

**CITY OF BIRMINGHAM  
PLANNING BOARD ACTION ITEMS  
OF WEDNESDAY, JULY 10, 2019**

Item	#
<p><b><u>B. Approval Of The Minutes Of The Regular Planning Board Meeting of June 26, 2019</u></b></p> <p><b>Motion by Mr. Williams</b>  <b>Seconded by Mr. Jeffares to approve the minutes of the Regular Planning Board Meeting of June 12, 2019 as amended.</b></p> <p><b>Motion carried, 6-0.</b></p>	<u>2</u>
<p><b><u>D. Approval Of The Agenda</u></b></p> <p><b>Motion by Mr. Boyle</b>  <b>Seconded by Mr. Jeffares to postpone consideration of the rezoning application of 1175 Chapin to Wednesday, July 24, 2019.</b></p> <p><b>Motion carried, 6-0.</b></p>	<u>3</u>
<p><b>E. Community Impact Study - 333 N. Old Woodward / Bates Street Project Entire Site, Emphasis on Building 2, RH (Continued from June 26, 2019)</b></p> <p><b>Motion by Mr. Emerine</b>  <b>Seconded by Ms. Whipple-Boyce to accept the Community Impact Study as provided by the applicant for the proposed development at 333 N. Old Woodward (Building 2) with the following conditions:</b></p> <ol style="list-style-type: none"> <li><b>1. The applicant consult with SHPO on the potential effects on a historically designated property;</b></li> <li><b>2. The applicant adopt the Due Care Obligations outlined in the Phase II ESA;</b></li> <li><b>3. The applicant bury all utilities on site and work closely with the City Engineer to provide adequate utility function on site;</b></li> <li><b>4. The applicant confirm the location of refuse storage on site;</b></li> <li><b>5. The applicant submit all fire suppression system and Knox box details to the Fire Department for approval;</b></li> <li><b>6. The applicant submit details on the proposed security system to the Police Department for approval; and</b></li> <li><b>7. The applicant gain final approval of the Traffic Impact Study by the City's Traffic Engineer.</b></li> </ol> <p><b>Motion carried, 7-0.</b></p>	<u>4</u>

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, JULY 10, 2019**  
City Commission Room  
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on July 10, 2019. Chairman Scott Clein convened the meeting at 7:30 p.m.

**A. ROLL CALL**

**Present:** Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin; Student Representative Sophia Trimble

**Absent:** Board Member Daniel Share; Student Representative John Utley

**Administration:** Jana Ecker, Planning Director  
Brooks Cowan, City Planner  
Laura Eichenhorn, Transcriptionist

**07-100-19**

**B. Approval Of The Minutes Of The Regular Planning Board Meeting of June 26, 2019**

Mr. Emerine noted that beginning with June 26 2019 Agenda Item F, each item letter designated in the June 26, 2019 minutes was one letter earlier than its assigned agenda item letter, as follows:

- Agenda Item F → Minutes Item E
- Agenda Item G → Minutes Item F
- Agenda Item H → Minutes Item G
- Agenda Item I → Minutes Item H
- Agenda Item J → Minutes Item I
- Agenda Item K → Minutes Item J
- Agenda Item L → Minutes Item K

Mr. Emerine said he was not sure if the difference mattered to the Board, but he wanted them to be aware of it.

The difference in lettering was because the Rezoning Application for 1175 Chapin was removed from the Agenda during Approval of the Agenda, resulting in the shift of some of the minutes items.

Mr. Emerine said the minutes should clarify that the planned earth retaining structures for the N. Old Woodward/Bates building developments will be temporary.

Mr. Emerine was advised that the the earth retaining structure was described as temporary at the end of paragraph five on page 11: "The applicant's engineers are working with City Engineer O'Meara and City Attorney Currier to work out all the necessary aspects of constructing the temporary ERS."

Mr. Emerine said that should be sufficient.

Mr. Jeffares asked that the parking spaces mentioned at the top of page 13 be specified as nine feet by twenty feet, in order to contrast their width with the narrower seven-and-a-half foot widths of the parking spaces in the Peabody Street parking structure.

