

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, April 28, 2021

Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the City of Birmingham Planning Board held on April 28, 2021. Vice-Chair Bryan Williams convened the meeting at 7:35 p.m.

A. Roll Call

Present: Vice-Chair Bryan Williams; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce; Alternate Board Member Jason Emerine (all located in Birmingham, MI, with the exception of Stuart Jeffares who was in Traverse City, MI.)

Absent: Chair Scott Clein; Alternate Board Member Nasseem Ramin; Student Representatives Daniel Murphy, Jane Wineman

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

Fleis and Vandenbrink:
Julie Kroll

04-056-21

B. Approval Of The Minutes Of The Regular Planning Board Meeting of April 14, 2021

Mr. Share noted that Mr. Williams could not have seconded the motion to approve the minutes as he was absent from the meeting. PD Ecker said Staff would review the audio and make the correction.

Mr. Share said the word 'visually' should be added before 'immaterial' on page four.

Motion by Mr. Share

Seconded by Mr. Koseck to approve the minutes of the Regular Planning Board Meeting of April 14, 2021 as amended.

Motion carried, 5-0.

ROLL CALL VOTE

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

Nays: None

Abstain: Williams, Emerine

04-057-21

C. Chair's Comments

Vice-Chair Williams welcomed everyone to the virtual meeting and reviewed the meeting's procedures.

04-058-21

D. Review Of The Agenda

PD Ecker noted that while there were no changes to the agenda, Item G, the Special Land Use Permit Review for 300 & 394 S. Old Woodward and portions of 294 E. Brown was there strictly to serve as public notification. She stated the SLUP would only be reviewed if/when the Final Site Plan for 300 & 394 S. Old Woodward and portions of 294 E. Brown comes before the Board in the future.

04-059-21

E. Rezoning Request

1. 300 & 394 S. Old Woodward, and portions of 294 E. Brown (Capital Title/Lutz & Frank's Shoe Service, portions of Coldwell Banker Weir Manual parking lot), Request for rezoning from B2/D3 to B2/D4 in the Downtown Overlay District.

PD Ecker and Gayle McGregor, attorney for the applicant, reviewed the item.

Victor Saroki, applicant, and Kelly Allen, attorney for the applicant, were also present on behalf of the item.

Ms. McGregor affirmed the applicant was offering to voluntarily limit the height of the building to four stories as part of rezoning the proposed parcel to D4. She said she believed she had submitted that offer in writing to the City. She said that if she had not yet submitted the offer in writing she would.

Mr. Share noted that the use and development of the land as a condition of the rezoning could be voluntarily limited by the applicant if submitted in writing, and could then be accepted by the City, per MCL 125.3405(1).

Board discussion noted that the City had used the same mechanism to include rezoning restrictions when the Whole Foods Market parcel was rezoned.

Vice-Chair Williams said the applicant's offer to limit the height of the building was positive since he did not believe that a five-story building should be built on the proposed parcel.

Mr. Share agreed.

Public Comment

Jeff Hockman, Chair of the BSD Board, spoke in favor of the rezoning. He said rezoning this proposed parcel was in line with the goals of the 2016 Plan and would benefit the broader Birmingham business community.

Marko Berishaj spoke in favor of the project.

After further discussion, the Board asked the applicant to clarify whether their voluntary limitation was to four floors, or to the specific design being put forth.

Mr. Saroki said he would voluntarily limit the rezoning request to the design as proposed in the site plan.

In reply to Ms. Whipple-Boyce, Vice-Chair Williams said the City Attorney would have to determine what would happen to the rezoning if the building is not developed.

