

REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, April 10th, 2019
7:30 PM
151 MARTIN STREET, CITY COMMISSION ROOM, BIRMINGHAM, MI

- A. Roll Call
- B. Review and Approval of the Minutes of the regular meeting of **March 27, 2019**
- C. Chairpersons' Comments
- D. Review of the Agenda
- E. Study Session Items

Rules of Procedure for Study Sessions: Site Plan and Design Review, Special Land Use Permit Review and other review decisions will not be made during study sessions; Each person (member of the public) will be allowed to speak at the end of the study session; Each person will be allowed to speak only once; The length of time for each person to speak will be decided by the Chairman at the beginning of the meeting; Board members may seek information from the public at any time during the meeting.

- 1. **Railing & Screening Materials**
- 2. **Action Item List**
- 3. **Rooftop Uses**

- F. Miscellaneous Business and Communications:
 - a. Communications
 - b. **Administrative Approval** Correspondence
 - c. Draft Agenda for the next Regular Planning Board Meeting (**April 24**)
 - d. Other Business
- G. Planning Division Action Items
 - a. Staff Report on Previous Requests
 - b. Additional Items from tonight's meeting
- J. Adjournment

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**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, MARCH 27, 2019**

Item	Page
<p>B. APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF MARCH 13, 2019</p> <p>Motion by Mr. Share Seconded by Mr. Williams to approve the minutes of the Regular Planning Board Meeting of March 13, 2019 as amended.</p> <p>Motion carried, 5-0.</p>	1
<p>E. Regulated Use Reviews</p> <p>1. 33828 Woodward – Vespa Scooters (former Barbara’s Paper Bag) – Request for approval of a Regulated Use and Final Site Plan to open a scooter sales facility.</p>	3
<p>F. Request for Special Land Use Permit Review</p> <p>1. 33828 Woodward – Vespa Scooters (former Barbara’s Paper Bag) – Request for approval of a Regulated Use and Final Site Plan to open a scooter sales facility.</p>	3
<p>G. Request for Final Site Plan and Design Review</p> <p>1. 33828 Woodward – Vespa Scooters (former Barbara’s Paper Bag) – Request for approval of a Regulated Use and Final Site Plan to open a scooter sales facility.</p>	3
<p>Motion by Mr. Share Seconded by Mr. Williams to postpone the consideration of the regulated use review, special land use permit review, and final site plan review for 33866 Woodward by the Planning Board until its regularly scheduled meeting on April 24, 2019.</p> <p>Motion carried, 6-0.</p>	6

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, MARCH 27, 2019**

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on March 27, 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, Daniel Share, Bryan Williams; Alternate Board Member Jason Emerine; Student Representatives Sophia Trimble, John Utley

Absent: Board Members Bert Koseck, Janelle Whipple-Boyce; Alternate Board Member Nasseen Ramin

Administration: Jana Ecker, Planning Director
Laura Eichenhorn, Transcriptionist

03-041-19

**B. APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD
MEETING OF MARCH 13, 2019**

Motion by Mr. Share

Seconded by Mr. Williams to approve the minutes of the Regular Planning Board Meeting of March 13, 2019 as amended.

Motion carried, 5-0.

VOICE VOTE

Yeas: Share, Williams, Boyle, Clein, Emerine

Nays: None

Abstain: Jeffares

03-042-19

C. CHAIRPERSON'S COMMENTS

Chairman Clein said it was going to be an interesting meeting covering many different aspects of the zoning ordinance.

03-043-19

D. APPROVAL OF THE AGENDA

Planning Director Ecker noted the following two items were withdrawn from the agenda per the applicant's request:

F2. **360 W. Maple – Pernoï Bistro (formerly Café Via)** – Request for approval of transfer of Café Via bistro to Pernoï Bistro, in same location but under new ownership.

and

G2. **360 W. Maple – Pernoï Bistro (formerly Café Via)** – Request for approval of transfer of Café Via bistro to Pernoï Bistro, in same location but under new ownership.

In lieu of the above items, the applicant requested a preapplication discussion with the Planning Board. The applicant also opted to submit a new bistro application which was received by the Planning Department on March 27, 2019, instead of applying for a transfer of the previous bistro application.

Chairman Clein confirmed the Planning Board would proceed with a preapplication discussion with the applicant during the evening's meeting.

03-044-19

E. Regulated Use Reviews

1. 33828 Woodward – Vespa Scooters (former Barbara's Paper Bag) – Request for approval of a Regulated Use and Final Site Plan to open a scooter sales facility.

F. Request for Special Land Use Permit Review

1. 33828 Woodward – Vespa Scooters (former Barbara's Paper Bag) – Request for approval of a Regulated Use and Final Site Plan to open a scooter sales facility.

