit Amendment at 203 Pierce – Toast Birmingham**

On May 14, 2014, the Planning Board conducted a public hearing to discuss a request by the applicant to add an outdoor dining platform in the two on-street parking spaces immediately adjacent to their storefront. The Planning Board voted 6-0 in favor of recommending the addition of the outdoor dining platform.

As required in the Zoning Ordinance, this request for a platform on the street was also reviewed by the Advisory Parking Committee on May 28, 2014, and was approved 6-0.

On July 14, 2014 the City Commission conducted a public hearing to consider the addition of the platform to the outdoor dining for the Toast Bistro. After a lengthy discussion, the City Commission took no action citing concerns about the available parking in the immediate area. It was suggested that the application be reconsidered after the City has had the opportunity to evaluate the current state of parking needs in the downtown. The Ad Hoc Parking Study Committee's findings were presented to the City Commission on March 16th, 2015.

Accordingly, at the instruction of the City Manager, the Planning Department is bringing this issue back to the City Commission for additional consideration. Please find attached the staff report presented to the Planning Board, along with the relevant meeting minutes for your review.

SUGGESTED ACTION:

To approve the Final Site Plan & Special Land Use Permit Amendment for 203 Pierce – Toast Birmingham, to allow the addition of an outdoor dining platform.

OR

To deny the Final Site Plan & Special Land Use Permit Amendment for 203 Pierce – Toast Birmingham.

TOAST RESTAURANT
203 PIERCE
SPECIAL LAND USE PERMIT AMENDMENT
2015

WHEREAS, Toast Restaurant filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a new restaurant as a bistro as defined in Article 9, section 9.02 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the east side of Pierce Street between W. Maple and Merrill;

WHEREAS, The land is zoned B-4, Business Residential, and is located within the Downtown Birmingham Overlay District, which permits bistros with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;

WHEREAS, The Planning Board on March 26, 2008 reviewed the application for Final Site Plan Review and a Special Land Use Permit and recommended approval with the following conditions:

1) The applicant maintain nighttime hours as presented this evening, Monday–Wednesday 7 a.m. – 9 p.m.; Thursday–Saturday 7 a.m. – midnight; Sunday 7 a.m. – 5 p.m.;
2) The applicant appear before the Historic District Commission for all building changes and signage;
3) The applicant execute a contract with the City of Birmingham for use of the right-of-way;
4) The applicant obtain an outdoor dining permit from the City of Birmingham for use of the right-of-way;
5) The applicant comply with all requests of City departments;
6) The applicant shall provide low-key entertainment as desired;
7) The color of the railing is black as presented;
8) The tables measure 24 in. x 28 in. as opposed to 28 in. x 28 in.;
9) The entry to the west patio access is at the north side of the enclosure, flipped from what is shown;
10) The seating be 65 seats, with no more than ten at the bar in accordance to the Ordinance.

WHEREAS, The Historic District Commission approved building changes and the proposed outdoor dining design and layout on May 7, 2008;

WHEREAS, The Advisory Parking Committee recommended on April 2, 2008, that the City Commission approve the request, contingent upon the applicant meeting all other relevant requirements;

WHEREAS, The applicant has complied with all other conditions for approval as recommended by the Planning Board on March 26, 2008;

WHEREAS, The Planning Board on May 14, 2014 reviewed the application for Revised Final Site Plan Review and a Special Land Use Permit to add an outdoor dining deck on Pierce Street and recommended approval with the following conditions:

(1) The applicant provide the required 5 ft. walk by adding an ADA compliant city standard tree grate to the tree well;
(2) The applicant add trash receptacles to both outdoor dining areas subject to administrative approval;
(3) The applicant provide appropriate details on the platform guardrail and handrails on the ramp to the platform to ensure compliance with the requirements of the Building Division;
(4) The applicant pay for the removal and re-installment of the parking meter where the outdoor dining platform is located;
(5) The applicant execute a revised contract with the City and obtain an outdoor dining permit; and
(6) The applicant is allowed to change the north table seating arrangement to a one table setup with administrative approval.

WHEREAS, The Advisory Parking Committee recommended on May 28, 2014 that the City Commission approve the request;

WHEREAS, The Birmingham City Commission has reviewed the Toast Restaurant Special Land Use Permit application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED,The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that Toast Restaurant's application for a Special Land Use Permit authorizing the operation of a bistro at 310 E. Maple in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;

BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit is granted subject to the following conditions:

1) The applicant maintain nighttime hours of Monday–Wednesday 7 a.m. – 9 p.m.; Thursday–Saturday 7 a.m. – midnight; Sunday 7 a.m. – 5 p.m.;
2) The applicant appear before the Historic District Commission for all building changes and signage;
3) The applicant execute a contract with the City of Birmingham for use of the right-of-way;
4) The applicant obtain an outdoor dining permit from the City of Birmingham for use of the right-of-way;
5) The applicant comply with all requests of City departments;

6) The applicant provide the required 5 ft. walk by adding an ADA compliant city standard tree grate to the tree well;
7) The applicant add trash receptacles to both outdoor dining areas subject to administrative approval;
8) The applicant provide appropriate details on the platform guardrail and handrails on the ramp to the platform to ensure compliance with the requirements of the Building Division;
9) The applicant pay for the removal and re-installment of the parking meter where the outdoor dining platform is located;
10) The applicant execute a revised contract with the City and obtain an outdoor dining permit; and
11) The applicant is allowed to change the north table seating arrangement to a one table setup with administrative approval.