**Motion by Mr. Williams**

**Seconded by Mr. Jeffares to approve the minutes of the Regular Planning Board Meeting of June 26, 2019 as amended.**

**Motion carried, 6-0.**

VOICE VOTE

Yeas: Williams, Jeffares, Koseck, Boyle, Emerine, Whipple-Boyce

Nays: None

Abstain: Clein

**07-101-19**

**C. Chairperson's Comments**

Chairman Clein noted a mixed-bag meeting, and asked Planning Director Ecker if there were any changes to the agenda as posted.

**07-102-19**

**D. Approval Of The Agenda**

Planning Director Ecker confirmed there were no changes to the agenda.

**07-103-19**

**E. Community Impact Study - 333 N. Old Woodward / Bates Street Project**

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**Entire Site, Emphasis on Building 2, RH (Continued from June 26, 2019)**

Chairman Clein said he would be recusing himself from this item due to a business relationship his company has with members of the project team.

Chairman Clein then exited the City Commission Room, Vice-Chairman Williams assumed leadership of the meeting, and Ms. Ramin joined the Board for the hearing and discussion of this item.

Vice-Chairman Williams summarized the aspects of the item previously discussed at the Board's June 26, 2019 meeting.

**Motion by Mr. Jeffares**

**Seconded by Mr. Koseck to accept and file the July 9, 2019 letter from Julie Kroll of Fleis and Vandenbrink.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Jeffares, Koseck, Williams, Boyle, Emerine, Ramin, Whipple-Boyce

Nays: None

Ms. Kroll reviewed the findings of the Traffic Impact Study. She confirmed for Vice-Chairman Williams that she recommends a pedestrian crossing analysis for the planned traffic signal at Old Woodward and Bates. In addition, Ms. Kroll recommended that leading pedestrian intervals (LPIs) be considered at this intersection, explaining LPIs are beneficial for pedestrians and that Birmingham has more LPIs than any other municipality in Michigan.

Vice-Chairman Williams reiterated his concerns from the previous Board meeting that the pedestrian crossing situation in this area is dangerous for both pedestrians and drivers.

Ms. Kroll agreed with Vice-Chairman Williams' assessment and said the safety of the intersection would be much improved with a signal and assigned crossing times for pedestrians.

Ms. Kroll explained how mitigation will increase the levels of service at some project intersections that otherwise would have been underperforming.

Seeing that the Board had no questions for the representative from Giffels Webster, Vice-Chairman Williams invited comments from the public pertaining to the traffic impact study.

Vice-Chairman Williams told Clinton Baller that general questions pertaining to the N. Old Woodward/Bates project either would have been appropriate at the June 26, 2019 preliminary site plan discussion and approval or will be appropriate at the final site plan discussion and approval.

Vice-Chairman Williams also advised Mr. Baller that if his questions were relevant to the master planning process, they could be raised during the evening's pending discussion of the matter.

Mr. Baller thanked Vice-Chairman Williams.

Mike Darga of Giffels Webster summarized the traffic impact study's findings regarding how traffic exiting the deck during peak hours would interact with other area traffic in response to an inquiry

from Larry Bertollini.

Vice-Chairman Williams thanked Mr. Darga, and commended both Mr. Darga and Ms. Kroll on their expedient and thorough work on the traffic impact study.

Mr. Jeffares reiterated his comments from the June 26, 2019 meeting that the ergonomics of the card readers at the entrances to and exits from the deck should be improved in order to increase the overall efficiency of the deck's use.

Vice-Chairman Williams stated he has received a few calls from retailers on Maple expressing concern about the dearth of parking that will result from the simultaneous closure of Maple Road and demolition of the ~~extant~~ **existing** N. Old Woodward deck. He advised City administration of this concern and was told there will be a parking mitigation plan for the area. Vice-Chairman Williams said the Board did not have purview over the matter, but the inclusion of this comment in the meeting's minutes would serve to notify the City Commission of the retailers' concerns regarding the parking in the area.

