

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, April 14, 2021

Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the City of Birmingham Planning Board held on April 14, 2021. Chair Scott Clein convened the meeting at 7:30 p.m.

A. Roll Call

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

Absent: Board Member Bryan Williams; Student Representative Jane Wineman

Administration: Jana Ecker, Planning Director ("PD")
Nick Dupuis, City Planner ("CP")
Laura Eichenhorn, City Transcriptionist

Fleis and Vandenbrink:
Julie Kroll

04-048-21

B. Approval Of The Minutes Of The Regular Planning Board Meeting of March 24, 2021

Mr. Share recommended that Mike Kulka be described as an 'environmental engineer' on page three of the minutes.

Motion by Mr. Boyle
Seconded by Mr. Williams Mr. Share to approve the minutes of the Regular Planning Board Meeting of March 24, 2021 as amended.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

Abstain: Jeffares

04-049-21

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.

04-050-21

D. Review Of The Agenda

There were no changes to the agenda.

04-051-21

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

1. 720 N. Old Woodward, Vinewood Bistro (Lower Level in Kohler Building), Special Land Use Permit and Final Site Plan and Design Review request to consider approval of Vinewood, a new bistro proposed at the rear of the building, including the service of alcoholic liquor (Postponed from February 24, 2021).

CP Dupuis presented the item.

In reply to Board inquiries, Planning Staff stated:

- Given the dimensions, there should not be an issue with a vehicle making a turn in the rear even if the two closest spots have vehicles in them. The Engineering Department reviewed the plans, including that aspect, and did not flag it as an issue. Only one vehicle would be able to get through at a time.
- There is nothing in the ordinance that would prevent the use of painted gypsum board as part of the exterior.
- The rear of the building could be considered to have a 'pedestrian passage' as required by Item E in the bistro ordinance since there is a sidewalk lined by entrances to the buildings. It might also not qualify as a 'pedestrian passage' since the aforementioned entrances are not accessible to the public.
- While the ordinance would not prevent this bistro from being located in the front of the building, it might not be desirable since it would result in the loss of a parking spot.
- In contrast with previous years, the Commission did not request that the bistros be returned to them ranked in terms of priority.

Mr. Koseck said that if the rear of the building were considered a pedestrian passage then the rear facade would need to have 70% glazing. He said he did not believe the plans as proposed met the spirit or intent of the bistro ordinance, which is to create dialogue between the interior and exterior.

Roman Bonislowski spoke on behalf of the applicant. He stated:

- The proposed lighting would only slightly extend the existing lighting. The lighting would need to remain as-proposed in order to maintain sufficient safe lighting for the patio. The lighting would meet the zero condition at the edge of the ramp. A shield component could be added to the top of the wall to trap light. The lights in the front of the building could be reduced.
- The applicant team is fully aware of the permitting requirements for floodwater areas.
- The rear of the building should be described as a pedestrian path.

Chair Clein stated that all emails from the public were received by both Staff and the Board.

Public Comment

Kristen Tait, Drew Detling, and Kristen Bongiovanni, residents of Brookside Street, spoke against many aspects of the Vinewood bistro proposal due to the impact it could have on their enjoyment of their properties. The main concerns mentioned were noise, hours of operation, the size of the proposed restaurant and the strain it would put on the area's parking.

Ms. Tait noted that in her email she meant to write 'Maplewood' and not 'Merrillwood'. She also suggested that the City should focus more on moving bistros and other establishments into vacancies in the downtown area instead of into the neighborhoods.

John Roselli spoke as the owner of the adjacent building. He said he was concerned about retaining his residential tenant on the upper floor of the building due to the hours of operation, likely parking difficulties, potential noise issues and pedestrian safety in the rear of the building. He said the dumpsters were consistently neglected by the owner and stated that he has cleaned around them hundreds of times in his fifteen years of ownership of the building.

The Chair returned the conversation to the Board.

Mr. Boyle expressed concern about the potential environmental impact of the proposal on the Rouge River.

Mr. Share observed that the applicant would not be able to move forward with operation unless a permit is secured from EGLE.

Both Mr. Share and Ms. Whipple-Boyce stated that the rear of the building was not a pedestrian passage. They also agreed that while the 'winter garden' aspect of the plans was creative, it was not outdoor space. Both concurred that the project would not meet the intent of the bistro ordinance in terms of activating the street.

Mr. Share also expressed concerns regarding the potential noise, dumpster issues, and pedestrian conflict with vehicles accessing the adjacent building.

Chair Clein and Mr. Koseck both agreed that while they appreciated many aspects of the project there were too many misalignments between the current proposal, the proposed location, and the bistro ordinance.

Chair Clein commented that the likelihood of the project receiving the necessary permits to operate in the floodplain was low and the cost would be high. He said he was aware that was a permitting issue and not a site plan one. He said the proposal would be more appropriate if it were located elsewhere in the City.

Motion by Mr. Share

Seconded by Mr. Koseck to recommend denial to the City Commission the Special Land Use Permit for 720 N. Old Woodward – Vinewood Bistro – because the proposal fails to satisfy the spirit and intent of the Zoning Ordinance as required in Section 7.26 and 7.27, specifically the outdoor enclosure issue of 3.04(c)(10)(h), and the ‘no permanent structure requirement’ of Section 3.04(c)(10)(i), as well as floodplain, dumpster, pedestrian interaction and storefront issues.