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, Except as herein specifically provided, Toast Restaurant and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of Toast Restaurant to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

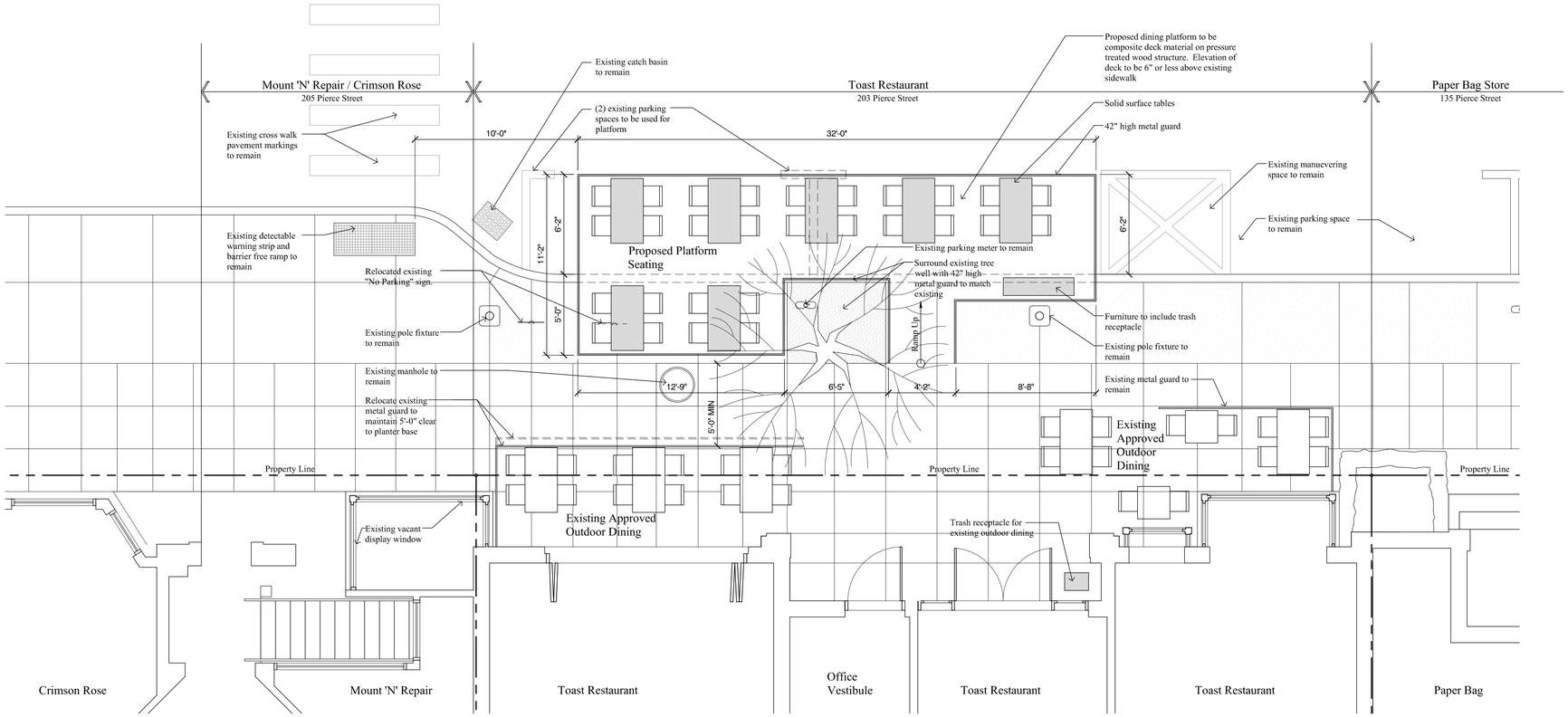
I, Laura Pierce, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on April 13, 2015.

_____

Laura Pierce, City Clerk

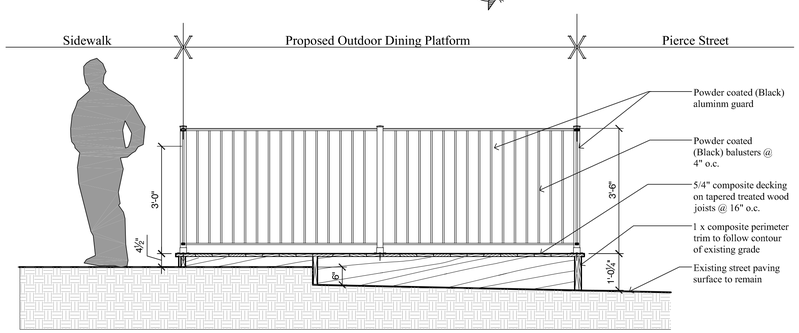
Toast

203 Pierce Street
Birmingham, MI 48009



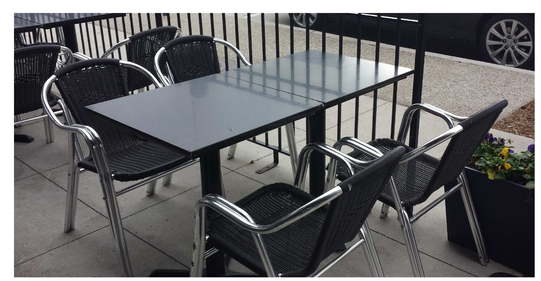
Plan

SCALE: 1/4" = 1'-0"



Section

SCALE: 1/2" = 1'-0"



Existing Outdoor Dining Sets

To be replicated at Proposed Dining Platform

Existing / Proposed Chair

Aluminum Wicker
Chair
Black
By Nesbit
Part #5050984091254

Proposed Outdoor Dining Platform

5.19.2014

CHRISTOPHER J. LONGE AIA
ARCHITECTURE
INTERIORS

124 Peabody, Birmingham, Michigan 48009 248.258.6940

MEMORANDUM

Community Development Department

DATE: **May 2, 2014**

TO: **Planning Board**

FROM: **Jana Ecker, Planning Director**

SUBJECT: **Report for Final Site Plan & Special Land Use Permit Amendment 203 Pierce – Toast Birmingham**

Executive Summary

The subject site is located at 203 Pierce, on the east side of Pierce between Maple and Martin Street. The parcel is zoned B-4, Business-Residential and D-4 in the Downtown Overlay District. The applicant, Toast Birmingham, obtained approval of a Bistro License under Chapter 10, Alcoholic Liquors, of the City Code in 2008.