**Motion by Mr. Emerine**

**Seconded by Ms. Whipple-Boyce to accept the Community Impact Study as provided by the applicant for the proposed development at 333 N. Old Woodward (Building 2) with the following conditions:**

- 1. The applicant consult with SHPO on the potential effects on a historically designated property;**
- 2. The applicant adopt the Due Care Obligations outlined in the Phase II ESA;**
- 3. The applicant bury all utilities on site and work closely with the City Engineer to provide adequate utility function on site;**
- 4. The applicant confirm the location of refuse storage on site;**
- 5. The applicant submit all fire suppression system and Knox box details to the Fire Department for approval;**
- 6. The applicant submit details on the proposed security system to the Police Department for approval; and**
- 7. The applicant gain final approval of the Traffic Impact Study by the City's Traffic Engineer.**

Vice-Chairman Williams asked the minutes reflect two specific parking-related concerns:

- The likely dearth of parking in the project area during the simultaneous Maple closure and parking deck demolition and its potential impact on nearby retailers, and
- Ms. Whipple-Boyce's statement from the June 26, 2019 meeting that the planned eight-space surface lot should remain available for public parking, instead of being limited to church or school parking at certain times.

**Motion carried, 7-0.**

ROLL CALL VOTE

Yeas: Emerine, Whipple-Boyce, Jeffares, Koseck, Williams, Boyle, Ramin

Nays: None

Chairman Clein then resumed chairing the meeting, Vice-Chairman Williams returned to his seat and Ms. Ramin returned to the audience for the continuation of the Board proceedings.

**06-104-19**

**F. Study Session Items**

**1. Update from DPZ Team on Master Plan Process**

Planning Director Ecker stated that Matt Lambert of DPZ and Sarah Traxler of McKenna were present to give the Board updates on the master planning process.

Mr. Lambert explained he and Ms. Traxler had been in Birmingham the last two days conducting open house format meetings in order to explain the charrette findings to members of the public. He then solicited comments from the Board, saying the team welcomed more specific questions and input in advance of writing the first draft of the master plan.

Vice-Chairman Williams said:

- He was hopeful that the neighborhood associations on either side of Woodward between Lincoln and 14 Mile would participate in the team's recommended creation of a meaningful buffer area with more housing and less open parking lots, fences, walls. He said similar plans could be implemented along Adams Road, Southfield Road and 14 Mile.
- The creation of meaningful neighborhood associations that would participate in these processes would also benefit the City.
- The City needs a more effective way to engage the neighborhoods along the major thoroughfares within Birmingham.

Mr. Lambert stated that meeting with the presidents of current neighborhood associations reviewed the fact that some associations are focused on social activities, some on the sharing of information, and some on politics. That meeting included discussion on aspects of neighborhood identity, neighborhood boundaries, whether neighborhood associations should be involved in resolving disputes, and how zoning topics within the neighborhood are engaged by neighborhood members.

Mr. Lambert told Mr. Jeffares that the noticing requirements for projects within different municipalities can range from the state minimum up to radiuses of around 1,500 sq. ft. Mr. Lambert explained that Portland, Oregon requires two different noticing radiuses be used: one limited to adjacent properties for smaller-scale projects, and one to 500 sq. ft. surrounding the project if customer parking will be a factor in the project. He said Birmingham could consider using a range for its noticing as well.

Planning Director Ecker clarified that Birmingham does more than the 300 sq. ft. state minimum for noticing since properties are also required to post signs notifying passerby of their upcoming zoning discussions with the City.

Mr. Jeffares expressed frustration that there is not more attainable housing for more people in Birmingham's downtown. He asked what percent an increase of 1,150 residents would represent for the downtown area.

Mr. Lambert stated 1,150 would be a significant resident increase, estimating it could be around 800%. He also explained that recent findings have shown that the downtown residential density could accommodate an increase even beyond the originally quoted 1,150 people to perhaps 1,400 or 1,500.

Mr. Jeffares asked if these additions could be enough to make downtown a more viable long-term retail environment.

Mr. Lambert cited two restaurants soon to be leaving Birmingham because they have bustling lunch business and very little dinner business, which leaves them unable to afford their tenancy in the desirable Birmingham market. He explained more residential density in the downtown would likely lead to increased dinner business for local establishments, thus allowing them to maintain a foothold in the City. He said the team estimates there would be a similarly beneficial impact on downtown Birmingham retail as well, and would increase the downtown's resiliency overall. At this time Birmingham's downtown retail spaces are about 96% occupied, which is due to Birmingham's relatively strong current position in the market and its current critical mass of desirable retailers.

Mr. Boyle commended the master planning team for its work on the charrette process and said he was glad to hear new people were attending the more recent meetings as well. He said the charrette summary gave him pause, however, because the document opens with parking discussions while City sustainability is addressed at the very end of the document. Noting that the charrette summary is not a master plan, he asked Mr. Lambert what a likely content page for Birmingham's master plan document would look like.

