MEMORANDUM

Community Development Department

DATE: **August 27, 2015**

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

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

SUBJECT: **Set Public Hearing for Revised Final Site Plan & Special Land Use Permit Amendment at 735 Forest Avenue – Forest Avenue Grill**

The Forest Grill is located on the ground floor of an existing three-story building located on the northwest corner of Forest Ave. and Elm St. The applicant is seeking approval for a Revised Final Site Plan and a SLUP Amendment for the existing establishment, Forest Grill to allow interior and exterior changes to accommodate a change in ownership and in the concept for the existing bistro. Accordingly, the applicant is required to obtain a recommendation from the Planning Board and then approval from the City Commission for the Final Site Plan and SLUP. In addition, the applicant will be required to submit a liquor license transfer application to the City to complete the change in ownership. As of this writing no formal request for ownership transfer has been received.

On July 22, 2015, the Planning Board conducted a public hearing to discuss a request by the applicant for a Revised Final Site Plan and Special Land Use Permit (SLUP) Amendment to allow interior and exterior modifications to an existing bistro serving alcoholic liquors to accommodate a change in ownership and in the concept of the existing bistro. The major changes to the approved site and use are the replacement of windows with a retractable glass wall, minor design changes to the interior and the addition of two new signs. After much discussion, the Planning Board voted to recommend approval of the Revised Final Site Plan and Special Land Use Permit Amendment for Forest Grill located at 735 Forest Ave. to the City Commission with the following conditions:

1) The applicant comply with the requirements of Article 04, Section 4.41 OD-01 of the Zoning Ordinance as they relate to licensing and insurance requirements for the use of the public right-of-way;
2) The applicant provide street lights and hanging planters required by the Triangle Overlay District and submit for administrative approval or obtain a variance from the Board of Zoning Appeals;
3) A fully executed contract must be signed with the applicant and the City of Birmingham outlining the details of the operation of the bistro; and
4) Prior to appearing before the City Commission the applicant provide artwork or another design element to address the recessed brick panel of the wall in the former window opening on the east elevation; and

5) Applicant verify that the type of glass proposed for the NANA wall will match the existing glazing and conform to the District standards.

Thus, the Planning Division requests that the City Commission set a public hearing date for **October 12, 2015** to consider approval of the Revised Final Site Plan and Special Land Use Permit Amendment for Forest Grill. Please find attached the staff report presented to the Planning Board, along with the relevant meeting minutes for your review.

SUGGESTED ACTION:

To set a public hearing date for **October 12, 2015** to consider approval of the Revised Final Site Plan and Special Land Use Permit Amendment for 735 Forest – Forest Grill.

FOREST AVENUE BISTRO
735 FOREST
SPECIAL LAND USE PERMIT AMENDMENT
2015

WHEREAS, Forest Avenue Bistro filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate 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 north side of Forest Street between Woodward and Elm;

WHEREAS, The land is zoned MU-3 and MU-5, and is located within the Triangle 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 July 22, 2015 reviewed the application for Revised Final Site Plan Review and a Special Land Use Permit Amendment and recommended approval with the following conditions:

1) The applicant comply with the requirements of Article 04, Section 4.41 OD-01 of the Zoning Ordinance as they relate to licensing and insurance requirements for the use of the public right-of-way;
2) The applicant provide street lights and hanging planters required by the Triangle Overlay District and submit for administrative approval or obtain a variance from the Board of Zoning Appeals;
3) A fully executed contract must be signed with the applicant and the City of Birmingham outlining the details of the operation of the bistro; and
4) Prior to appearing before the City Commission the applicant provide artwork or another design element to address the recessed brick panel of the wall in the former window opening on the east elevation; and
5) Applicant verify that the type of glass proposed for the NANA wall will match the existing glazing and conform to the District standards.