At this time, the applicant is proposing to make minor design changes to the exterior of the building, and is seeking approval to add an outdoor dining platform in the two on-street parking spaces immediately adjacent to their storefront.

As design changes are also proposed to the exterior of the building, the applicant is required to obtain approval from the Historic District Commission (HDC). In addition, the applicant will be required to appear before the Advisory Parking Committee to review the use of the two on-street parking spaces along. As Toast operates under an existing SLUP, final approval of the City Commission will also be required.

1.0 Land Use and Zoning

1.1 Existing Land Use - The existing site is currently occupied by Toast restaurant. Land uses surrounding the site are retail, commercial and public property (municipal building).

1.2 Existing Zoning – The property is currently zoned B-4, Business-Residential, and D-4 in the Downtown Overlay District. The existing use and surrounding uses appear to conform to the permitted uses of each Zoning District.

1.3 Summary of Land Use and Zoning - The following chart summarizes existing land use and zoning adjacent to and/or in the vicinity of the subject site.

	North	South	East	West
Existing Land Use	Commercial / Retail	Commercial / Retail	Commercial / Retail	Commercial / Retail / Municipal Building
Existing Zoning District	B-4, Business-Residential	B-4, Business-Residential	B-4, Business-Residential	B-4, Business-Residential / PP – Public Property
Downtown Overlay Zoning District	D-4	D-4	D-4	D-4 and Community

2.0 Bistro Requirements

Article 9, section 9.02, Definitions, of the Zoning Ordinance defines a bistro as a restaurant with a full service kitchen with interior seating for no more than 65 people and additional seating for outdoor dining. Toast Birmingham was approved as a bistro in 2008. No changes are proposed at this time for the interior layout or operation of the approved bistro. The only change proposed to the bistro operation is to increase the amount of outdoor dining by adding an outdoor dining platform on Pierce Street.

Toast Birmingham bistro is now proposing a total of 52 seats for outdoor dining, with 28 on an elevated platform along Pierce, with the remaining 24 on the sidewalk directly adjacent to the south side of front elevation of the building. The 24 seats on the sidewalk are proposed to remain in their existing configuration.

The applicant is proposing to construct a temporary 11.16' by 32' platform of composite non-slip decking fastened with clips to provide a level outdoor dining surface on the sidewalk and into the street. The platform is proposed to extend into two parking spaces along Pierce Street. The platform will have a 4' wide access ramp to make it wheelchair accessible. The platform will be installed on a pressure-treated lumber sub-frame. The existing drainage along the curb will be maintained by cutting an opening in the wood sleeper at each member perpendicular to the curb. The applicant is also proposing a 3' high custom-made metal fencing system to enclose the outdoor dining space. This enclosure will be attached to the temporary platform and sub-frame.

3.0 Screening and Landscaping

3.1 Screening – No screening is required, nor proposed.

3.2 Landscaping – No landscaping is proposed for the outdoor café. One existing street tree is located in the right-of-way in front of the building, which is proposed to be incorporated into the design of the platform.

4.0 Parking, Loading, Access, and Circulation

4.1 Parking – As the subject site is located within the Parking Assessment District, the applicant is not required to provide on-site parking. The proposed outdoor dining area will extend into two on-street parking spaces along Pierce.

4.2 Loading - Loading spaces are not required, nor proposed.

4.3 Vehicular Access & Circulation - Vehicular access to the building will not be altered.

4.4 Pedestrian Access & Circulation – Pedestrian access to the outdoor café is available directly from the City sidewalk. Under the 2016 Plan, outdoor cafes are encouraged as they create a more pedestrian friendly environment. All outdoor dining areas must maintain a 5 foot minimum width of unobstructed pedestrian access along the storefront in the public right-of-way, however as mentioned above, the Planning Board has determined that each applicant would be reviewed on a case by case basis to determine the existing pedestrian traffic flow. The proposed layout does provide for outdoor seating along the storefront, as well as on a platform extending into two parking spaces along Pierce as recommended in the 2016 Plan. **The required 5' pedestrian path has been provided along the sidewalk except in the area of the existing tree well. The applicant will be required to provide the required 5' walk by removing tables or adding an ADA compliant tree grate to the tree well.**

4.5 Streetscape – The existing sidewalk was built to the Downtown Birmingham Streetscape Standards when Pierce Street was reconstructed several years ago. At that time, a pedestrian bump out was also added along the east side of Pierce just south of the proposed outdoor dining platform. One street tree and tree well is located along Pierce Street in front of the proposed restaurant. One street light and one double head parking meter are located to the east of the proposed platform. The applicant will be required to pay for the use of that parking space during the outdoor dining season – April through November. The applicant is not proposing to alter the existing sidewalk, street trees, or light poles. No trash receptacles are proposed in the outdoor dining areas. **Both outdoor dining areas are required to provide trash receptacles within them.** The platform is proposed to be enclosed with a 3' high powder coated aluminum railing to match the existing railings used to enclose the sidewalk seating. The applicant is proposing to bolt the railing around the outdoor dining platform into the subframe of the elevated platform.

5.0 Lighting

One street light is located at the north end of the proposed platform, and will be maintained. In addition, existing façade lights are proposed to remain in their locations, flanking either side of the recessed entry way in the middle of the building. No other lighting is proposed.