Mr. Lambert stated that a lot of the team's goals revolve around sociability, participation in governance and sustainability within Birmingham. He explained that a problem statement for Birmingham's master plan process would reflect the problems communities are experiencing across the country, partially due to patterns of development since WWII: people in the United States tend not to know their neighbors as well as they did in past decades and environmental sustainability has become more of a pressing issue. He said both of these issues tie in to the essential question of how Birmingham can continue evolving as a City that improves people's daily lives. Noting this did not directly answer Mr. Boyle's question regarding the content page, Mr. Lambert said the background thinking the team is doing regarding the foundational problems and assumptions might give a better sense of what the master plan document will entail.

In reply to Mr. Koseck, Mr. Lambert said that the team has been exploring the value of adding residential units on sites which are currently only commercial. Since residential space is a significant driver of the market, some commercial spaces could be replaced with residential but need not be replaced at the same size. The question is whether adding housing could increase the value of some of the spaces enough to make it worthwhile to assemble properties and redevelop them. Mr. Lambert advised that Birmingham would need more than one of these redevelopments, and the team is considering options the City could use to incentivize investment.

Mr. Lambert said the City will have to choose its priorities and invest proportionally in them. If Birmingham wants to increase its sociability, for example, it must invest in City parks and activities. Birmingham must decide at the Commission level and beyond whether its citizens prefer decreasing their millage rates or the important quality-of-life improvements a well-funded City can provide.

Mr. Koseck said it would be helpful to see a variety of options.

Mr. Lambert confirmed for Mr. Koseck that the team would like to see the train station become more accessible to Birmingham residents through the removal of the single private property currently blocking access. While the team encourages the City to pursue a deal with the private property owner in question, it also acknowledges that access to the train station is critical and may be a case in which eminent domain could be appropriately applied.

Planning Director Ecker told Mr. Koseck that issues of multi-modal transit at the boundaries of Birmingham and Troy are either addressed by Birmingham's Multi-Modal Transportation Board (MMTB) or by City staff when a more pressing issue arises. She stated that City staff maintains open lines of communication with the staff of local municipalities.

Mr. Koseck suggested it would still be helpful to have a paragraph in the master plan discussing possible ways to make the transitions between Birmingham and Troy more efficient and attractive.

Regarding the potential for a traffic oval at the intersection of Maple and Woodward, traffic modelling showed that if Woodward is three lanes it works well, but if it is four lanes pedestrian timing could become an issue. Mr. Lambert advised the Board that MDOT anticipates being able to go down to three lanes on Woodward after I-75 is reopened entirely.

Mr. Koseck asked Mr. Lambert how to fix the perception of Torry Association residents that their neighborhood is currently underserved.

Mr. Lambert noted the team split the Torry neighborhood into two. South of Lincoln, the neighborhood the team named 'Kenning' has park access, whereas Torry to the north does not. In addition, both have issues of stormwater management and unimproved streets.

Vice-Chairman Williams noted that ~~south~~ **north** of 14 Mile and east of Woodward also suffers from a lack of desirable retail. He explained that the Board has tried to encourage development in that area but has not been as successful as they would like.

Mr. Koseck agreed, and emphasized that the Board could use the team's assistance in considering the issue. He then asked Mr. Lambert if Birmingham has been a good master plan client thus far, stating he has found that master planning processes depend on the responsiveness and engagement of the municipality soliciting the plan.

Mr. Lambert said part of what makes a master plan process successful is the client's engagement, and part of it is whether the problem to be addressed is compelling. He opined that Birmingham's desire to focus on its neighborhoods is fascinating and worthwhile. Noting that some residents



seem anxious about some parts of the process, he explained that many have also expressed enthusiasm about most parts of the process so far. Mr. Lambert said the City's participation in the process has been very good so far, and also offered that if Birmingham residents would like to participate more in the process that the team would be enthusiastic about that. He said it would be most important for the team and the Board to have at least one entire meeting together to work on the first draft of the master plan, since those details are where it would be especially vital for the plan to have specific Board input.

Chairman Clein asked Mr. Lambert to list next steps for both Board-team interaction and for the plan itself.

Mr. Lambert explained the team intends to have the first draft of the master plan complete by the end of September 2019, the second draft at the beginning of January 2020, and the third draft at the end of February 2020. In advance of each draft, the team proposes to have one meeting with the Board, one meeting with the Commission, and one meeting with Staff to make sure any and all concerns and questions are addressed.

