

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, JULY 24, 2019**

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on July 24, 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
Nicholas Dupuis, City Planner
Laura Eichenhorn, Transcriptionist

07-108-19

B. Approval Of The Minutes Of The Regular Planning Board Meeting of July 10, 2019

Mr. Williams stated he does not use the word "extant" and asked it be changed to "existing" in the third full paragraph on page four of the minutes. He also said that "south of 14 Mile" should be corrected to "north of 14 Mile" in the third-to-last paragraph on page seven of the minutes.

Ms. Ramin noted her first name was misspelled in Roll Call and asked that it be corrected to read "Nasseem".

Motion by Mr. Williams

Seconded by Mr. Boyle to approve the minutes of the Regular Planning Board Meeting of July 10, 2019 as amended.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

07-109-19

C. Chairperson's Comments

Chairman Clein announced that the request for rezoning of 1175 Chapin would not be heard during the evening's proceedings and invited Planning Director Ecker to elaborate on the reasons.

07-110-19

D. Approval Of The Agenda

Planning Director Ecker explained 1175 Chapin would not be heard during the evening's proceedings because the required public notice signage was removed from the property. City ordinance requires the signage be posted and remain on the property for a full 15 days prior to its hearing.

The owner of 1175 Chapin had been apprised of this fact by the City the day before the required 15 day period commenced and did not replace the signage.

As a result, 1175 Chapin's rezoning application has been cancelled. The applicant will have to submit an entirely new rezoning application should they wish to proceed. The City will follow all noticing procedures related to new rezoning applications as required by ordinance if and when a new rezoning application for the property is submitted.

Planning Director Ecker recommended interested citizens subscribe to Planning Board agenda email updates via the City's website in order to track whether a new rezoning application for 1175 Chapin is to be heard in the future.

07-111-19

E. Rezoning Application

1. 1175 Chapin – Request for rezoning from R4 (Two-Family Residential) to P, Parking (Postponed from June 26, 2019, will not be considered).

07-112-19

F. Special Land Use Permit and Final Site Plan & Design Review

1. 588 N. Old Woodward, Sweetwaters Coffee & Tea (former wine shop) – Request for Final Site Plan and Design Review to remodel the existing building for a food and drink establishment (no alcohol) in the O2 (Office Commercial) zoning district.

Planning Director Ecker presented the item. She noted the fourth condition could be removed based on more recent submittals from the applicant, and that the fifth condition could be reworded since the City also has the dimensions of the proposed eight-inch encroachment.

Mr. Jeffares noted the City signage currently installed at the site, and asked what would happen with that signage.

Planning Director Ecker said she was unsure of the terms regarding that signage, but speculated that the signage was there pursuant to an agreement between the City and the building owner.

Mr. Jeffares observed that the open door would swing out over City property, and asked if it would need to be recessed as a result.

Planning Director Ecker said that would be determined by the Building Code. She said the door can swing out over City property but cannot be in the main walking path. In reply to other Board questions, Planning Director Ecker explained:

- This review was designated final instead of preliminary because ordinance grants the Planning Department discretion to determine the type of review appropriate based on the nature of proposed changes to a building.
- The Birmingham Farmer's Market could still continue in the adjacent parking lot when scheduled and would be prohibited from blocking the entrances and exits to the lot.
- Signage painted onto the exterior of a building still counts towards the establishment's dimensional signage limits, but is likely not permitted.
- The City is not requiring that the applicant provide outdoor seating. The applicant speculated that the new public plaza by the river would provide sufficient outdoor seating for any patrons desiring it.
- The City could recommend the applicant put some seats out on the green space in the parking lot where no booths are installed during the Farmer's Market to provide additional outdoor seating.

Mr. Williams recalled the Commission's direction to the Planning Board to only advance SLUPs and site plans with all required information. He expressed concern that the proposed motion includes too many unresolved details. Mr. Williams also stated that designating the north entrance as the front entrance may cause conflicts during the Farmer's Market.