6.0 Departmental Reports

6.1 Engineering Division –In accordance with the Commission resolution passed December 10, 2007, since parking spaces are proposed to be taken out of service for this proposal, the applicant must also submit plans of the dining deck for review by the Advisory Parking Committee. Ten sets of plans containing just the deck can be submitted to Paul O'Meara immediately for discussion at the May meeting of the Advisory Parking Committee.

6.2 Department of Public Services – No concerns were reported from DPS.

6.3 Fire Department – No concerns were reported from the Fire Dept.

6.4 Police Department - No concerns were reported from the Police Dept.

6.5 Building Department - The Building Department provided their standard comments in addition to the following:

1. Need a detail of the proposed guardrail to review.
2. Handrails required on the ramp

7.0 Design Review

All exterior design changes and proposed signage must also be approved by the Historic District Commission. No changes are proposed to the front elevation of the building at this time.

No work is proposed on the rear (alley) elevation of the building at this time. **The Planning Board may wish to improve the rear elevation of the restaurant as it fronts on the alley in accordance with the Activating Urban Spaces Plan. Vertical landscaping on the rear elevation or paint and awning details could be added to enhance the via façade.**

Outdoor Dining Area

Outdoor cafes must comply with the site plan criteria as required by Article 04, Section 4.42 OD-01, Outdoor Dining Standards. Outdoor cafes are permitted immediately adjacent to the principal use and are subject to site plan review and the following conditions:

1. Outdoor dining areas shall provide and service refuse containers within the outdoor dining area and maintain the area in good order.
2. All outdoor activity must cease at the close of business, or as noted in Subsection 3 below, whichever is earlier.
3. When an outdoor dining area is immediately adjacent to any single-family or multiple-family residential district, all outdoor activity must cease at the close of business or 12:00 a.m., whichever is earlier.
4. All tables and chairs provided in the outdoor dining area shall be constructed primarily of metal, wood, or material of comparable quality.
5. Table umbrellas shall be considered under Site Plan Review and shall not impede sight lines into a retail establishment, pedestrian flow in the outdoor dining area, or pedestrian or vehicular traffic flow outside the outdoor dining area.
6. For outdoor dining located in the public right-of-way:
   (a) All such uses shall be subject to a license from the city, upon forms provided by the Community Development Department, contingent on compliance with all city codes, including any conditions required by the Planning Board in conjunction with Site Plan approval.
   (b) In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 5 feet.
   (c) An elevated, ADA compliant, enclosed platform may be erected on the street adjacent to an eating establishment to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.
   (d) No such facility shall erect or install permanent fixtures in the public right-of-way.
   (e) Commercial General Liability Insurance must be procured and maintained on an "occurrence basis" with limits of liability not less than $1,000,000 per occurrence combined single limit, personal injury, bodily injury and property damage. This coverage shall include an endorsement naming the city, including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members, as an additional insured. This coverage must be primary and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance, and shall include an endorsement providing for a thirty (30) day advance written notice of cancellation or non-renewal to be sent to the city's Director of Finance.

The applicant is proposing to add a new outdoor dining platform in front of the building, along Pierce Street, in addition to the existing sidewalk dining area along the face of the building. Both outdoor dining areas are proposed to be enclosed with 3' powder coated aluminum railings painted black. **A 5' pedestrian pathway, which is required, has been provided along the sidewalk except in the area of the existing tree well. The applicant will be required to provide the required 5' walk by removing tables or adding an ADA compliant tree grate to the tree well.**

The applicant has not provided any trash receptacles within the outdoor dining areas as required by Article 04, section 4.42 OD-01 of the Zoning Ordinance. The applicant intends to have business hours of 7 a.m. to 11:00 p.m. for the outdoor dining areas Monday through Saturday, and to close the outdoor dining at 4:00pm on Sundays. The proposed outdoor cafés are not immediately adjacent to any single-family zoned property.

The applicant has provided drawings and photos of the proposed tables and chairs, which will match the existing outdoor dining furniture. The applicant is proposing a total of 26 black solid surface tables, 28" square with tubular steel legs. Twelve tables and 24 chairs are proposed directly adjacent to the storefront; 14 tables and 28 chairs are proposed on the outdoor dining platform. All of the proposed chairs are aluminum bistro indoor/outdoor arm chairs composed of aluminum and wicker. The color of the tabletops and wicker on chairs is proposed to be black.

No umbrellas are proposed at this time.

The applicant will be required to enter into a revised license agreement with the City for use of the public right-of-way, and to provide the required insurance. Liquor liability insurance will also be required for the service of liquor in the right-of-way.

Signage

No signage changes are proposed at this time.

8.0 Downtown Birmingham 2016 Overlay District

The site is located within the D-4 zone of the DB 2016 Regulating Plan, within the Downtown Birmingham Overlay District. Specifically, the 2016 Plan recommends the addition of outdoor dining areas in the public right-of-way as it is in the public's best interest as it enhances street life, thus promoting a pedestrian friendly environment. The 2016 Plan also recommends that the 5' clear pedestrian passage be provided against the storefronts to ensure that merchants can display and sell their products and so as not to distort the flow of pedestrians. **The applicant's proposal to provide an outdoor dining area adjacent to the storefront is not consistent with the recommendations contained in the 2016 Plan, but the Planning Board has determined to review each proposal on a case by case basis and to base decisions on how current pedestrian traffic flows.** The outdoor dining area as proposed which extends into a Pierce Street is designed exactly as recommended in the 2016 Plan.