Chairman Clein asked if the Board would have an opportunity to meet with the team in advance of its meeting with the team in September 2019 to review the first draft.

Mr. Lambert said the team would be make a point to meet with the Board before September 2019 should the Board deem it necessary.

Vice-Chairman Williams said that any joint meetings scheduled during the master planning process between the Commission and the Board should be solely focused on master planning considerations. He suggested that perhaps one or two additional joint meetings could also be scheduled during this period.

Chairman Clein requested that Ms. Traxler, Mr. Lambert and Planning Director Ecker work to have the team return during some of the Board's study sessions in order to discuss smaller parts of the burgeoning report in a more in-depth way.

Mr. Jeffares noted that half of the action items currently on the Board's list are designated to be addressed after the master plan, meaning that the Board has time available to address the master plan process thoroughly.

Chairman Clein agreed, stating that the Board is invested in ongoing conversations with the team regarding the whole master plan process.

Mr. Boyle recalled the Board's work on designing the City's new fire station, and suggested the Board could have a series of workshops to discuss different master plan matters and ideas. He also recommended that the Board avoid details during their workshops preliminarily, instead taking the time to focus on the drivers for the plan first.

Mr. Lambert said most master planning processes have specific advisory committees to meet with the master planning team, while Birmingham does not. He said the absence of such a committee contributes to the somewhat sparse scheduling of meetings between the team and City

participants, but that the team would be keen on increased opportunities to meet with various stakeholders.

Chairman Clein invited public comment.

Mr. Bertollini said he would like to see the Torry neighborhood more involved in the discussions, that further investment in the City's parks would be beneficial, and that finding ways to slow down traffic on Woodward would also be beneficial. He noted that the Triangle District and Adams Square both have big parking lots which could host community events for the east side of Birmingham.

Mr. Jeffares told Mr. Bertollini that the Presidents' Council has missed representatives from the Torry neighborhood at its meetings, and asked Mr. Bertollini to encourage people from the neighborhood to attend.

Mr. Bertollini said he is a member of the Torry neighborhood association and was unaware of the previous evening's meeting. He asked to be kept up-to-date regarding future meetings through email.

Mr. Baller began by thanking the Board for its careful and attentive participation in the ongoing master plan process. He continued that:

- Birmingham is currently experiencing some issues that the master plan could address.
- During peak hours earlier on July 10, 2019 only 30 cars were parked in the Pierce Street Structure.
- The master planning process has possible recommendations for increasing parking throughout the City, including the possibility of issuing parking permits for the neighborhoods, which could also generate revenue for neighborhoods.
- Parking issues in Birmingham may be overstated and easily remedied by suggested solutions with the master planning process.
- The Board should consider some of the parking solutions being offered as possible alternatives to the Bates Street project.
- He had a few questions for the Board that he understood they may or may not answer during the meeting.

Chairman Clein advised Mr. Baller that he was welcome to put his questions on the record, but that the Board would not be answering his questions during the meeting.

Mr. Baller asked if the Board voted or otherwise expressed its opinion on City land use planning, zoning, or rezoning prior to the RFP being issued for the Bates St. project, or anytime since then.

When Mr. Baller requested an answer, Chairman Clein repeated that the Board would not be answering his questions this evening. Chairman Clein stated the questions would be maintained as part of the written record, and would be forwarded to the City Commission and to the City's Communications Director.

Mr. Baller said he appreciated that, and that he would finish his questions quickly. He asked if the Board ever met with either one of the Bates St. development teams prior to the selection of the

Woodward Bates Partnership as the team with which the City would proceed, noting that the Board has met with DPZ and McKenna throughout the master planning process. After a pause, Mr. Baller then asked whether the Board would answer.

Chairman Clein reiterated that he was providing Mr. Baller an opportunity to have his questions entered into the written record as part of public comment, but that the questions would not be answered this evening.

Mr. Baller said he understood, but that he was under the impression that it was permissible to ask questions of the Board and have them answered during public comment. He asked if there was a Plan B if the financing of the Bates project is not approved, and stated he would be taking the Board's silence as a negative reply.