Motion by Mr. Williams

Seconded by Ms. Whipple-Boyce to accept and file emails from Elizabeth Swallow dated July 24, 2019, Margaret Ann Zack dated July 24, 2019, Yelena Plinskina dated July 24, 2019, Tim Ponton dated July 24, 2019, Mr. and Mrs. Jonathan Reid Cooksey dated July 24, 2019, Christopher Fuller dated July 23, 2019, and Charlie and Jessica Hyde dated July 23, 2019, all of which recommended approval of the SLUP and final site plan for 588 N. Old Woodward, Sweetwaters Coffee & Tea.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Michael Poris, of McIntosh Poris and architect for the project, presented. He cited examples of fiber cement panelling around Birmingham to demonstrate it met the ordinance requirements for high quality of materials.

John Skok, also of McIntosh Poris, provided more information regarding the high quality nature of fiber cement panelling. He explained the entrance on the north side is being described as the main address because it is the location of the establishment's mailing address.

Mr. Koseck suggested that the applicant avoid using the word chain to describe Sweetwaters Coffee and Tea. He encouraged the applicant to designate the entrance off Old Woodward as the main entrance instead of the entrance off the parking lot for safety and aesthetic reasons. He also suggested the establishment could consider designing the mezzanine to overlook the Farmer's Market and provide seating.

Mr. Williams concurred with Mr. Koseck's concerns about designating the north entrance as the main one, due to safety issues.

Mr. Poris confirmed that both entrances would be used as entrances, but that Sweetwaters is trying to take advantage of its 80-foot facade along the parking lot in order to get ordinance permitted signage of an appropriate size.

Mr. Jeffares stated that people will use whichever entrance is closer to them so designating a 'main' entrance is not necessary. He also said the Board has found fault in the past with establishments for having long, blank concrete walls so he was in favor of Sweetwaters using its 80-foot facade for the signage. He also suggested they could consider asking the City for the ability to install a small wood deck in the summer in one of the lot's spaces in order to provide some outdoor seating.

Ms. Whipple-Boyce recommended Sweetwaters negotiate the shared use of a neighboring business' dumpster instead of trying to find space for their own trash receptacles.

Mr. Skok explained that the building owner is a family trust.

Massimo Cortez, part of the Cortez Family LLC that owns the building, spoke. He said he had not seen any of these plans until the present meeting, and that his family was supposed to have five days to review the plans prior to their presentation to the Board.

Mr. Skok explained that the applicant, Peter Farance, had a family emergency about 10 days prior and was in Egypt attending to that. Mr. Skok stated it was McIntosh Poris' understanding that Mr. Farance was passing along the relevant information to the Cortez family.

Mr. Cortez reiterated he had not seen any of these plans. He said they were well beyond what the Cortezes expected, and that if he had the appropriate five days' notice he could have communicated his concerns prior to this meeting.

Chairman Clein verified that the Cortez Family LLC did sign the application to allow these plans to be presented to the Board. He invited public comment on the proposal, and seeing none brought the discussion back to the Board.

Chairman Clein stated that while he appreciated his fellow Board members' concerns, he was unconcerned from a civil engineering perspective about the safety of the planned entrance

locations. He noted that the metal system proposed would only be permitted up to 10% and that an approved SLUP would have to designate one material. Any changes to that material would have to be vetted through an administrative approval or an amended SLUP.

The Board concurred that:

- The fiber cement material meets the requirement of a high quality material according to the ordinance;
- The proposed eight inches of encroachment into the public space is acceptable; and,
- That using the 80-foot facade for the signage calculations is acceptable.

Chairman Clein explained those concurrences addressed some of the conditions proposed in the motion language. He noted that condition one remained an issue and that the owner's concerns regarding the plans were an issue.

The Board agreed that condition one and the owner's concerns were sufficient reasons to postpone a decision on the SLUP until those issues are clarified.

Mr. Koseck noted that the applicant filled out their application appropriately, and the owner's agreement with the applicant to have rights to plan review is not under Board purview. He recommended that not be the sole reason this application be delayed.

Acknowledging the applicant-owner issue is not within Board purview, Chairman Clein noted it would still likely stymie the process of the establishment until the issue is resolved.