WHEREAS, The applicant has submitted amended plans with elevation drawings and specification sheets, which indicate the new required streetscape requirements within the Triangle District;

WHEREAS, The applicant has committed to comply with all other conditions for approval as recommended by the Planning Board on July 22, 2015;

WHEREAS, The Birmingham City Commission has reviewed Forest Avenue Bistro Special Land Use Permit Amendment 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 Forest Avenue Bistro application for a Special Land Use Permit authorizing the operation of a bistro at 735 Forest Avenue 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. Approval of the Design Review Board for all signage;
2. Forest Avenue Bistro shall abide by all provisions of the Birmingham City Code;
3. The Special Land Use Permit Amendment may be cancelled by the City Commission upon finding that the continued use is not in the public interest;
4. The hours of operation for outdoor dining shall cease at 12:00 a.m.;
5. Forest Avenue Bistro shall provide for the removal of disposable materials resulting from the operation and maintain the area in a clean and orderly condition by providing the necessary employees to guarantee this condition, and by the placement of a trash receptacle in the outdoor seating area;
6. Forest Avenue Bistro enter into a contract with the City outlining the details of the proposed bistro option, and enter into an outdoor dining license agreement with the City.

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, Forest Avenue Bistro 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 Forest Avenue Bistro to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

I, Laura M. 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 October 12, 2015.

_____

Laura M. Pierce, City Clerk

MEMORANDUM

Community Development

DATE: **July 13, 2015**

TO: **Planning Board**

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

SUBJECT: **Final Site Plan & Special Land Use Permit Review**
735 Forest Avenue – Forest Avenue Grill.

Executive Summary

The subject site is located on the north side of Forest Avenue, west of Elm Street. The existing bistro is located on the ground floor of an existing 3-story building located on the northwest corner of Forest and Elm Streets. The property is currently zoned O-2, Office Commercial and zoned MU-3 on the eastern portion of the property and MU-5 on the western portion of the property in the Triangle Overlay District.

The applicant is now seeking approval for a Revised Final Site Plan and a Special Land Use Permit Amendment for the existing establishment, Forest Grill. Accordingly, the applicant is required to obtain a recommendation from the Planning Board and then approval from the City Commission for the Final Site Plan and Special Land Use Permit.

The bistro has outdoor seating adjacent to the building and meets the goals of the Triangle District Urban Design Plan, which is to accommodate ample space for pedestrians, street furniture, prominent storefronts, and provide space for sidewalk cafés, street trees and other elements that create a comfortable separation for pedestrian areas from the parking and drive lanes. The major changes to the approved site and use are the replacement of windows with a retractable glass wall and the addition of a new owner to the ownership team. The application includes minor design changes to the interior and two new signs.

1.0 Land Use and Zoning

1.1 Existing Land Use - The existing site includes office, residential, and restaurant uses. Land uses surrounding the site include office and residential.

1.2 Existing Zoning – The property is currently zoned O-2, Office Commercial and zoned MU-3 on the eastern portion of the property and MU-5 on the western portion of the property in the Triangle Overlay 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 / Single Family Residential	Commercial / Retail
Existing Zoning District	O-2, Office Commercial	O-2, Office Commercial	O-1, Office / R2, Single Family Residential	B-2, General Business
Triangle District Overlay Zoning	MU-5 Mixed Use 5-stories	MU-3 Mixed Use 3-stories; MU-5 Mixed Use 5-stories	ASF-3 Attached Single Family 3-stories	MU-5 Mixed Use 5-stories

2.0 Bistro Requirements

Bistros are permitted with a Special Land Use Permit (SLUP) in the Triangle Overlay District. Upon receiving a recommendation from the Planning Board, a public hearing will be held by the City Commission to consider whether or not to grant the proposed Special Land Use Permit (SLUP) and to approve the application for a Bistro License. Bistros must comply with the site plan criteria as required by Article 05, Section 5.07 (A) and are permitted subject to site plan review and the following conditions.