The outdoor dining area as proposed does not provide for safe and efficient pedestrian flow as a continuous 5' wide pathway is not proposed between the platform and the seating located against the building. The 2016 Plan recommends that this pedestrian way be immediately adjacent to the storefront to allow pedestrians to see into the storefront and to have a consistent and unobstructed walkway. However, the Planning Board has discussed where the location of the

pathway should be located (next to the building or closer to the street) and have chosen to review each proposal individually to determine the most logical location based on the current flow of pedestrians.

9.0 Approval Criteria for Final Site Plan

In accordance with Article 7, section 7.27 of the Zoning Ordinance, the proposed plans for development must meet the following conditions:

(1) The location, size and height of the building, walls and fences shall be such that there is adequate landscaped open space so as to provide light, air and access to the persons occupying the structure.

(2) The location, size and height of the building, walls and fences shall be such that there will be no interference with adequate light, air and access to adjacent lands and buildings.

(3) The location, size and height of the building, walls and fences shall be such that they will not hinder the reasonable development of adjoining property not diminish the value thereof.

(4) The site plan, and its relation to streets, driveways and sidewalks, shall be such as to not interfere with or be hazardous to vehicular and pedestrian traffic.

(5) The proposed development will be compatible with other uses and buildings in the neighborhood and will not be contrary to the spirit and purpose of this chapter.

(6) The location, shape and size of required landscaped open space is such as to provide adequate open space for the benefit of the inhabitants of the building and the surrounding neighborhood.

10.0 Approval Criteria for Special Land Use Permits

Article 07, section 7.34 of the Zoning Ordinance specifies the procedures and approval criteria for Special Land Use Permits. Use approval, site plan approval, and design review are the responsibilities of the City Commission. This section reads, in part:

> Prior to its consideration of a special land use application (SLUP) for an initial permit or an amendment to a permit, the **City Commission shall refer the site plan and the design to the Planning Board for its review and recommendation. After receiving the recommendation, the City Commission shall review the site plan and design of the buildings and uses proposed** for the site described in the application of amendment.
>
> The City Commission's approval of any special land use application or amendment pursuant to this section shall constitute approval of the site plan and design.

11.0 Suggested Action

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board APPROVE the applicant's request for Final Site Plan and a SLUP to permit a Bistro License for Toast Birmingham restaurant at 203 Pierce Street with the following conditions:

(1) The applicant provide the required 5' walk by removing tables or adding an ADA compliant tree grate to the tree well;
(2) The applicant add trash receptacles to both outdoor dining areas;
(3) The applicant provide appropriate details on the platform guardrail and handrails on the ramp to the platform to ensure compliance with the requirements of the Building Division;
(4) The applicant pay for the removal and re-installment of the parking meter where the outdoor dining platform is located;
(5) The applicant execute a revised contract with the City and obtain an outdoor dining permit.

12.0 Sample Motion Language

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board APPROVE the applicant's request for Final Site Plan and a SLUP to permit a Bistro License for Toast Birmingham restaurant at 203 Pierce Street with the following conditions:

(1) The applicant provide the required 5' walk by removing tables or adding an ADA compliant tree grate to the tree well;
(2) The applicant add trash receptacles to both outdoor dining areas;
(3) The applicant provide appropriate details on the platform guardrail and handrails on the ramp to the platform to ensure compliance with the requirements of the Building Division;
(4) The applicant pay for the removal and re-installment of the parking meter where the outdoor dining platform is located;
(5) The applicant execute a revised contract with the City and obtain an outdoor dining permit.

OR

Motion to recommend DENIAL of the Final Site Plan and SLUP to the City Commission for 203 Pierce Street, Toast Birmingham for the following reasons:

1. _____
2. _____
3. _____
4. _____
5. _____

OR

Motion to recommend POSTPONE of the Final Site Plan and SLUP to the City Commission for 203 Pierce Street, Toast Birmingham, with the following conditions:

Planning Board Minutes
March 26, 2008

SPECIAL LAND USE PERMIT ("SLUP")
203 Pierce St.
Toast Birmingham bistro, request for Bistro License, New Establishment

FINAL SITE PLAN REVIEW
203 Pierce St.
Toast Birmingham bistro, request for Bistro License, New Establishment

Ms. Robinson advised that the subject site is located on the east side of Pierce St. between Maple Rd. and Martin St. The parcel is zoned B-4 Business-Residential and D-4 in the Downtown Overlay District. The applicant, a new restaurant, is seeking approval of a Bistro License under Chapter 10, Alcoholic Liquors, of the City Code. Chapter 10 requires that the applicant obtain a SLUP and approval from the City Commission to operate an establishment with a Bistro License within the City. Bistro requirements allow two new bistros in the calendar year 2008. Accordingly, the applicant will be required to receive a recommendation from the Planning Board on the Final Site Plan and SLUP, and then obtain approval from the City Commission for the final site plan, SLUP, and for the operation of a Bistro License.

As the applicant is also proposing signage and changes to the exterior of the building, and because the building is located within the CBD Historic District, approval from the Historic District Commission ("HDC") is also required.

In accordance with the Commission resolution passed December 10, 2007, since parking spaces are being taken out of service for this proposal, the applicant must also submit plans of the dining deck for review by the Advisory Parking Committee ("APC").

Toast Birmingham is proposing to have 9 seats in the 174 sq. ft. bar area. Toast Birmingham bistro does not propose any dancing area, but they wish to have low key musical entertainment. They also propose to have tables located in the storefront space lining Pierce St., and to provide the existing 70 percent glazing along the front façade. They propose to install a new canvas black awning over the café, directly against the building.

Toast Birmingham is also proposing 26 seats for outdoor dining, with 18 on an elevated platform along Pierce St., and 8 seats on the sidewalk directly adjacent to the south side of the front elevation of the building. A 5 ft. clear passage will be maintained along the public sidewalk. They propose to construct a temporary 12 ft. 5 ½ in. by 20 ft. platform of composite non-slip decking fastened with clips to provide a level outdoor dining surface on the sidewalk and into the street. The platform is proposed to extend 7 ft. into one parking space along Pierce St. The applicant is also proposing a 3.5 ft. high custom-made metal fencing system to enclose the outdoor dining space.