Mr. Koseck agreed, just reiterating that the applicant-owner issue should not be a reason for the Board to postpone its decision. He said resolving condition one would be a relatively simple process. He said advancing the project would benefit Birmingham and could be done without compromising either the Board's or Commission's work.

Motion by Mr. Boyle

Seconded by Mr. Williams to postpone consideration of the SLUP and Final Site Plan for 588 N. Old Woodward, Sweetwaters Coffee & Tea (former wine shop) until the Planning Board's next regular meeting on August 14, 2019.

Mr. Koseck he would likely vote no on the motion since the outstanding concerns were so minor.

Ms. Whipple-Boyce concurred with Mr. Koseck, saying the building owner's signing of the application puts the applicant-owner issue outside of the Board's purview. She said while she understands the difficulty of the situation, the applicant fulfilled its obligation to the owner by the City's standards and Staff also met their obligations regarding the application. For these reasons, she said the applicant-owner issue should not be a factor in the Board's consideration of whether to postpone the matter. She noted that all other conditions listed in the motion were satisfied with the exception of condition one and the method of mounting the sign, and that those were minor issues. She indicated that she was likely to vote no on the motion for these reasons.

Mr. Jeffares stated applications do not do well when there is insufficient communication between the applicant and other stakeholders. He said no direct neighbor to a proposed project or property

owner should see the plans for the first time at a Planning Board meeting. Mr. Jeffares stated he was just emphasizing this point for applications to the Board in general. In light of these issues, Mr. Jeffares indicated he would likely be supporting the motion.

Motion carried, 5-2.

VOICE VOTE

Yeas: Boyle, Williams, Clein, Jeffares, Ramin

Nays: Whipple-Boyce, Koseck

Chairman Clein recommended the applicant resolve all outstanding issues expediently and that the applicant had the support of the Board for the project.

07-113-19

G. Final Site Plan & Design Review

1. 34745 Woodward, Jax Kar Wash – Request for Final Site Plan and Design Review to add a covered detailing area and reconfigure access and circulation for the site.

City Planner Dupuis presented the item.

Brian Lawson, architect for the project, and Greg Roselli, site manager for Jax Kar Wash, walked the Planning Board through the plans.

Mr. Lawson noted that an accessible parking space was inappropriately represented as being next to the detailing station, and confirmed the space would actually be located elsewhere on the site.

Mr. Roselli explained that the vacuuming will be moved to the north part of the site. The aim of this change is to reduce the site's traffic burden on Brown Street and to allow vehicles to be processed more expediently. Mr. Roselli estimated that customers seek exterior-only services at the site between sixty and seventy percent of the time. He confirmed that the vast majority of customers would be getting a car wash without detailing and exiting onto Woodward subsequently. If customers purchase detailing, attendants will be driving vehicles to the vacuums and vacuuming the vehicles as part of that service. Customers will not be driving their vehicles to the vacuums or accessing the vacuums on their own.

Mr. Koseck asked about efforts towards visual improvement of the site as part of these updates. Mr. Koseck said he was concerned the site will be less aesthetically pleasing than it currently is if the proposed changes are instituted. Acknowledging the aesthetic limitations of the type of work and the site, Mr. Koseck noted that the City even has requirements for gas station exteriors and this project should be given similar consideration.

Mr. Lawson replied that the site may install the requisite screen wall at the corner of Woodward and Brown, and that a landscape element could also be considered for that corner.

Mr. Williams suggested potentially planting trees at the corner of Woodward and Brown, which he stated the Board had also recommended as an option for the site during a previous review.

Mr. Jeffares observed that vegetation could be used for the screen wall, which would have the additional benefit of providing visual improvement of the site.

Planning Director Ecker confirmed that would be an acceptable option as long as the vegetation is evergreen.