Bistros are permitted with a valid Special Land Use Permit with the following conditions:

(a) No direct connect additional bar permit is allowed and the maximum seating at a bar cannot exceed 10 seats;
(b) Alcohol is served only to seated patrons, except those standing in a defined bar area;
(c) No dance area is provided;
(d) Only low key entertainment is permitted;
(e) Bistros must have tables located in the storefront space lining any street, or pedestrian passage;
(f) A minimum of 70% glazing must be provided along building facades facing a street or pedestrian passage between 1' and 8' in height;
(g) All bistro owners must execute a contract with the City outlining the details of the operation of the bistro; and
(h) Outdoor dining must be provided, weather permitting, along an adjacent street or passage during the months of May through October each year. Outdoor dining is not permitted past 12:00 a.m. If there is not sufficient space to permit such dining on the sidewalk adjacent to the bistro, an elevated, ADA compliant, enclosed platform must be erected on the street adjacent to the bistro to create an outdoor dining area if the Engineering

Department determines there is sufficient space available for this purpose given parking and traffic conditions.

In addition, Article 09, section 9.02 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 outside. The applicant is not proposing to increase the amount of seating. The existing site has interior seating for 64 people with an outdoor café that provides seating for 28 people. Forest Grill will maintain a full service kitchen.

The existing bar area meets the standards and no changes are proposed.

Under the bistro requirements, storefronts must have a minimum of 70% glazing along the building facades facing a street or pedestrian passage between 1' and 8' in height. This standard is met. The bistro operation also has tables located within the store front lining Forest Avenue, as required.

Outdoor dining must be provided in order to operate a bistro. An existing outdoor café located directly adjacent to the building along Forest Avenue will remain. The outdoor café has five 4-seat tables and four 2-seat tables, for a total of 28 seats. The café is enclosed with a continuous metal guard rail and pedestrian access is located on both ends and in the middle of the outdoor café.

Business hours are planned to remain from 11am to 11pm Monday – Sunday for both the indoor and outdoor areas.

As a condition of the SLUP, the applicant must execute an updated contract with the City outlining the details of the operation of the bistro.

3.0 Screening and Landscaping

3.1 Screening – There are no proposed changes to any exterior mechanical or service equipment.

3.2 Landscaping – There are no proposed changes to the landscaping. There are existing street trees along Forest and Elm.

4.0 Parking, Loading, Access, and Circulation

4.1 Parking – The applicant is not proposing a change in use, increase in square footage or increase in the occupancy of the bistro, and thus no changes in parking are required nor proposed.

4.2 Loading – No changes are proposed.

4.3 Vehicular Access & Circulation – No changes are proposed.

4.4 Pedestrian Access & Circulation – Pedestrian access to the bistro will remain at the west end of the dining area. Pedestrian access to the outdoor café is

available directly from the City sidewalk via gateways located at either end of the café area. An additional gate access is proposed for the middle of the café area.

Under the Triangle District Urban Design Plan, a goal is to accommodate ample space for pedestrians, street furniture, prominent storefronts, as well as provide space for sidewalk cafés, street trees and other elements that create a comfortable separation between parking and drive lanes and the pedestrian areas. The existing site and proposed features meet this goal by providing an interesting streetscape with many pedestrian friendly details, from the street trees to the outdoor dining with umbrellas and large Nanawall of windows which opens up to connect the indoor and outdoor space. The outdoor café maintains a 5' wide pathway for pedestrians by shifting the rail system back to accommodate for the street trees along Forest.

4.5 Streetscape – The following streetscape requirements are outlined within the Triangle Overlay District:

- Sidewalks: There are no proposed changes to the existing building or café footprints, nor the existing sidewalk.

- Street Trees: No changes are proposed to the existing street trees, which currently meet the standards of the Triangle Overlay District.