Chairman Clein said again that this was an opportunity for Mr. Baller to have his questions entered into the written record, and that Mr. Baller would not be receiving Board answers to his questions this evening. Chairman Clein also advised Mr. Baller that silence on the Board's part should not be interpreted as a reply.

Mr. Baller asked the Board whether they were aware that the cost of replacing the facade of the N. Old Woodward deck and bringing it up to current standards would be just over \$6 million.

Chairman Clein thanked Mr. Baller for his comments and brought the discussion back to the Board.

Vice-Chairman Williams emphasized the importance of neighborhood associations becoming more involved in the master planning process. He said he would particularly like to see engagement from the neighborhoods along the major thoroughfares in Birmingham, especially on either side of Woodward between Lincoln and 14 Mile.

Planning Director Ecker invited the public to visit [thebirminghamplan.com](http://thebirminghamplan.com) to learn more about the master planning process, to provide comments, and to take the current survey.

Mr. Jeffares explained that the current survey, the second in a series, focuses on many of the issues covered this evening. He advised anyone who found the evening's discussion particularly compelling to visit the website and complete the survey.

Chairman Clein thanked Mr. Lambert and Ms. Traxler for being present, and said the Board looked forward to meeting with them again soon.

## **2. Zoning Ordinance Amendment – D5 Overlay Zoning**

Planning Director Ecker summarized the history of the issue and reviewed the item.

Vice-Chairman Williams recalled the Board had previously decided not to rezone property where the property owner was not making application. He maintained that was the correct approach, explaining that if he were a property owner, he would not want his property rezoned without his knowledge or request. As a result of that consideration, the Board decided at the time not to expand the D5 designation beyond the three requesting properties. Mr. Williams said he

welcomed instruction from the City Commission if they believe the issue should be approached differently.

Mr. Koseck said he agreed with Vice-Chairman Williams' assessment, saying that from a 30,000-foot view certain buildings may seem appropriate to zone together, but that a more detailed view might find other factors to disrupt such a finding. For this reason Mr. Koseck said it was appropriate to create the zoning categories, and then to allow owners to apply to the Board for a rezoning if desired. He added that it was not spot zoning, since each application involves a methodical process for deciding whether a rezoning should be granted.

Chairman Clein requested the Board avoid comments on any previous D5 rezoning applicants, noting the matter before the Board was an ordinance amendment, not a particular rezoning consideration.

Ms. Whipple-Boyce said the building height matter seemed clear and that the Board should discuss the definitions of 'adjacent' and 'abutting'. While acknowledging that she believes the Board acted appropriately when it decided not to rezone properties without a property owner's request, she also noted that there is one property zoned differently from the buildings to either side of it, which she said was odd.

Citing Mr. Lambert's experience with different cities and the likelihood of him having seen similar issues in the past, Mr. Jeffares asked if Mr. Lambert might be able to weigh in on the matter.

Chairman Clein said that while he did not want to ask Mr. Lambert for input on the matter this evening, he suggested that the Board could request that the Commission solicit additional services from its planning consultant to provide a small area report and some recommendations. Chairman Clein stated this would be the best approach because defining 'adjacent' and 'abutting' now could give the impression that the Board is effectively choosing which properties are eligible for possible future D5 rezoning. He said the Board may have previously erred in its use of the two words because deciding on the density and heights in question with D5 should not be done one property at a time. He said it is more appropriate to approach the issue through a plan in which a zoning area is decided, and lots are eligible or ineligible for zoning changes based on their location.

Mr. Boyle said he agreed with Mr. Jeffares' and Chairman Clein's inclinations to seek insight from the City's planning consultants. Noting that this seemed to be a matter of significance for the City, he opined that it would be most appropriately addressed in the master plan.

Ms. Whipple-Boyce and Vice-Chairman Williams concurred with Mr. Boyle, Mr. Jeffares, and Chairman Clein. Vice-Chairman Williams said he would rather the master plan have an analysis of D5 zoning instead of the Board trying to solve the problem by piecemeal.

Chairman Clein said that waiting to include this in the master plan could result in the applicant not having an answer until January 2020 at the earliest. Stating he did not want that to happen, Chairman Clein recommended that the Board frame the request as a subarea plan.

Mr. Koseck said the Board could answer the issue as it is posed, noting that an adverse effect on a neighboring property is a prohibitive circumstance for granting a rezoning. B He said while a

consultant may ultimately be asked to study the issue, he thought the Board could also determine through discussion the questions of building height and the definitions of 'abutting' and 'adjacent'.