Chairman Clein said he liked the tree proposed on the south side of the site and liked the removal of the parking along Brown. He emphasized that he wants to support Jax, understood the challenges of the site, and would like to see the business do well. Chairman Clein also stated:

- The attended vacuums will likely encroach on the pedestrian space along Woodward and that vehicles currently routinely drive over the public sidewalk as part of Jax operations.
- That if this were a new project, he would not vote to approve the plans.
- He loved the idea of using vegetation for a screen wall, but said it would not work as the plans are currently laid out.
- If the Board were to approve using vegetation for a screen wall that would have to be included clearly as part of the plans.

Mr. Williams said he was in favor of making the screen wall on the north side of the site out of vegetation. He said landscaping should also be added to the Woodward side of the site, stating that if the entirety of the business' Woodward frontage cannot be landscaped then at least the corner of Woodward and Brown should be. He emphasized that any efforts towards adding vegetation to the site would be an improvement.

Chairman Clein asked if all six detailing stations were necessary.

Mr. Lawson confirmed he had been told they were due to detailing volume.

Ms. Whipple-Boyce noted that four detailing stations could be nested along the north side of the building which would allow for a landscape screen wall. She stated that the landscaping outside of 525 E. Brown was beautifully done, and recommended the project aim to recreate something similar on its own corner. Ms. Whipple-Boyce explained that the visual effect of the proposed plans would be hard to endorse, and that making an adjustment to four detailing stations and adding more landscaping could resolve the issue.

Mr. Williams concurred with Ms. Whipple-Boyce. He said the Board seemed to agree that no more cement or brick walls should be added to the site.

Planning Director Ecker also noted the Board's emphasis on adding vegetation to the site's Woodward and Brown corner.

Mr. Lawson expressed enthusiasm for the idea. He asked if it would be possible for the evergreen landscaping to take the place of street trees.

Planning Director Ecker said the evergreen landscaping could not replace street trees, but could be done in addition.

Chairman Clein invited comment from the public.

Sam Volk, 736 Brookside, said he was an engineer and that the north side of the site seemed to have substantial issues. He said the proposed configuration of the vacuum stations would only allow vehicles to move in threes, which would increase the congestion of the site instead of decreasing it. He said vacuuming the vehicles at four stations along the building allows vehicles to leave individually once they were complete, instead of having to wait.

Ms. Whipple-Boyce stated that two different members of the Board had noted that issue.

Mr. Volk reiterated his concerns.

The Board concurred on giving the project a few weeks to consider or integrate the Board's comments, including the following:

- Defining the site will help the business, and will make the space more attractive.
- The Board must receive a floor plan for the site, a plan that lays out the vegetation screen wall, and a plan delineating the pedestrian traffic flow around the site.
- The traffic flow into and out of the vacuum stations should be reviewed in light of the concerns and feedback provided.
- Jax Kar Wash employees often use benches across Brown during their breaks, and it might be a good improvement if Jax also provided benches for its employees to use.

Motion by Mr. Boyle

Seconded by Mr. Jeffares to postpone the item regarding Jax Kar Wash until the Planning Board's next regular meeting on August 14, 2019.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

07-114-19

H. Preliminary Site Plan Review

1. 720 N. Old Woodward, Kohler Building – Request for approval of the Preliminary Site Plan to allow the construction of a third floor on an existing building to add 4 residential units, and a design update on the exterior of the existing building.

City Planner Dupuis presented the item.

Mike Rutherford, architect for the project, explained:

- The mechanical aspects of the elevator are not complete yet since the plans are in their preliminary stage. All rooftop screening requirements will be met and delineated on the next set of plans. A new means of roof access will be added.
- The structural load bearing wall is at the property line. There will be posts that come down to support the roof at the corners.
- Adhering to the required setbacks would be detrimental to the planned units and would require extensive new construction to the building. The applicant is aware they will have to go before the Board of Zoning Appeals with their plans.
- Parts of the exterior may actually be constructed of aluminum composite panels that simulate wood, although wood is also being maintained as an option.

Keith Maziasz spoke as Senior Vice President of Najor Companies, which owns the property. He confirmed the four residential units will be rental. Access to the third floor of the building would likely be restricted by keycard. Najor will seek a licensing agreement with the City in order to provide the two larger units in the rear of the building with four parking spots to be located on the paved 582 sq. ft. behind the building. Parking would not be included as part of the tenancy of the two smaller units proposed for the front of the building.