- Street Lights: Pedestrian level street lighting of a decorative nature shall be installed along sidewalks and shall be designed to promote the traditional neighborhood character of the area. Light fixtures shall meet the specifications of the City of Birmingham and hanging planters must be installed on all light fixtures as directed by the Planning Board. **There are no existing or proposed street lights or hanging planter locations at this time. Thus, the applicant will be required to install street lighting spaced approximately every 40' along Forest and Elm.**

- Street Furniture: Benches and trash receptacles are to be provided where the Planning Board determines that pedestrian activity will benefit from these facilities. **At this time, no street furniture is existing or proposed on the site.**

- Bicycle Facilities: No changes in bicycle facilities are proposed.

It should also be noted that at the time this building was originally constructed, the applicant applied to the Planning Board to eliminate a window on the east elevation. Approval to do so was granted with the condition that the applicant would apply for administrative approval for artwork, a map of the Triangle District, or another design element

to address the recessed brick panel of the wall in the former window opening. This was not completed, and remains outstanding at this time.

5.0 Lighting

There are no proposed changes to exterior lighting.

6.0 Departmental Reports

6.1 Engineering Division – No comments or concerns.

6.2 Department of Public Services - No comments at the time of this report.

6.3 Fire Department – No comments or concerns.

6.4 Police Department - No comments or concerns.

6.5 Building Department - No comments at the time of this report.

7.0 Design Review

The only exterior design change includes replacement of the middle first-floor window/door system to an operable NANA wall. This will provide access to and from the outdoor café and the interior of the bistro. The NANA wall will be designed to look exactly like the existing storefront.

Outdoor cafes must comply with the site plan criteria as required by Article 04, Section 4.41 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 existing café meets or exceeds these requirements. No changes are proposed.

Two new signs are proposed; one wall sign to replace the existing sign and one blade sign on the Elm Street frontage. The existing wall sign above the outdoor dining area is proposed to be removed. A new address acrylic panel with stainless steel edging and 0.25" thick white dimensional letters is proposed to be mounted on the wall at a height of 5.5' immediately to the east of the existing restaurant door. A projecting sign is also proposed to be mounted to the east elevation of the building at a height of 10.79' above grade. This blade sign is proposed to be double-sided and to be internally illuminated with LED lighting. The sign is 2.5' in length by 1.5' in height (3.75 sq.ft. per side) and projects 6" from the wall. The sign will have a steel frame with a slate gray acrylic panel with white text, and be affixed to the building with stainless steel bolts and plates at the height of the sign band. This sign meets all of the requirements for wall-mounted projecting signs.

8.0 Triangle District Overlay

The proposed changes to the existing site further the goals of the district to develop a fully integrated, mixed-use, pedestrian-oriented environment by further integrating the commercial use of the building and the pedestrian-oriented sidewalk with the retractable glass wall. The changes also appear to meet the architectural standards of the overlay district.

No less than 70% of the storefront/ground floor façade shall be clear glass panels and doorway. Glass areas on storefronts shall be clear, or lightly tinted. Mirrored glass is prohibited. **The type of glass proposed for the NANA wall needs to be provided to ensure that it will match the existing glazing and conform to the district standards.**

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 Special Land Use Permit (SLUP) Requirements

Article 07, section 7.34 specifies the procedures and approval criteria for special land uses. 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 recommend APPROVAL to the City Commission for the Final Site Plan, SLUP and Bistro License for Forest Grill located at 735 Forest Avenue with the following conditions:

(1) The applicant comply with the requirements of Article 04, Section 4.41 OD-01 of the Zoning Ordinance as they relate to licensing and insurance requirements for the use of the public right-of-way;
(2) The applicant provide street lights and hanging planters required by the Triangle Overlay District and submit for administrative approval or obtain a variance from the Board of Zoning Appeals;
(3) The applicant provide street furniture (benches and trash receptacles) as required by the Planning Board;
(4) A fully executed contract is signed with the applicant and the City of Birmingham outlining the details of the operation of the bistro;
(5) The applicant provide artwork, a map of the Triangle District, or another design element to address the recessed brick panel of the wall in the former window opening on the east elevation; and
(6) Applicant verify that the type of glass proposed for the NANA wall needs to be provided to ensure that it will match the existing glazing and conform to the district standards.