Mr. Jeffares suggested that the Board permit D5 rezoning applications from buildings that both abut or are adjacent to other D5 buildings, and have frontage along the Woodward corridor. This would prevent every newly zoned D5 building from causing its neighbors to also be candidates for D5 rezoning, and would allow massing that echoes the buildings across Woodward in the Triangle District.

Mr. Boyle said the Board, possibly in conjunction with Staff, should define the geographical area the consultant would look at. He noted that the Board could prevent an ever-increasing D5 zone if they set the final parameters of where the zone would be permitted.

Vice-Chairman Williams asked if all the taller buildings in the Triangle District had frontage on Woodward.

Planning Director Ecker replied that the majority of the tall buildings in the Triangle District have Woodward frontage, but that she was unsure if there was a taller property one row back from Woodward behind Papa Joe's.

Ms. Whipple-Boyce said she was supportive of asking for the planning consultant's help in considering the issue, and said she would suggest limiting it to the Haynes, Brown, Old Woodward and Woodward Ave. area.

Chairman Clein asked Planning Director Ecker for her opinion on the possibility of requesting a small subarea study.

Planing Director Ecker said the City would benefit from further clarity on the issue, should the Commission see fit to proceed with a small subarea study, since the community is clearly divided on the issue and has been unable to reach consensus.

Mr. Koseck noted that the City has before hired consultants to provide similar input and that it was very helpful.

Chairman Clein invited comment from the applicant and their representatives.

Rick Rattner, attorney for the applicant, stated that while he understood the neighbors' consternation at the potential D5 rezoning, the applicant meets all the requirements for getting the Zoning Ordinance changed. He said D5 zoning is an appropriate zoning for that area given the surrounding properties and the nature of the surrounding properties, including its immediate proximity to Birmingham Place. He said the applicant would like the Board to solve the definitional issues of 'adjacent' and 'abutting' in order to resolve whether the property in question could be rezoned to D5.

Chairman Clein stated the Board's goal is to answer the applicant's questions in the most expedient and accurate way. He asked Mr. Rattner if the applicant would be supportive of the Board's potential request for a subarea plan from the City's planning consultant.

Mr. Rattner said a months-long study would be a problem for the applicant. Barring that, he said a study would be useful because the applicant's team is sure a consultant would find it appropriate to allow the applicant's building's rezoning to D5.

Duraid Markus, a member of the applicant team, said he would be in support of a subarea study that follows the boundaries as outlined in Planning Director Ecker's report. He noted that a D4 as it currently sits would be higher than the Merrillwood Building, and that no other developer would likely build a D5 that could only go to the height of the Merrillwood Building when a D4 building could go higher. He said that if he were to build a D4 building, the neighbors would be adversely affected as much as they would be by a D5 building. He was in favor of a study session to decide the definitions and specific issues, noting that planning cannot always satisfy all parties.

Mr. Markus said that ultimately if the Board believes D4 is appropriate, he would proceed with a D4 building even though he believes there will be consensus that his building should be zoned D5. Emphasizing that time is of the essence, he reiterated that a small study done to the boundaries suggested would be his ideal outcome since he believes a D5 rezoning allowance would likely prevail.

Chairman Clein invited public comment.

Mr. Baller said he was disappointed to not see more members of the public present to discuss this item. He suggested that more online surveys or other opportunities to express opinions on matters like this would benefit the City. He would like to see the City soliciting and encouraging more proactive engagement beyond the people noticed within a 300 square foot radius of properties. He said that while he did not live near Mr. Markus' building, he thought rezoning the building to D5 was a logical and appropriate thing to do.

Toni Schwartz, resident of Birmingham Place, was under the impression that the agenda item had been added to the agenda at the last minute and opined that was why there was not more public present for the discussion. She said that Birmingham Place is an entire neighborhood and that the Board is already aware of all the reasons to leave the zoning at D4. Ms. Schwartz said she was unclear why the conversation was continuing to occur when she sees the matter as clearly decided for D4 zoning.