Motion by Mr. Share

Seconded by Mr. Emerine based on a review of the rezoning request and supporting documentation submitted by the applicant, the voluntary offer conditions submitted by the applicant, a review of the applicable master plan documents and the development trends in the area, the Planning Board 1. Adopts the findings of fact contained in the staff report dated April 23, 2020 and 2. Recommends approval to the City Commission for the rezoning of 300-394 S. Old Woodward and a portion of 294 E. Brown Street as delineated in the application from D-3 to D-4 in the Downtown Overlay, conditioned on the City Commission's acceptance of the applicant's voluntary offer to limit the height of the building on this parcel to four stories in accordance with the building's form and mass contained in the proposed site plan submitted by the applicant.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

04-060-21

F. Zoning Ordinance Amendment Request

- 1.** Request for an amendment to Chapter 126, Zoning, Appendix 1, Exhibit A, to amend the Economic Development License map to include the properties at **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) on the map contained in Exhibit A to allow the use of economic development liquor licenses (EDL) on these properties.

CP Brooks and Ms. McGregor presented the item.

In reply to Vice-Chair Williams, Mr. Saroki confirmed the granting of an EDL is critical to the development of this project.

Mr. Share said that irrespective of the current proposal from RH the City should consider allowing this parcel to be eligible for an EDL since the 2016 Plan set it out as an ideal location for an anchor tenant.

Motion by Mr. Share

Seconded by Ms. Whipple-Boyce to recommend approval to the City Commission of the ordinance amendment to allow the use of an Economic Development Liquor License in the expanded area as shown on the attached map for Appendix C, Exhibit 1, Economic Development Licenses.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

04-061-21

G. Special Land Use Permit Reviews

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), Request for a Special Land Use Permit to consider approval of a new 4 story building, including a request to operate a restaurant using an Economic Development Liquor License.

No discussion occurred regarding this item per PD Ecker's comments under Item D, Review of the Agenda.

04-062-21

H. 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 (Continued from March 26, 2021).

PD Ecker introduced the item. She noted that the only outstanding comment from Ms. Kroll was that the applicant consider adding more bicycle parking onsite.

Mr. Emerine was the Board liaison to the meeting between the City, Ms. Kroll and the applicant's traffic consultants regarding the transportation impact study. Mr. Emerine reported that the

applicant addressed every issue raised by Ms. Kroll in her March 17, 2021 letter, with the exception of some possible additional bicycle parking, to Ms. Kroll's satisfaction. He stated that the applicant also shifted the proposed valet south in response to a request from the Police Department.

Ms. Kroll concurred with Mr. Emerine's summary.

Mr. Saroki said he would be happy to add additional bicycle racks, noting that there would be a bicycle rack provided for employees as well. He continued that while peak demand on the City's parking system is weekdays during business hours, the demand for parking from visitors to RH would be Saturdays and Sundays. He said, consequently, that RH would add little strain to the City's parking system. He said that during any shift there would be approximately 50 employees working and that they would park in the City's parking decks.

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 300 - 394 S. Old Woodward and a portion of 294 E. Brown Street with the following conditions:

- 1. The applicant is required to provide information on all life safety issues and Fire Dept. approval;**
- 2. The applicant is required to provide information on the proposed security system for approval by the Police Department; and,**
- 3. The applicant shall add the bicycle racks in accordance with the Fleis and Vandenbrink letter dated April 26, 2021.**

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

04-063-21

I. 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 (Continued from March 26, 2021).

PD Ecker summarized the item.

Vice-Chair Williams said that the applicant's offer to have a zoning with limitations consistent with the preliminary site plan would need the review of the City Attorney to make sure the rezoning, if authorized by the Commission, occurs in a way that is consistent with Michigan law.

In reply to Mr. Boyle, Mr. Saroki stated the building would be very adaptable for other uses in the future should the need arise.

Mr. Koseck concurred with Mr. Saroki. He expressed his support for the plans thus far, and recommended that the applicant consider an exterior building color that would contrast with the grey exterior of the Daxton instead of looking like an extension of it.

Messrs. Koseck and Emerine noted that RH would be a regional attraction.