G. Request for Final Site Plan and Design Review

1. 33828 Woodward – Vespa Scooters (former Barbara's Paper Bag) – Request for approval of a Regulated Use and Final Site Plan to open a scooter sales facility.

Chairman Clein explained that the Planning Board previously did not do regulated use reviews, but had been asked by the City Commission to begin doing so. Since the applicant had both a regulated use review, request for a special land use permit review, and a request for a final site plan and design review on the agenda, Chairman Clein noted that the topics would be discussed at the same time, but the separate reviews would be subject to different criteria for approval, different findings of fact, and different motions to deny or approve.

Chairman Clein suggested that City Planner Dupuis' first presentation of the item focus on the regulated use aspects of the application. Chairman Clein asked if the Planning Board had another preference, and no other preferences were raised.

City Planner Dupuis reviewed the item, noting the site plan only encompassed the building and not the required 200 foot surrounding area, and that the required survey was also not included in the application.

Chairman Clein explained partial applications hinder the Planning Board in making any recommendation to the Commission because Regulated Use approval requires Special Land Use approval, and the Commission requires those approval or disapproval recommendations be made at the same time.

Mr. Jeffares noted that the service part of this business is separated from a residential area by just an alley.

Part of the regulated use ordinance reads "because of their nature, uses defined as 'regulated uses' have objectionable operational characteristics, especially when concentrated in small areas." Mr. Boyle quoted that aspect and observed that the proposal for this regulated use is concentrated in a small area. He added that while he has no objection to this particular land use, the existence of two such business in a small area may be considered a "concentration" and thus should be the starting point for the Board's consideration of approval or disapproval.

Per Chairman Clein's request, City Planner Dupuis reviewed the criteria for approval of a regulated use:

1. The use will be compatible with adjacent use of land, considering the proximity of dwellings, churches, schools, public structures, and other places of public gatherings;
2. The use will not adversely impact the capabilities of public services and facilities including sewers, water, schools, transportation, and the ability of the City to supply such services;
3. The use will not adversely impact and cultural or historic landmarks;
4. The use is in compliance with all other requirements of this zoning ordinance; and
5. The use is in compliance with federal, state, and local laws and regulations.

Charlie Knoll, applicant and owner of Ducati Detroit, was asked questions by the Board. He explained:

- The proposed business would be exclusively sales and service of Vespa scooters. No scooters would be available for rent. There will be no underground tanks storing gasoline or lubricants. The shop will have pneumatic lifts.
- Due to the smaller variation in parts needed, the business will need much less room for storage of repair parts than a motorcycle or automotive repair shop would.
- It is questionable whether Vespa sales would be considered a regulated use since they are scooters and not motorcycles.
- He decided to pursue opening a Vepsa dealership as a result of the City's October 2018 finding that motorcycle and scooter parking around the City was underutilized while other parking is in very high demand.
- It would not be possible to sell Vespas out of Ducati Detroit.
- There would be no pneumatic tooling. All repairs on scooters and most repairs on motorcycles are done by hand torque tools.
- In the five-and-a-half years of its existence, Ducati Detroit has had no noise ordinance violations.

- The front door would serve as the service entrance and exit in order to avoid service traffic through the residential area, and would use the same door design as the ones extant at Ducati Detroit.

Chairman Clein noted a discrepancy between Mr. Knoll's statement and the submitted plans, since the plans reflect service traffic passing through the residential area. He added that an application for a Special Land Use Permit (SLUP) is tied to a detailed dimension scaled interior floorplan, detailed dimension site plans, and a survey, none of which were provided by the applicant.

Mr. Knoll clarified that the backdoor is a double man door with a 24-inch dropoff which would prevent the utilization of the door for entering or departing scooters.

Planning Director Ecker explained that the proposed business's proximity to another regulated use would require them to receive approval from the Planning Board, a variance from the Board of Zoning Appeals, and then a positive recommendation from both Boards to the Commission.

Mr. Emerine noted the proposed business might also be within 1,000 feet of Abbott's Coins, Jewelry and Loans, which is another regulated use business.

Mr. Jeffares noted that Ducati Detroit is next to Birmingham Coin & Jewelry, another regulated use business. Since Ducati Detroit is 100 feet from the proposed business, then the proposed business would also be within 1,000 feet of Birmingham Coin & Jewelry.

Mr. Knoll confirmed that Ducati Detroit did receive a variance for its proximity to Birmingham Coin & Jewelry and for its proximity to BABS Salon and Spa, which has a tattoo parlor license. He explained that he has a good relationship with the owners of both businesses, and that during the original request for a variance the Board of Zoning Appeals said the regulated use ordinance is dated and they were therefore willing to grant the variance.