At the recommendation of the Planning Division, the restaurant will maintain hours that extend into the evening. Mr. Thom Bloom said Birmingham Toast hours will be Monday–Wednesday 7 a.m. – 9 p.m.; Thursday–Saturday 7 a.m. – midnight; Sunday 7 a.m. – 5 p.m.

Mr. Drew Norton was present to represent Toast Birmingham. With him were Thom and Regan Bloom, the business owners; Mr. Jason Kregar, the architect; along with the head chef, Rubin Griffin. Mr. Norton indicated the applicant has satisfied or is prepared to satisfy all of the conditions raised by the Planning Division.

Mr. Bloom discussed some of the special events they may want to have in the evening, such as wine tastings for charitable events, guest chef cooking classes, and art gallery showing/openings with local artists. On the weekends there could be a Bloody Mary and Belini/Mimosa bar. The front section can be closed off as a private dining area for larger parties while they are operating the restaurant. Lastly, they manage quite a robust catering business out of their establishment for upscale corporate events. They request that on occasion there be some light entertainment such as a violin or a harp in the background, but nothing loud. If they are given the opportunity to have a bistro license Mr. Bloom feels it will be a benefit to the City, the patrons, and the community, as well as something they would very much enjoy.

He distributed a final draft of the dinner menu and a summary on the history of Toast. They have been in business in Ferndale for seven years. Due to the success of their Ferndale, location they are very confident that they will provide a very unique and lively establishment in Birmingham with some additional offerings.

Mr. Kregar clarified that the bistro tables measure 28 in. x 24 in. The restaurant seating will be adjusted to accommodate 65 people.

Mr. Nickita noted the board has not done this sort of dual outdoor enclosure in the past. His issue was congestion on the sidewalk. He suggested moving the entrance to the small dining area along the building to the north side, and flipping the outer platform 180 degrees in order to have the ramp access near the door.

Mr. Blaesing indicated he is extremely pleased after looking at the presentation. This is the kind of establishment that the board was hoping to get, right in the middle of town, and run by proprietors who have been successful with another establishment. The more synergy that occurs with the restaurants, the art community, shopping, and the office crowd, the better the whole downtown will work. He is concerned about having the dual outdoor dining areas because he feels that when a pedestrian walks up and sees tables on both sides of the sidewalk the pedestrian may be intimidated and shy away. Mr. Blaesing is reluctant to approve with dining on both sides of the sidewalk, because he thinks it takes up too much of the public space and sets a precedent for other applicants to come in with seating on both sides and further constrict sidewalk width and functionality. His view is that the board should approve outside dining on one side or the other, see how it goes for a year, and if they think it is going to work, the applicant can come back next year and get seating on the other side. Once the seating is in, however, it is not easy to take it out.

Mr. Nickita noted that to the north there is an existing stone planter that protrudes from the building frontage almost the exact same distance as this dining area. So, the planter has already established the pedestrian path away from the building. Therefore, in this condition he is absolutely comfortable with the two dining areas. Walking between tables makes for a very

interesting urban experience and he doesn't think people would be intimidated. Ms. Lazar noted the dining areas are enclosed by a railing.

Chairman Boyle said that if it is determined that outdoor dining on both sides of the sidewalk is not working out, it is not beyond the realm of common sense to remove the seating next to the building. There is the opportunity to be flexible.

Mr. Nickita observed the board has set a bit of a precedent as to the construction of platforms. Mr. Bloom said they have looked at designs that have been approved and designed their platform to those exact specs. The railings will be painted black.

No members of the public came forward to comment at 8:20 p.m.

Motion by Mr. Nickita
Seconded by Ms. Whipple-Boyce to approve the applicant's request for Final Site Plan and a SLUP to permit a Bistro License for Toast Birmingham restaurant at 203 Pierce with the following conditions:

1) **The applicant maintain nighttime hours as presented this evening, Monday–Wednesday 7 a.m. – 9 p.m.; Thursday–Saturday 7 a.m. – midnight; Sunday 7 a.m. – 5 p.m.;**
2) **The applicant pay for the removal and re-installment of the parking meter where the outdoor dining platform is located;**
3) **The applicant appear before the Historic District Commission for all building changes and signage;**
4) **The applicant execute a contract with the City of Birmingham for use of the right-of-way;**
5) **The applicant obtain an outdoor dining permit from the City of Birmingham for use of the right-of-way;**
6) **The applicant comply with all requests of City departments;**
7) **The applicant shall provide low-key entertainment as desired;**
8) **The color of the railing is black as presented;**
9) **The tables measure 24 in. x 28 in. as opposed to 28 in. x 28 in.;**
10) **The entry to the east outdoor seating area is at the north side of the enclosure and the west patio access is at the north side of the enclosure, flipped from what is shown;**
11) **The seating be 65 seats, with no more than ten at the bar in accordance to the Ordinance.**

There was no discussion from the audience at 8:30 p.m.

Motion carried, 4-1.

05-165-08 PUBLIC HEARING – SPECIAL LAND USE PERMIT (SLUP) TOAST RESTAURANT, 203 PIERCE

(SLUP) - TOAST RESTAURANT

The mayor opened the continued Public Hearing at 9:45 p.m.

The commission discussed the platform being proposed in addition to the sidewalk seating for outdoor dining.

Thomas Bloom, Toast, explained some of the events that would take place at this location including wine tasting and cooking classes. Mr. Bloom stated he would prefer to have the outdoor dining on the platform instead of the sidewalk if he had to choose.