Mr. Koseck said the seating limits in the bistro ordinance were a key part of its appeal and efficacy. He noted that the area in the rear of 720 N. Old Woodward would be difficult to police. He also noted that even if the Planning Board did endorse the proposed plans the applicant would still have to appear before the Board of Zoning Appeals for a number of variance requests.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

Motion by Mr. Share

Seconded by Mr. Koseck to recommend denial to the City Commission the final site plan and design review for 720 N. Old Woodward – Vinewood Bistro – because the proposal fails to satisfy the spirit and intent of the Zoning Ordinance as required in Section 7.26 and 7.27, specifically the outdoor enclosure issue of 3.04(c)(10)(h), and the ‘no permanent structure requirement’ of Section 3.04(c)(10)(i), as well as floodplain, dumpster, pedestrian interaction and storefront issues.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

04-052-21

F. Study Session Items

1. Solar Panel Regulations

CP Dupuis summarized the item.

Mr. Jeffares recommended the City enlist an expert in solar panels to review the ordinance proposal in order to avoid potentially having to re-do or update the ordinance earlier than necessary. Mr. Jeffares also recommended that the ordinance language specifically preclude wall- or facade-mounted solar panels, stating that it is aesthetically displeasing and could cause issues with neighboring properties.

Chair Clein concurred with Mr. Jeffares' recommendation regarding wall- or facade-mounted solar panels.

Mr. Boyle asked if there was any near-future technology the ordinance should address.

Chair Clein said that strips of solar panels being used to line bicycle paths was being tried in Europe, but that wide-spread implementation would not be in the near future.

In reply to Mr. Share, CP Dupuis said he did not recommend screening for ancillary equipment because it would increase the difficulty of installation and maintenance. CP Dupuis noted this ordinance review was being conducted with an aim towards reducing the impediments to using solar panels in the City. He added that users of solar panels also needed quick access to disconnect features.

Mr. Share recommended that the ordinance states that users of solar panels are not exempt from screening otherwise required by the Zoning Ordinance.

CP Dupuis said he could update the recommended ordinance language with the Board's comments and have it ready for a public hearing on May 12, 2021.

Motion by Mr. Boyle

Seconded by Mr. Jeffares to set a public hearing on solar panel regulations ordinance language for the regular Planning Board meeting of May 12, 2021.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

2. Glazing Standards

CP Dupuis summarized the item.

Mr. Share said he had recent occasion to purchase some low-iron glass, and that it added about 15% to the cost. He stated that he found the difference between low-iron and regular glass to be **visually** immaterial. He suggested that the low-iron requirement be removed from the recommended language, saying he thought it inappropriate to burden owners and developers with the extra cost.

Mr. Koseck and Ms. Whipple-Boyce, two other members of the Board familiar with glazing standards from their professions, did not dispute Mr. Share's recommendation when asked.

Motion by Mr. Share

Seconded by Ms. Whipple-Boyce to set a public hearing on Article 9, Section 9.02 Definition of Clear Glazing as presented without the reference to low-iron content for the regular Planning Board meeting of May 12, 2021.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

04-053-21

**G. Miscellaneous Business and Communications:
a. Communications**

PD Ecker reminded the Board that the Commission would be holding a special meeting regarding the 2040 Master Plan on April 19, 2021 and that the Board had been asked to attend.

b. Administrative Approval Correspondence

CP Dupuis explained that the owner of EM Bistro wanted to change their outdoor dining chairs to sculptural, white ones constructed of polypropylene. CP Dupuis noted that while polypropylene would not usually be considered a high-enough quality material for outdoor bistro chairs, these chairs differed significantly from standard plastic seating.

Mr. Koseck said the ordinance's main concern regarding the materials for outdoor bistro seating is longevity. He said that these chairs would withstand the elements and would not likely have longevity issues.

The Board, with the exception of Chair Clein, endorsed allowing an administrative approval for the request. Chair Clein's dissent arose from a dislike of the chairs and concern regarding their recyclability.

CP Dupuis said he would proceed with an administrative approval of the request.

CP Dupuis then asked the Board how the matter of outdoor dining decks should be addressed once the Covid-19 guidelines for outdoor dining decks in the City expire.

Mr. Boyle said the City should decide on a more comprehensive approach to how outdoor dining should interact with the streetscape in Birmingham over the next five to ten years before specific design guidelines for outdoor dining should be created.

Mr. Jeffares noted that the Board would need to come up with an answer quickly in order to have recommendations ready for Fall 2021.

Chair Clein concurred with both Mr. Boyle and Mr. Jeffares. He said the City needed guidance from the Commission vis-a-vis the desired interplay between outdoor dining and the streetscape, as Mr. Boyle stated.

CP Dupuis said the Planning Department would internally discuss the matter further to determine next steps.

c. Draft Agenda for the next Regular Planning Board Meeting (April 28, 2021)

d. Other Business

Mr. Boyle reported attending the Commission workshop regarding the Ad Hoc Unimproved Streets Study Committee's (AHUSSC) recommendations. He said the workshop format had clear benefits and should be used in the City more widely. He also said there seemed to be an appetite to implement many of the AHUSSC's recommendations.

04-054-21

H. Planning Division Action Items

a. Staff Report on Previous Requests

b. Additional Items from tonight's meeting

04-055-21

I. Adjournment

No further business being evident, Chair Clein adjourned the meeting at 9:22 p.m.

Jana L. Ecker

Planning Director