Chairman Clein noted the application is in compliance with federal, state, and local laws; is in compliance with all other aspects of the zoning ordinance; will not impact a cultural or historic landmark; and, will not adversely affect impact the capabilities of public service. He said the issues remaining are the concentration of regulated uses in the area and the compatibility of the proposed business with adjacent land uses. He invited Mr. Knoll to comment on the proposed business' proximity to single family residential uses, particularly the home with a garage that opens onto the alley.

Mr. Knoll replied that the home in question is owned by the owner of Blossoms, rented to some of the Blossoms employees, and the garage is used as storage for the business. He explained he has very respectful relationships with the neighbors and will continue to do so. He also shared that Ducati Detroit has been in the top ten Ducati retailers in North America every year because he cares about the Birmingham area and the quality of his businesses.

In reply to Mr. Jeffares, Mr. Knoll stated that all Vespas are street-legal. In order to test ride a Vespa an individual would need a valid motorcycle license and proper safety gear. In addition, both Ducati and the proposed Vespa dealership prefer to send test riders out on Woodward

instead of sending them through the residential neighborhood in order to avoid being a nuisance to the local residents. There is a range of models, and different models have different top speeds: on the low end, a 50cc model could go up to 35 miles per hour, and on the high end the 500cc can do over 100 miles per hour.

Chairman Clein advised Mr. Knoll to hire an architect or engineer to review the application requirements and to make sure all materials are submitted in compliance with the ordinance.

Motion by Mr. Share

Seconded by Mr. Williams to postpone the consideration of the regulated use review, special land use permit review, and final site plan review for 33866 Woodward by the Planning Board until its regularly scheduled meeting on April 24, 2019.

Mr. Boyle said the Planning Board should review at a future date whether this use should be a regulated use since the applicant has provided some reason to consider that the categorization as such may be inappropriate.

Motion carried, 6-0.

VOICE VOTE

Yeas: Share, Williams, Boyle, Clein, Emerine, Jeffares

Nays: None

03-045-19

F. Preapplication Discussion

1. 310 E. Maple – Pernoi Bistro (formerly Café Via)

Kelly Allen, attorney for the applicant, introduced Luciano DelSignore, owner, and Matthew Lisk of Kyle Evans Design, designer for Pernoi. She thanked the Planning Board for allowing the preapplication discussion to proceed. She explained the applicant would submit the site plan with the required aerial view of all aspects within 200 feet of the property, would meet with the Historic District Commission, would be hiring a sign contractor to create signs compliant with the sign ordinance, all the seating and outdoor streetscape will remain as proposed, will provide a material board, has applied with the Birmingham Police Department and State Liquor Control, and the design allows a safe and efficient pedestrian flow. Pernoi proposes to be open from 5 p.m. to 11 p.m. five nights a week, with Sundays and Mondays being reserved for special events.

Mr. DelSignore explained the concept behind Pernoi, noting he would be working with Chef Takashi Yagihashi to create a kind of dueling-chef experience where Mr. DelSignore would focus on Italian cuisine and Mr. Yagihashi would focus on Japanese, Asian, and French cuisines. Pernoi is a portmanteau coined by Mr. DelSignore based on the Italian phrase 'for us', with the goal that the restaurant would provide meals that other chefs would want to eat, an atmosphere where people would want to celebrate their most special occasions, and a focus on convivial and upscale hospitality.

Mr. Lisk walked the Board through the proposed design elements. He said Pernoï would:

- Keep many of the design elements from Cafe Via on the while removing the awning and the curtain visible on Maple. A sign will be installed above the window. The canopy will be re-wrapped with new signage. The material structure of the design facing the alley will remain as-is. All exterior seating will be beneath the canopy.
- Maintain an understated and minimal design approach. The extant millwork from Cafe Via down the center of the interior space will be preserved and used for wine storage. All the cabinetry will remain, the floors will be refinished, the tablecloths will be all-white, the light fixtures will be updated and a few of the walls will be refinished.
- Have new curtains and valences in the bar room, have an open kitchen to allow the Chefs to engage with the clientele, and the corner which previously housed a florist shop will become a large dining room because it is now part of Pernoï's lease.
- Hang millwork clouds for acoustic purposes within the restaurant. Between the Italian coast and Japan's island nature, a large part of the design inspiration was the idea of an old yacht.
- Create design elements which reflect the rich, refined nature of the food being served.
- Have opportunities for private dining, and would design the barroom to be inviting to people in the Birmingham area looking to have a drink and/or a light meal after work.