The mayor closed the public hearing at 10:05 p.m.

MOTION: Motion by McDaniel, seconded by Rinschler:
To approve the Final Site Plan and Design and a Special Land Use Permit for 203 Pierce, Toast Restaurant, pursuant to Article 7, Section 7.34, Zoning, of the Birmingham City Code in accordance with the recommendation of the Planning Board on March 26, 2008; and, allowing Toast Restaurant, a new food establishment in Birmingham, to obtain a liquor license with an outdoor dining and entertainment endorsement for the operation of a bistro above all others pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, and authorizing the City Clerk to complete and execute the license agreement with Toast Restaurant,

VOTE:
Yeas, 3
Nays, 4 (Carney, Dilgard, Hoff, Sherman)
Absent, None

MOTION: Motion by Rinschler, seconded by McDaniel:
To approve the Final Site Plan and Design and a Special Land Use Permit for 203 Pierce, Toast Restaurant, pursuant to Article 7, Section 7.34, Zoning, of the Birmingham City Code in accordance with the recommendation of the Planning Board on March 26, 2008; and, allowing Toast Restaurant, a new food establishment in Birmingham, to obtain a liquor license with an outdoor dining and entertainment endorsement for the operation of a bistro above all others pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, and authorizing the City Clerk to complete and execute the license agreement with Toast Restaurant, with the exception that the outdoor dining areas on the sidewalk adjacent to the building be eliminated.

VOTE:
Yeas, 3
Nays, 4 (Carney, Dilgard, Hoff, Sherman)
Absent, None

MOTION: Motion by Moore, seconded by Rinschler:

To approve the Final Site Plan and Design and a Special Land Use Permit for 203 Pierce, Toast Restaurant, pursuant to Article 7, Section 7.34, Zoning, of the Birmingham City Code in accordance with the recommendation of the Planning Board on March 26, 2008;

and, allowing Toast Restaurant, a new food establishment in Birmingham, to obtain a liquor license with an outdoor dining and entertainment endorsement for the operation of a bistro above all others pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, and authorizing the City Clerk to complete and execute the license agreement with Toast Restaurant; eliminating the platform for outdoor dining, allowing outdoor dining on the sidewalk adjacent to the building, revisiting the site in one year to see if the platform is advisable at that time, and allowing administrative approval for the reconfiguration of seating adjacent to the building to allow more seating.

VOTE:
Yeas, 7
Nays, None
Absent, None

Planning Board Minutes
May 14, 2014

SPECIAL LAND USE PERMIT
FINAL SITE PLAN REVIEW
203 Pierce St.
Toast Bistro
Request for outdoor dining platform

Bistro Requirements
Ms. Ecker offered background. The subject site is located at 203 Pierce St., on the east side of Pierce between Maple Rd. and Martin St. The parcel is zoned B-4, Business-Residential and D-4 in the Downtown Overlay District. The applicant, Toast Birmingham, obtained approval of a Bistro License under Chapter 10, Alcoholic Liquors, of the City Code in 2008.

At this time, the applicant is proposing to make minor design changes to the exterior of the building, and is seeking approval to add an outdoor dining platform in the two on-street parking spaces immediately adjacent to their storefront.

As design changes are also proposed to the exterior of the building, the applicant is required to obtain approval from the Historic District Commission ("HDC"). In addition, the applicant will be required to appear before the Advisory Parking Committee ("APC") to review the use of the two on-street parking spaces along Pierce St. As Toast operates under an existing SLUP, final approval of the City Commission will also be required.

Toast Birmingham bistro is now proposing a total of 52 seats for outdoor dining, with 28 on an elevated platform along Pierce St., and the remaining 24 on the sidewalk directly adjacent to the south side of the front elevation of the building. The 24 seats on the sidewalk along the storefront are to remain in their existing configuration.

The applicant is proposing to construct a temporary 11.16 ft. by 32 ft. platform of composite non-slip decking to provide a level outdoor dining surface on the sidewalk and into the street. The platform is proposed to extend into two parking spaces along Pierce St. The applicant is also proposing a 3 ft. high custom-made metal fencing system to enclose the outdoor dining space.

The required 5 ft. pedestrian path has been provided along the sidewalk except in the area of the existing tree well. The applicant will be required to provide the required 5 ft. walk by removing tables or adding an ADA compliant tree grate to the tree well.

Design Review
No changes are proposed to the front elevation of the building and no work is proposed on the rear (alley) elevation of the building at this time.

The Planning Board may wish to improve the rear elevation of the restaurant as it fronts on the alley in accordance with the Activating Urban Spaces Plan. Vertical landscaping on the rear elevation or paint and awning details could be added to enhance the via façade.

Discussion disclosed that the number of outdoor dining patrons does not apply to the calculation for restroom facilities.

Mr. Thomas Bloom, the proprietor of Toast, was present with his partner, Mr. Scott Myrick and Mr. Chris Enright, the architect. Mr. Bloom believed they had 5 ft. existing to the tree well. However, they are willing to make adjustments if needed. They plan just one high-top table on the right side of the sidewalk in place of the existing. They have never had complaints about their restroom facilities. They have removed their dumpster from the alley and now use City owned trash compactors. They don't own the building, but they can encourage the landlord to paint.

At 8 p.m. the chairman asked for comments from members of the audience.

Mr. Stuart Jeffries, 1381 Birmingham, said that Toast always goes above and beyond for the community. There seem to be enough bathrooms whenever he is there.

Ms. Whipple-Boyce thought maybe Code Enforcement should take a look at the extent of the peeling paint. Also, she would like to see the tree grate even if they have a continuous 5 ft. of clear right-of-way.