12.0 Sample Motion Language

Motion to recommend APPROVAL to the City Commission for the Revised Final Site Plan and SLUP Amendment for Forest Grill located at 735 Forest Avenue with the following conditions:

(1) The applicant comply with the requirements of Article 04, Section 4.41 OD-01 of the Zoning Ordinance as they relate to licensing and insurance requirements for the use of the public right-of-way;
(2) The applicant provide street lights and hanging planters required by the Triangle Overlay District and submit for administrative approval or obtain a variance from the Board of Zoning Appeals;
(3) The applicant provide street furniture (benches and trash receptacles) as required by the Planning Board;
(4) A fully executed contract must be signed with the applicant and the City of Birmingham outlining the details of the operation of the bistro; and
(5) The applicant provide artwork, a map of the Triangle District, or another design element to address the recessed brick panel of the wall in the former window opening on the east elevation; and

(6) Applicant verify that the type of glass proposed for the NANA wall needs to be provided to ensure that it will match the existing glazing and conform to the district standards.

OR

Motion to recommend DENIAL of the Revised Final Site Plan and SLUP Amendment for Forest Grill located at 735 Forest Avenue based on the following findings:

(1) The use and site plan are not in compliance with all the requirements of the Zoning Ordinance.
(2) The use is not consistent with the intent of the Triangle Overlay District.

OR

Motion to POSTPONE the Revised Final Site Plan and SLUP Amendment for Forest Grill located at 735 Forest Avenue

PLANNING BOARD MINUTES
JULY 22, 2015

SPECIAL LAND USE PERMIT ("SLUP")
FINAL SITE PLAN REVIEW
735 Forest Avenue Ave.
Forest Grill
Application for a SLUP Amendment to allow a name change for the restaurant, as well as interior and exterior modifications to an existing bistro serving alcoholic liquors

Ms. Ecker explained the subject site is located on the north side of Forest Ave., west of Elm St. The existing bistro is located on the ground floor of an existing three-story building located on the northwest corner of Forest Ave. and Elm St. The property is currently zoned O-2 Office Commercial and zoned MU-3 on the eastern portion of the property and MU-5 on the western portion of the property in the Triangle Overlay District.

The applicant is now seeking approval for a Revised Final Site Plan and a SLUP Amendment for the existing establishment, Forest Grill. Accordingly, the applicant is required to obtain a recommendation from the Planning Board and then approval from the City Commission for the Final Site Plan and SLUP. The bistro has outdoor seating adjacent to the building and meets the goals of the Triangle District Urban Design Plan. The major changes to the approved site and use are the replacement of windows with a retractable glass wall and the addition of a new owner to the ownership team. The application includes minor design changes to the interior and two new signs.

Design Review
The proposed exterior design change includes replacement of the middle first-floor window/door system with an operable NANA wall. This will provide access to and from the outdoor cafe and the interior of the bistro. The NANA wall will be designed to look exactly like the existing storefront.

Signage
Two new signs are proposed, one wall sign to replace the existing sign and one blade sign on the Elm St. frontage. The existing wall sign above the outdoor dining area is proposed to be removed. A new address acrylic panel with stainless steel edging is proposed to be mounted on the wall at a height of 10.79 ft. above grade. The blade sign is proposed to be double-sided and to be internally illuminated with LED lighting. Both signs meet all of the requirements of the Sign Ordinance.

The applicants are proposing that a new owner, Mr. Sami Eid, be added to the ownership team.

Ms. Ecker advised that the street lights and hanging plants that were proposed on the original plan were never installed, so that should be completed. Also, a recessed panel on the Elm St. elevation where a window was bricked in has never been addressed by

the applicant. The City continues to hold money that was posted by the applicant to ensure that the street lights go in and to cover the artwork the applicant was supposed to add on the Elm Street facade.