Chairman Clein told Mr. Lisk that eisenglass is now prohibited in Birmingham and recommended he work with Staff to determine another option.

Mr. Jeffares advised the applicant to be careful of the number of tables and chairs to make sure they are compliant with the ordinance.

Mr. DelSignore explained Pernoï is trying to avoid having diners feel very observable to the public along the front window, especially since the front of the restaurant will house the premier rooms and diners who are likely to desire some discretion. He said they would be installing a sheer drape in the front window in order to accomplish this.

Mr. Lisk explained that while the design implied there was a set of french doors would open on to two seats within the restaurant, those doors would actually remain closed and function as a window.

The Board said it looked forward to working with Pernoï to aid in compliance with the City's ordinances and to the opening of such a highly-anticipated restaurant.

03-046-19

G. MISCELLANEOUS BUSINESS AND COMMUNICATIONS

- a. Communications (none)
- b. Administrative Approval Requests (none)
- c. Draft Agenda for the next Regular Planning Board Meeting of April 10, 2019
 - Rooftop Uses

Mr. Jeffares suggested the Planning Board could review some of the smaller items they have been keeping track of to look at.

Chairman Clein said that would be a good idea, and asked if Planning Director Ecker could request the right for the Planning Board to do that from the City Commission.

03-047-19

H. ADJOURNMENT

No further business being evident, the Chairman adjourned the meeting at 8:30 p.m.

Jana L. Ecker

Planning Director

DATE: April 10, 2019

TO: Planning Board

FROM: Brooks Cowan, City Planner

SUBJECT: Railing & Screening Material

As a result of numerous site plan reviews that have come before the Planning Board requesting the use of metal screening gates and glass railings, the Planning Board has requested to consider minor ordinance amendments to include these as permitted materials. Current ordinance language does not allow glass railings for balconies & terraces, nor does it permit metal gates for trash receptacle screening.

- Article 3, Section 3.04(E)(12) Balconies, railings, and porch structures shall be metal, wood, cast concrete, or stone.
- Article 4, Section 4.54(B)(8) When required to screen a trash receptacle or ground mounted mechanical or electrical equipment, a masonry screenwall with wood gates. The screenwall shall match the material of the principal building.

Please find the following ordinance language revisions for you review.

CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 3, SECTION 3.04(E)(12), ARCHITECTURAL STANDARDS, TO REGULATE BALCONY, RAILING, AND PORCH MATERIAL.

12. Balconies, railings, and porch structures shall be **glass**, metal, wood, cast concrete, or stone.

ORDAINED this _____ publication day of _____, 2019 to become effective 7 days after publication.

Patricia Bordman, Mayor

Cherilynn Mynsberge, City Clerk

CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 4, SECTION 4.54(B)(8), SCREEING STANDARDS, TO REGULATE TRASH RECEPTACLE SCREENING MATERIAL.

8. When required to screen a trash receptacle or ground mounted mechanical or electrical equipment, a masonry screenwall with ~~wood~~ gates **consisting of wood, metal, or similar material is required.** The screenwall shall match the material of the principal building.

ORDAINED this _____ publication day of _____, 2019 to become effective 7 days after publication.

Patricia Bordman, Mayor

Cherilynn Mynsberge, City Clerk



MEMORANDUM

Planning Division

DATE: April 5, 2019
TO: Planning Board
FROM: Brooks Cowan, City Planner
SUBJECT: Revised Draft of the Planning Board's Action List

In the spring of each year the Planning Division prepares an Annual Report to the City Commission outlining the activities of several boards and commissions over the previous year, as well as an action list of identified priority items for the boards for consideration over the coming year. The Planning Board's Action List is included in the Annual Report each year. From this list, the Planning Board and the City Commission have the opportunity to evaluate the Planning Board's goals and objectives, and make any needed amendments based on current priorities.

On June 18, 2018, the Planning Board and City Commission held a joint meeting at which several new planning issues were discussed, including potential changes to the signage requirements in the Downtown Overlay District and to parking requirements for all land uses.

On October 15, 2018, the Planning Board and City Commission held a joint meeting at which several new planning issues were discussed. Specifically, the issues of aging in place and the use and occupation of rooftops within the MX District and the need for rooftop structure regulations were discussed.

On November 12, 2018, the City Commission reviewed a revised draft of the Planning Board's 2018-2019 Action List based on the items discussed at the joint meetings held earlier this year. The City Commission voted to approve the Revised Draft Planning Board Action List 2018 – 2019. Since then, a number of items have been recommended by the Planning Board and either approved or will soon be considered by City Commission. Accordingly, please find attached a revised draft of the Planning Board's 2018-2019 Action List.