Motion by Ms. Whipple-Boyce
Seconded by Mr. DeWeese that the Planning Board approve the applicant's request for Final Site Plan and a SLUP to permit a Bistro License for Toast Birmingham restaurant at 203 Pierce St. with the following conditions:

(1) The applicant provide the required 5 ft. walk by adding an ADA compliant city standard tree grate to the tree well;
(2) The applicant add trash receptacles to both outdoor dining areas subject to administrative approval;
(3) The applicant provide appropriate details on the platform guardrail and handrails on the ramp to the platform to ensure compliance with the requirements of the Building Division;
(4) The applicant pay for the removal and re-installment of the parking meter where the outdoor dining platform is located;
(5) The applicant execute a revised contract with the City and obtain an outdoor dining permit; and
(6) The applicant is allowed to change the north table seating arrangement to a one table setup with administrative approval.

There were no comments on the motion from the audience at 8:10 p.m.

Motion carried, 6-0.

VOICE VOTE
Yeas: Whipple-Boyce, DeWeese, Boyle, Clein, Koseck, Williams
Nays: None
Absent: Lazar

07-166-14 PUBLIC HEARING – SPECIAL LAND USE PERMIT TOAST BIRMINGHAM, 203 PIERCE

Mayor Moore opened the Public Hearing to consider a Special Land Use Permit Amendment for Toast Birmingham, 203 Pierce at 7:49 PM.

Planner Ecker explained the request from Toast Birmingham to add an outdoor dining platform. She noted that the platform would require the use of two on-street parking spaces and one parking meter would have to be removed. The platform would add an additional twenty-eight seats.

Commissioner Dilgard expressed concern with taking away two parking spaces with the current parking situation.
Commissioner Hoff pointed out that a letter was received from Leslie Rogers, 180 Pierce, opposed to the proposed platform.

Ms. Ecker confirmed for Commissioner Hoff that the ordinance does not restrict outdoor dining to the sidewalk or a platform. Commissioner Hoff expressed concern with eliminating two parking spaces on Pierce due to the parking issue. She expressed concern with increasing the size of the bistros as it was not the intent of the bistro ordinance.

Commissioner Rinschler agreed that parking is a serious issue, but noted that other platforms have been approved on Pierce. Commissioner Nickita pointed out that Martin Street has been rebuilt since the previous request by Toast to add a platform.

Mayor Pro Tem Sherman pointed out that taking away parking spaces sends a double message with the appearance of a parking issue. Commissioner McDaniel agreed that the timing of the request is wrong and noted that he does not have a problem with the proposed size of the platform.

Chris Longe, representing Toast Birmingham, acknowledged the parking deficit and noted that not allowing the platform on two spaces will not make a significant impact on the deficit.

Dorothy Conrad suggested postponing the decision as a platform removes parking in the day and evening.

Cheryl Daskas, Tender, expressed opposition to the platform and commented that there is a parking crisis.

The Mayor closed the Public Hearing at 8:18 PM.
The Commission took no action.

03-47-15 AD HOC PARKING STUDY COMMITTEE FINAL REPORT AND RECOMMENDATIONS

City Engineer O'Meara explained that in 2013 the City noticed that parking demand was exceeding capacity in all five of the structures. The Ad Hoc Parking Study Committee was formed to study the current and future parking environments for the Central Business District and the Triangle District and to make recommendations for future parking improvements if needed. He discussed the seasonal parking trends of the parking structures and the short and long term parking development projections.

The Commission commended the Committee on its work. Commissioner Nickita stated that one of the issues is to recognize the existing conditions and align them with the overall master plan goals. Mayor Sherman noted that the recommendation is to create a second committee to develop an implementation strategy.

Mayor Pro Tem Hoff noted that the motion does not mention the Pierce Street area. Mr. O'Meara explained that staff felt that, in order to move forward, the North Old Woodward property has the most opportunity for further discussion. The Pierce Street Structure only involves whether or not two floors are added. He explained that the first resolution includes a review of the entire Central Business District which would include the Pierce Street Structure.

Mr. Valentine confirmed for Commissioner Nickita that a formal resolution will be brought to the Commission with the specific criteria establishing the steering committee and their specific charge.

Mayor Sherman suggested the committee be comprised of only two Commissioners and one resident who is not involved in any other board with a background in finance and an interest in the downtown.

MOTION: Motion by Rinschler, seconded by Nickita:

To accept the findings of the Ad Hoc Parking Study Committee estimating that a deficit of 278 parking spaces is expected in the long term for the north portion of the Central Business District, and a deficit of 427 parking spaces is expected in the long term for the south portion of the Central Business District, and directing staff to have a full topographic and boundary survey of the existing conditions of the N. Old Woodward Ave. property prepared to assist with all future plan preparation, and further, to direct staff to provide for the creation of an ad hoc steering committee to:

1. Consider the parking system's overall parking demands and prioritize the projects to finalize the Parking System's expansion plan for the Central Business District.
2. Determine the parameters of an expansion at the N. Old Woodward Ave. Parking Structure site that will provide an appropriate number of parking spaces, an extension of Bates St., provide additional development opportunities and provide interaction with the adjacent City park land to the north in accordance with the Downtown Birmingham 2016 report and the Rouge River Trail Corridor Master Plans.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Dilgard)

MOTION: Motion by Nickita, seconded by McDaniel:

To accept the findings of the Ad Hoc Parking Study Committee that a parking facility of approximately 400 parking spaces in the long term is recommended to serve the north portion of the Triangle District, and a parking facility of approximately 600 to 700 parking spaces in the long term is recommended to serve the south portion of the Triangle District, and directing staff to pursue opportunities in the district for consideration, and further endorsing the recommendation that the parking assessment district for the Triangle District, once created, be extended north of Maple Rd. to include all commercial properties from Woodward Ave. to Adams Rd.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Dilgard)