Patrick Howe, attorney representing the Birmingham Condo Association, said he was also unaware that the item was on the agenda until this evening when he was told by his client. He stated that 'abutting' and 'adjacent' was a question of how other possible buildings could go on the properties that were already zoned D5. He suggested that if the City publicized the question as "Is the City in favor of raising heights in the downtown district?" many more members of the public would attend the discussion. Mr. Howe said that asking the Board to determine this issue is inappropriate, and would be better done through consultation of the City's previous and upcoming planning documents, including the master plan.

Chairman Clein returned the conversation to the Board.

Mr. Jeffares reminded those following the conversation that a D5 zoning allows the Board to have an impact on various aspects of the building through the use of a Special Land Use Permit that D4 zoning would not.

There was Board consensus to request that Planning Director Ecker go to City Manager Valentine to explain that the Board would like to tackle the matter of 'abutting' and 'adjacent' more closely, that the Board believes the City's planning consultant may be able to quickly and inexpensively provide the City with a professional opinion regarding the Haynes, Brown, Old Woodward and Woodward Ave. area to help inform those definitions.

Vice-Chairman Williams said the City should ask their current planning consultants to conduct this subarea plan, and that he would not be in favor of enlisting a different consultant.

Chairman Clein reiterated that this is a very focused effort, not a detailed plan.

### **3. Screening for Dumpster Enclosures**

Vice-Chairman Williams left the meeting at 9:47 p.m. Ms. Ramin rejoined the Board at 9:47 p.m.

City Planner Cowan presented the item.

The Board discussed whether to leave the word "opaque" in the screening requirements and whether to define the permitted size of the "small openings" if "opaque" is removed from the screening requirements.

Chairman Clein asked that the item be returned next month along with some photos of example screenings from Birmingham sites. He said he did not want to rush a decision on the item.

### **4. Enclosed Balcony Regulations**

City Planner Cowan presented the item.

There was Board consensus that full enclosures of balconies were likely too obtrusive to allow. Concerns included the way these could change the facade of a building, the range in quality of possible designs, the structural engineering aspects, and the likelihood that these enclosures would obscure neighbors' views.

Ms. Whipple-Boyce suggested it would be worth considering slightly extended awnings over patios because it would benefit the homeowner seeking it and be without detriment to the neighbors.

Chairman Clein said the Board should clarify whether it is discussing enclosures for balconies and multi-family buildings, patios and single family homes, or both. He noted Ms. Whipple-Boyce was talking about single family homes, while all the photos in the packet were of multi-family residences.

The Board agreed that it would be helpful at their next meeting to see examples from around Birmingham of both enclosed balconies and places where balconies could be enclosed.

Planning Director Ecker suggested single family patio considerations are sufficiently regulated by other aspects in the Zoning Ordinance and need not be considered as part of this conversation.

Mr. Koseck said the current enclosure conversation could be limited to multi-family and commercial buildings.

Ms. Whipple-Boyce asked that the Board remain open to the possibility that there might be situations in which single-family homes were relevant to this conversation, and said she would do some thinking before the next study session to see whether any came to mind.

Chairman Clein said the Board could narrow it down at the next study session. He suggested the Board keep their focus for the next study session on how enclosures like these would impact Birmingham in general before getting into further details of the matter.

Mr. Boyle asked if two of the examples given had to go back and retrofit.

Planing Director Ecker said she could find out and report back to the Board.

Mr. Boyle said that would be good, since the matter could be serious.

#### **07-105-19**

### **G. Miscellaneous Business and Communications**

#### **a. Communications**

#### **b. Administrative Approval Correspondence**

Ms. Whipple-Boyce asked if 34040 Woodward's HVAC units were going to be screened.

Planning Director Ecker said she would double check.

#### **c. Draft Agenda for the next Regular Planning Board Meeting (July 24, 2019)**

- 1175 Chapin will be on the agenda but the Board will not be able to take action due to the property owner's failure to maintain the required noticing signage on his property
- New floor of the Kohler Building
- Jax Carwash Building Improvements and Site Plan Changes
- SLUP and Final Site Plan for the building immediately south of Parking Lot #6 -- Sweetwater's Coffee and Tea

#### **d. Other Business**

The Board said it would be willing to hear Lincoln Yard's Preliminary Site Plan and SLUP application at the Board's study session on August 14, 2019.



**07-106-19**

**H. Planning Division Action Items**

None discussed.

**07-107-19**

**I. Adjournment**

No further business being evident, the Chairman adjourned the meeting at 10:27 p.m.

Jana L. Ecker

Planning Director

APPROVED