Mr. Victor Saroki, Architect for the Forest Grill, was present with Mr. John Kelly, the general contractor and part owner; along with Mr. Sami Eid from Phoenicia Restaurant who is part of the new ownership team; and Mr. Nick Janero, Executive Chef. The restaurant will still offer fine dining with a high attention to detail. At this point the owners believe it is time to refresh the restaurant along with creating indoor/outdoor activity. The kitchen will be enclosed in glass and a wine cellar will display wines on the main floor. Along with that, some interior decor changes will be made. The feel of the restaurant will continue to be modern and open.
Regarding the street lights, the underground conduits and electrical service to the lights have been installed. However, at the time the street lights for the Triangle District had not yet been selected. When the building across the street is started it may be the right time to put in the street lights and illuminate the whole street.
The recessed panel on Elm St. is the location of an interior walk-in cooler in the kitchen.
If the board feels some type of architectural grill needs to be developed, they are open to that, but his honest opinion is that it is fine. The owners are very excited about the second phase of Forest Grill.

Motion by Ms. Whipple-Boyce
Seconded by Mr. Koseck to extend the meeting another ten minutes to 11:40 p.m.
Motion carried, 5-0.

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

Ms. Lazar felt something should be done to enhance the recessed panel. Mr. Boyle echoed that thought. It could be a place for a piece of interesting art that would draw attention to the space. Mr. Koseck thought maybe a sign would work there. Chairman Clein indicated the wall is not that big an issue for him.

No one from the public wished to join the discussion at 11:31 p.m.

Motion by Ms. Lazar
Seconded by Mr. Boyle to recommend approval to the City Commission for the Revised Final Site Plan and SLUP Amendment for Forest Grill located at 735 Forest Ave. with the following conditions:
1) The applicant comply with the requirements of Article 04, Section 4.41 OD-01 of the Zoning Ordinance as they relate to licensing and insurance requirements for the use of the public right-of-way;

2) The applicant provide street lights and hanging planters required by the Triangle Overlay District and submit for administrative approval or obtain a variance from the Board of Zoning Appeals;
3) A fully executed contract must be signed with the applicant and the City of Birmingham outlining the details of the operation of the bistro; and
4) Prior to appearing before the City Commission the applicant provide artwork or another design element to address the recessed brick panel of the wall in the former window opening on the east elevation; and
5) Applicant verify that the type of glass proposed for the NANA wall will match the existing glazing and conform to the District standards.
Motion carried, 5-0.

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

LAW OFFICES

ADKISON, NEED & ALLEN

PROFESSIONAL LIMITED LIABILITY COMPANY

PHILLIP G. ADKISON
KELLY A. ALLEN
SALAM F. ELIA
LINDA S. MAYER
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OF COUNSEL:
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September 03, 2015

Jana Ecker, Planning Director
Matt Baka, Sr. Planner & Film Liaison
City of Birmingham
151 Martin Street,
P.O. Box 3001
Birmingham, Michigan 48009

RE: SLUP Application for Forest Grill

Dear Ms. Ecker and Mr. Baka:

As you know we represent Forest Grill, its corporate owner, Forest Grill 2 LLC, ("Forest Grill") and its member, Elm Restaurant Group, LLC ("Elm") and its proposed member, SSE Restaurant Group, LLC ("SSE").

The City Commission has approved the change in membership interest of Forest Grill is owned 100% by Elm. Elm is owned by John Kelly, Victor Saroki, Doyle Mosher, and Heath and Wells, LLC. This change in membership interest has also been approved by the MLCC. Therefore, the liquor license is presently owned by Forest Grill with Elm as its member.

There is an application pending with the Police Department to transfer 50% of Elm's interest to SSE. SSE is owned 100% by Samy Eid. I attach for your reference, a copy of the letter to Deputy Chief Mark Clemence dated June 4, 2015,

We understand that the City Commission's consideration or approval of the pending SLUP application does not mean that SSE is approved as a member of Forest Grill for purposes of the ownership interest in the liquor license. We understand that it is the Police Department's policy not to process a membership change until the applicant, Forest Grill, has SLUP approval.

