

**City Of Birmingham**  
**Regular Meeting Of The Planning Board**  
**Wednesday, March 24, 2021**  
Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the City of Birmingham Planning Board held on March 24, 2021. Chair Scott Clein convened the meeting at 7:30 p.m.

**A. Roll Call**

**Present:** Chair Scott Clein; Board Members Robin Boyle, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin; Student Representative Daniel Murphy (all located in Birmingham, MI)

**Absent:** Board Member Stuart Jeffares; Student Representative Jane Wineman

**Administration:** Jana Ecker, Planning Director ("PD")  
Brooks Cowan, City Planner ("CP")  
Laura Eichenhorn, City Transcriptionist

**Fleis and Vandenbrink:**  
Julie Kroll

**03-040-21**

**B. Approval Of The Minutes Of The Regular Planning Board Meeting of March 10, 2021**

**Motion by Mr. Boyle**  
**Seconded by Mr. Williams to approve the minutes of the Regular Planning Board Meeting of March 10, 2021 as submitted.**

**Motion carried, 7-0.**

ROLL CALL VOTE

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

Nays: None

**03-041-21**

**C. Chair's Comments**

Chair Clein welcomed everyone to the virtual meeting. He stated the meeting was being held under the auspices of state legislation. Chair Clein reviewed the meeting's procedures.

**03-042-21**

**D. Review Of The Agenda**

There were no changes to the agenda.

PD Ecker clarified that the Special Land Use Permit Review for 300 & 394 S. Old Woodward and portions of 294 E. Brown would not actually be discussed until the Final Site Plan review of the item at a later date.

As noted on the agenda, and per the applicant's request, the Board agreed to postpone the Final Site Plan and Design Review for 35001 Woodward – The Maple (Vacant lot, Hunter House) to May 26, 2021.

**Motion by Mr. Williams**

**Seconded by Mr. Koseck to postpone the Final Site Plan and Design Review for 35001 Woodward – The Maple (Vacant lot, Hunter House) to May 26, 2021.**

**Motion carried, 7-0.**

**ROLL CALL VOTE**

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

Nays: None

**03-043-21**

**E. Special Land Use Permit and Final Site Plan and Design Review**

**1. 856 N. Old Woodward** – Fruition (New Building – The Pearl), Special Land Use Permit Review and Final Site Plan and Design Review to permit the operation of a new food and drink establishment (no alcohol) in an O2 zone district (Postponed from January 27, 2021).

CP Cowan reviewed the item.

In reply to Board inquiries, CP Cowan stated that Building Official Johnson informally indicated that the difference between a specialty food store and a food and beverage establishment is that the latter has the intent to have sit-down dining. CP Cowan stated that, as of yet, a formal opinion as to the difference has not been requested from Building Official Johnson.

Public Comment

Paul Reagan said that since this is an ordinance issue it should be before the Board of Zoning Appeals before it is reviewed by the Planning Board. He said it seemed the reviews were occurring in an incorrect order. He expressed concern that endorsement of an item requiring a variance at the Planning Board level could make the City indirectly liable since it could offer the applicant the impression that the City has approved their plans.

Mr. Williams, PD Ecker and Chair Clein all noted that the BZA has said it would not review items without the Planning Board reviewing the items first.

Mr. Williams noted that the Commission could likely direct a change to the order of Board reviews if they saw fit.

Mr. Boyle said there was a disjuncture between the types of small businesses the City wants to encourage and the effect the City's current parking ordinance has on those types of businesses. He said it was essential that the Planning Board and Commission address the issue.

Mr. Share said he was in favor of the Planning Board's recommendation. He said that limiting the seating to six seats would not put undue pressure on parking in the area. He said the difficulty Fruition was facing was also not primarily a self-created issue, noting that it resulted - from the first-come, first-serve nature of the retail uses in the building. He echoed Mr. Boyle's observation that this is the kind of retail use the City wants to encourage, and said it adds character to the downtown.