Planning Director Ecker, Mr. Boyle and Chairman Clein noted that this parking proposal is very much aligned with some of the preliminary strategies the master planning team has proposed for increasing residential density downtown.

In reply to Mr. Boyle, Mr. Maziasz confirmed that Najor is confident in its ability to rent these units even without parking included.

Chairman Clein invited comment from the public.

Mr. Volk said he lives at 736 Brookside, which is across the river from the Kohler Building. He expressed dismay that the City may enter into a lease with Najor for four spaces in the parking lot behind the Kohler Building when the parking lot was recently updated at taxpayer expense. He was also concerned about the height of the building and the possible plans for the building's roof.

Chairman Clein clarified for Mr. Volk that the paved area Najor may rent from the City would not remove any parking spaces from the City's system because it is not currently a striped area for parking.

Planning Director Ecker added that:

- If the City were to enter into a lease with Najor for the paved area behind the Kohler Building, it would be at fair market value.
- The parking lot updates behind the Kohler Building were most likely funded by the through the City's parking fund and not through taxpayer monies.

Chairman Clein said Mr. Volk's concerns were still well taken, and strongly advised Najor to speak with both Mr. Volk and the Kohler Building's other neighbors to address questions and concerns.

Motion by Mr. Williams

Seconded by Mr. Boyle to approve the Preliminary Site Plan Review for 720 N. Old Woodward – pending receipt of the following:

- 1. The applicant revise plans to show third floor set back 10 ft. or obtain a variance from the Board of Zoning Appeals;**
- 2. The applicant submit a roof plan and updated elevations detailing the height and location of all rooftop mechanical units at Final Site Plan;**
- 3. The applicant revise plans to show parking spaces 180 sq. ft. in area or obtain a variance from the Board of Zoning Appeals;**
- 4. The applicant (1) enter into a ground lease with the City for the use of the pavement in the rear for 4 off-street parking spaces, and (2) the applicant gain approval from the City Commission for the use of 3 parking spaces in the right-of-way to meet the parking requirements;**
- 5. The applicant enter into a lease agreement with the City Commission for the use of 6 ft. of airspace at the rear of the building;**
- 6. The applicant must submit a calculation showing a visual light transmittance of 70% or higher for all proposed glazing;**
- 7. The applicant submit material samples to complete the Design Review;**
and,
- 8. The applicant comply with the requests of all City Departments.**

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

07-115-19

I. Miscellaneous Business and Communications

a. Communications

b. Administrative Approval Correspondence

Planning Director Ecker reviewed a request from Mr. Biddison and Mr. Surnow regarding 191 N. Chester. While performing construction on the second floor as it faced Willits, it was discovered that the wood part of the wall is badly deteriorated. As a result Mr. Biddison and Mr. Surnow requested to extend the glass to where the wood part of the wall was going to be.

Planning Director Ecker explained the only potential issue is that the glazing for that part of the building should be no more than 35%, and if these changes were implemented the glazing would be at 32.3%. She said she was bringing it to the attention of the Board since it is an iconic building. She also said it would be difficult to see the extra glass being proposed as part of this change.

Mr. Biddison provided a bit more information on the proposal.

The Board had no objections to the changes.

Planning Director Ecker instructed Mr. Biddison and Mr. Surnow to submit an administrative approval form and a check and said the changes would be approved.

c. Draft Agenda for the next Regular Planning Board Meeting (August 14, 24, 2019)

- Lincoln Yard -- Economic Development License
- 588 S. Old Woodward -- Sweetwaters Coffee and Tea
- Jax Kar Wash
- Possible Study Session of either Balcony Enclosures or Screening Materials

d. Other Business

07-116-19

J. Planning Division Action Items

a. Staff Report on Previous Requests

b. Additional Items from tonight's meeting

07-117-19

K. Adjournment

No further business being evident, the Chairman adjourned the meeting at 10:09 p.m.

Jana L. Ecker

Planning Director