Once the City Commission approves the SLUP, we will ask the Police Department and the Clerk to review the application to add SSE to Forest Grill and proceed to the City Commission with that request. We will also be filing the same request with the MLCC.

If you have any questions, please call.

Very truly yours,

ADKISON, NEED & ALLEN, P.L.L.C.

Kelly A. Allen

/kaa
cc: John Kelly *(via electronic mail)*

LAW OFFICES

ADKISON, NEED & ALLEN

PROFESSIONAL LIMITED LIABILITY COMPANY

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June 4, 2015

Via Hand Delivery

Deputy Chief Mark Clemence
Birmingham Police Department
151 Martin
Birmingham, MI 48012

Re: Forest Grill 2, LLC
735 Forest, Birmingham

Dear Deputy Chief Clemence:

On April 20, 2015, we submitted an application on behalf of Forest Grill 2, LLC ("Forest Grill") to transfer ownership of the Class C license from Bendyl, LLC located at 735 Forest, Birmingham. At the time of application, Forest Grill was owned by the following members: John Kelly, 25%, Victor Saroki, 25%, Doyle Mosher, 25% and Heath & Wells, LLC, 25% (members are Ann Templeton and Stephen Templeton). This is now Step 1.

STEP 2

Since the time of the original application, Forest Grill 2, LLC has submitted a second step to the Michigan Liquor Control Commission ("MLCC") to request to transfer interest in the licensed entity to a new holding company owned by the current members of the applicant. The current percentage of interest is as follows:

MEMBER	PERCENTAGE OF INTEREST
John Kelly	25%
Victor Saroki	25%
Doyle Mosher	25%
Heath & Wells, LLC	25%

All the existing members of Forest Grill 2, LLC are requesting to transfer all of their interest into the holding company, Elm Restaurant Group, LLC. Elm Restaurant Group, LLC is owned by the same members, in the same percentage; as Forest Grill, as follows: John Kelly, 25%; Victor Saroki, 25%;

Doyle Mosher, 25%; and Heath & Wells, LLC, 25%. Enclosed is the application submitted to the MLCC. Upon approval from the MLCC the membership of Forest Grill 2, LLC will be as follows:

MEMBER	**PERCENTAGE OF INTEREST**
Elm Restaurant Group, LLC	100.00%

STEP 3

Elm Restaurant Group, LLC will then sell 50% of its membership interest in Forest Grill to SSE Restaurant Group, LLC. SSE Restaurant Group, LLC is owned by sole member Samy Eid. Mr. Eid will purchase the interest in Forest Grill for $250,000.00 which will be payable on a promissory note. The agreement to assign the membership interest to SSE Restaurant Group, LLC is not in final; therefore it has not been executed. Mr. Eid has over 10 years experience in the restaurant business working with his father at Phoenicia.

Upon approval from the MLCC for Step 3, the membership of Forest Grill 2, LLC will be as follows:

MEMBER	**PERCENTAGE OF INTEREST**
Elm Restaurant Group, LLC	50%
SSE Restaurant Group, LLC	50%

Forest Grill will conduct cosmetic renovations to the property which will be funded by contributions from the members. Upon completion of the renovations, Forest Grill will change the name to a new name to be determined and will be an American Mediterranean concept.

Forest Grill will continue to lease the property from landlord 735 Forest Street, LLC.

The hours are operation will remain 11:00 am to 2:00 am. The total capacity is 220.

Enclosed for your review are the following:

- City of Birmingham Application and Release, Driver's License, and Passport, for Samy Eid;

If you have any questions, whatsoever, please do not hesitate to call me or my legal assistant, Laura Peters. I appreciate your assistance on this matter.

Very truly yours,

ADKISON, NEED & ALLEN, P.L.L.C.

Kelly A. Allen

/lbp
Enclosures