**Motion by Mr. Share**

**Seconded by Mr. Koseck to approve the Final Site Plan for 856 N. Old Woodward – Fruition, with the following conditions:**

- 1. That the applicant maintain the proposed floor plan with three tables and six chairs; and**
- 2. That the applicant obtains a variance of 12 parking spaces from the Board of Zoning Appeals.**

**Motion carried, 6-1.**

ROLL CALL VOTE

Yeas: Share, Koseck, Boyle, Whipple-Boyce, Clein, Ramin

Nays: Williams

**Motion by Mr. Share**

**Seconded by Ms. Whipple-Boyce to recommend approval to the City Commission for the Special Land Use Permit for 856 N. Old Woodward – Fruition, with the following conditions:**

- 1. That the applicant, its successors and assignees maintain the proposed floor plan with three tables and six chairs; and**
- 2. That the applicant obtains a variance of 12 parking spaces from the Board of Zoning Appeals.**

**Motion carried, 6-1.**

ROLL CALL VOTE

Yeas: Share, Whipple-Boyce, Koseck, Boyle, Clein, Ramin

Nays: Williams

Chair Clein said he was humbly recommending that the Commission consider changing the order in which Board reviews occur when there is an ordinance issue per Mr. Reagan's comment. He said he was also humbly recommending that the City adjust its parking ordinance to be more consistent with the kinds of businesses it would like to encourage per Mr. Boyle's comment. He

said the Parking Assessment District and parking in the downtown and mixed use districts should also be part of that discussion. He said the parking issue could be considered by the Commission for addition to the Planning Board action list.

**03-044-21**

## **F. Community Impact Study Review**

- 1. 300 & 394 S. Old Woodward, and portions of 294 E. Brown** – New Construction (Capital Title/Lutz & Frank's Shoe Service, portions of Coldwell Banker Weir Manual parking lot), Community Impact Study to consider approval of a new 4 story building, including a request to operate a restaurant using an Economic Development Liquor License.

Chair Clein said he would be recusing himself from the Board's considerations regarding 300 & 394 S. Old Woodward and portions of 294 E. Brown. While he said he and the City Attorney determined he had no conflict-of-interest, he was concerned that existing business relationships between his company and parties affiliated with the applicants could lead to the public impression of a conflict-of-interest. The Chair said that if it became clear in the future that his participation in these discussions would not result in the public impression of a conflict-of-interest, he would rejoin deliberations regarding 300 & 394 S. Old Woodward and portions of 294 E. Brown at that time.

The Chair recused himself and left the meeting at 8:06 p.m.

Mr. Emerine filled the Board vacancy stemming from the Chair's recusal and Vice-Chair Williams commenced facilitation of the meeting.

PD Ecker presented the CIS.

Victor Saroki, architect, Richard Rattner, attorney, Dave Stanchak, President of RH, Paul O'Meara, engineer, and Mike Kulka, **Environmental Engineer**, were present on behalf of the application.

Ms. Kroll reported she had met with the applicant team and they confirmed they would get her the additional traffic information she had requested.

In reply to Mr. Share, Ms. Kroll explained that the Multi-Modal Transportation Board had recently updated the transportation impact study requirements for the City, and that adding crash analyses was one of the updates. She said that there were no accident mitigation measures beyond signage recommended for the intersection of S. Old Woodward and Brown since the majority of the accidents resulted from parking issues and inattentive drivers. She confirmed some of the parking in front of the building may be eliminated to make room for the valet, and that if that were to occur it may reduce some of the parking accidents.

In reply to a request from Vice-Chair Williams, Mr. Emerine said he could work as the Board's representative with Ms. Kroll and Mr. O'Meara regarding the site's traffic impact.

In reply to Mr. Emerine, Ms. Kroll explained she wanted to produce a conservative traffic analysis to make sure that the site could handle the peak amount of likely traffic. She said that would better ensure that severe issues with traffic around the site do not ensue from the proposed uses.

The Board was advised by the applicant team that furniture loading and unloading would occur infrequently since RH is a showroom only and furniture purchases would be coming from off-site. Vice-Chair Williams and Mr. Boyle asked that furniture delivery trucks still be addressed in upcoming discussions of this item since the pieces in the showroom would likely be refreshed from time to time.

Mr. Saroki stated that the applicant team would resolve all issues raised by City departments and by Ms. Kroll's comments on the traffic study.

Mr. Kulka stated that the site had no more significant environmental issues than similar urban sites. He said any issues found in the environmental study would be remediated.

In reply to Mr. Share, Mr. Kulka committed the applicant team to environmentally remediating the site to residential criteria.