Mr. Emerine spoke positively about previously living two blocks from the RH in Chicago. He also spoke about the positive impact the proposed development would have on the retail community in Birmingham. He said he was in support of the plan.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Jeffares to approve the Preliminary Site Plan for 300 - 394 S. Old Woodward and a portion of 294 E. Brown Street subject to the following conditions:

- 1. The applicant is required to obtain approval of the City Commission for the proposed lot splits and lot combination to create the new lot that is the subject of this application and shown on the site plan;**
- 2. The applicant obtain a variance for the use of the fourth floor as a restaurant, or obtain approval of a rezoning of the property to D-4 in the Downtown Overlay;**
- 3. The applicant obtain a variance for the use of an Economic Development license on the site, or obtain approval of a zoning amendment to alter the map contained in Appendix C, Exhibit 1 of the Zoning Ordinance to include the subject property;**
- 4. The applicant reduce the height of the proposed building to 68' and 3 stories and the eave height to 34' maximum, or obtain the requested rezoning of the site from D-3 to D-4 in the Downtown Overlay District, or obtain a variance from the Board of Zoning Appeals;**
- 5. The applicant update the landscape plan to provide species and size details on all proposed plantings, and provide material specifications on hardscape items at the time of Final Site Plan Review;**
- 6. The applicant is required to receive separate Planning approval for all landscaping changes proposed for the adjacent site, as they are not included in this site plan review approval;**
- 7. The applicant must submit a complete streetscape plan, including detail on hanging planters, at the time of Final Site Plan review;**
- 8. All streetscape elements on S. Old Woodward will be required to be consistent with the enhanced streetscape design planned by the City for future construction;**
- 9. The applicant must obtain approval of the Police Department and/or City Commission for any valet operation proposed;**
- 10. The applicant must submit all light fixture specification sheets and material and color samples at Final Site Plan Review;**
- 11. Compliance with the requirements of all departments; and,**
- 12. The applicant provide all material samples, specifications and colors at the time of Final Site Plan Review.**

Vice-Chair Williams said he was in favor of the plan, especially since all outstanding issues from the transportation impact study had been resolved and since the applicant voluntarily offered to accept a rezoning with conditions.

Public Comment

Richard Astrein, who has been a merchant in Birmingham for 50 years, spoke of the positive impact RH would have on the Birmingham retail business community.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

Vice-Chair Williams thanked the applicant team and Ms. Kroll for their work.

04-064-21

J. Miscellaneous Business and Communications:

a. Communications

b. Administrative Approval Correspondence

PD Ecker asked the Board for its consensus regarding allowing two potential administrative approvals.

The first request, for 191 Chester, was an outdoor patio along the western edge of the building. The residential neighbor immediately due west submitted a letter of support for the plans. The Board said the Planning Department could proceed with an administrative approval of the plans.

The second request was for Hazel Ravines Downtown regarding outdoor dining. PD Ecker noted that while the proposal could currently be approved under the City's Covid-19 allowances, she suspected the owners would want to keep the plastic chairs they were proposing beyond the lifting of the Covid-19 rules. Since the chairs would require an amended SLUP once the Covid-19 rules were lifted, PD Ecker wanted the Board's opinion on the chairs now. The Board expressed approval of the plans for outdoor dining and the proposed chairs.

c. Draft Agenda for the next Regular Planning Board Meeting (May 26, 2021)

d. Other Business

Since the Board's now-cancelled meeting on May 12, 2021 would have conflicted with Eid, PD Ecker recommended that the public hearings originally scheduled for that date be moved to June 9, 2021.

Motion by Mr. Share

Seconded by Ms. Whipple-Boyce to reschedule the public hearings on glazing and solar panels from May 12, 2021 to June 9, 2021.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

04-065-21

K. Planning Division Action Items

a. Staff Report on Previous Requests

b. Additional Items from tonight's meeting

04-066-21

I. Adjournment

No further business being evident, the Vice-Chair adjourned the meeting at 10:15 p.m.

Jana L. Ecker
Planning Director