#### Public Comment

Mr. Reagan said he was concerned about there being insufficient parking proposed and in the area to support the site. He said he was also concerned about the impact of the project on nearby residences.

In reply to a question from David Bloom, Mr. Saroki said one area of the site would gain three parking spaces and another area would lose 11, leading to a net loss of eight parking spaces from the current number available. He also stated that RH paid for the CIS.

Mr. Share complimented the applicant team on their work thus far.

#### **Motion by Mr. Share**

**Seconded by Mr. Emerine to postpone action on the Community Impact Study as provided by the applicant to April 28, 2021 for the proposed development at 300 - 394 S. Old Woodward and a portion of 294 E. Brown Street, allowing the applicant the opportunity to address the issues raised by the Planning Department in its review of the CIS.**

**Motion carried, 7-0.**

#### ROLL CALL VOTE

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

Nays: None

**03-045-21**

#### **G. Preliminary Site Plan Review**

- 1. 300 & 394 S. Old Woodward, and portions of 294 E. Brown** – New Construction (Capital Title/Lutz & Frank's Shoe Service, portions of Coldwell Banker Weir Manual parking lot), Preliminary Site Plan Review to consider approval of a new 4 story building, including a request to operate a restaurant using an Economic Development Liquor License.

PD Ecker reviewed the item.

In reply to Mr. Share, PD Ecker said she would speak with the Engineering Department regarding possible options for additional sidewalk lighting on Daines.

Mr. Saroki explained that the landscaping off of Daines would be on the Coldwell Banker site with the consent of the property's owner. He stated that RH would be paying for the landscaping.

Mr. Stanchak provided a brief overview of the design inspiration for the Birmingham site and showed a rendering of RH Birmingham.

Jim Arpin, President of the Condo Association at Birmingham Place, said he appreciated what he had seen of the plans so far. Mr. Arpin invited the applicants to meet with the Condo Association.

Vice-Chair Williams encouraged the applicants to take Mr. Arpin up on his invitation.

Mr. Share asked if the applicant team had considered doing a three-story building without the need for a liquor license, since pursuing a four-story building with a liquor license adds complexity.

Mr. Stanchak said the restaurant and alcohol service were integral to creating the hospitable, appealing atmosphere of RH.

Mr. Koseck said he thought the applicant team had gone above and beyond to address site issues. He commended them on designing the building in context, on the attention paid to the aesthetics of all sides of the building, and on the landscaping and hardscaping. He said he thought the designs for the building and grounds would fit well in the neighborhood's context.

There was Board consensus to postpone voting on the item until April 28, 2021 in order to consider the CIS, Preliminary Site Plan, Rezoning Request and Economic Development License for 300 & 394 S. Old Woodward and portions of 294 E. Brown during the same meeting.

**Motion by Mr. Boyle**

**Seconded by Mr. Koseck to postpone the Preliminary Site Plan for 300 - 394 S. Old Woodward and a portion of 294 E. Brown Street pending receipt of an updated CIS addressing all issues noted in the CIS review above and setting the date for reconsideration to be April 28, 2021.**

**Motion carried, 7-0.**

**ROLL CALL VOTE**

**Yeas: Boyle, Koseck, Ramin, Share, Emerine, Whipple-Boyce, Williams**  
**Nays: None**

**03-046-21**

**H. Miscellaneous Business and Communications:**

**a. Communications**

PD Ecker notified the Board about the special Commission meeting to discuss the 2040 Master Plan set for April 19, 2021.

**b. Administrative Approval Correspondence**

PD Ecker presented a request from the Whistle Stop Diner to locate their outdoor seating adjacent to the restaurant and to install two overhead glass doors in the front of the restaurant. She stated that the owners of the diner were willing to pay to move and enhance the sidewalk.

A number of Board members said they preferred these plans to the previous ones, and there was Board consensus to allow for an administrative approval of the requests.

Mr. Koseck stated the glass in the overhead glass doors should not be tinted.

**c. Draft Agenda for the next Regular Planning Board Meeting (April 14, 2021)**

**d. Other Business**

**I. Planning Division Action Items**

**a. Staff Report on Previous Requests**

**b. Additional Items from tonight's meeting**

**03-047-21**

**J. Adjournment**

No further business being evident, the Vice-Chair adjourned the meeting at 10:58 p.m.

Jana L. Ecker

Planning Director

APPROVED