Planning Board Action List – 2018 – 2019

	TOPIC	SPECIFIC DIRECTION/ PROBLEM DEFINITION	STUDY SESSION	PUBLIC HEARING	STATUS	NOTES
1	Bistro Parameters	<ul style="list-style-type: none"> Review bistro regulations on the location or number of outdoor dining seats permitted Clarify and/or provide additional regulations for the operation of bistros Consider different standards for different districts 	7/12/17 8/9/17 9/13/17 1/10/18 3/14/18 6/13/18 7/11/18 8/18/18	4/11/18 (PB) 8/18/18 (PB) 9/7/18 (CC) 10/8/18 (CC) 12/3/18 (CC)	All amendments approved	<ul style="list-style-type: none"> As directed by the City Commission on 7/10/17
2	Definition of Retail – Long Term Study	<ul style="list-style-type: none"> Provide big picture study of boundaries and existing conditions 	8/10/16 3/29/17 5/10/17 6/14/17 1/10/18 3/14/18 4/11/18 5/9/18 6/13/18 6/18/18 7/11/18 7/25/18 8/3/18 (CC) 8/27/18 (CC) 10/24/18		In Progress	<ul style="list-style-type: none"> As directed by the City Commission on 7/11/2016
3	Amend cost of parking space for payment-in- lieu of parking to allow additional building height in the Triangle District	<ul style="list-style-type: none"> Update cost of parking space to today's cost Build in automatic cost increase / year into ordinance language 	8/8/18 9/12/18	10/10/18 (PB) 11/19/18 (CC)	Complete	<ul style="list-style-type: none"> As directed by the City Manager

4	Overlay Signage Standards	<ul style="list-style-type: none"> Consider consistent signage standards inside and out of the Downtown Birmingham Overlay District Consider quality of signage and fastening systems 	6/18/18 7/11/18 7/25/18	9/12/18 (PB) 2/11/19 (CC)	Complete	<ul style="list-style-type: none"> As discussed at the joint meeting of the City Commission / Planning Board on 6/18/18
5	Commercial Projections onto Public Property / Architectural Allowances	<ul style="list-style-type: none"> Clarify in the Zoning Ordinance which, if any, projections are permitted into the ROW Draft regulations to address the height, projection or permitted materials for architectural features projecting into the ROW 	1/10/18 8/8/18 10/10/18 10/24/18	3/13/19 (PB) 5/6/19 (CC PH)	In Progress	<ul style="list-style-type: none"> As directed by the City Commission on 7/10/17
6	Renovation of Commercial Properties	<ul style="list-style-type: none"> Amend the review procedures for new construction and/or the Renovation of existing buildings Clarify the distinction between a renovation and new construction Clarify the distinction between a site plan review and a design review Consider PB review for use changes 	8/19/17 10/13/17 1/10/18 4/11/18	3/13/19 (PB) 5/6/19 (CC PH)	In Progress	<ul style="list-style-type: none"> As directed by the City Commission on 7/10/17

7	Parking Issues:					
	<ul style="list-style-type: none"> ✓ Shared Parking ✓ Parking Requirements 	<ul style="list-style-type: none"> ✓ Evaluate the success/difficulties encountered in other communities ✓ Require a formal shared parking agreement ✓ Review parking requirements for residential uses 	8/10/16 2/8/17 3/29/17 5/10/17 7/12/17 7/11/18 7/25/18 8/13/18(CC)		In Progress In Progress	<ul style="list-style-type: none"> ✓ As directed by the City Commission on 7/10/17 ✓ As discussed at the joint meeting of the City Commission / Planning Board on 6/18/18
8	Rooftop Uses & Structures	<ul style="list-style-type: none"> ✓ Allow use and occupation of rooftops in the MX District consistent with other mixed use zone districts ✓ Draft regulations to address the size, height and placement of permitted rooftop structures and / or enclosures 	10/24/18 12/12/18 2/13/19 3/13/19 4/10/19		In Progress	<ul style="list-style-type: none"> ✓ As discussed at the joint meeting of the City Commission / Planning Board on 10/15/18
9	Aging in Place	<ul style="list-style-type: none"> ✓ Consider ordinance amendments to allow existing homes to be modified for increased accessibility ✓ Consider allowing multi-generational housing stock ✓ Encourage affordable housing opportunities ✓ Enhance public spaces to accommodate an aging population 				<ul style="list-style-type: none"> ✓ As discussed at the joint meeting of the City Commission / Planning Board on 10/15/18

10	Consider looking at principal uses allowed and add flexibility ("and other similar uses")	<ul style="list-style-type: none"> ✓ Evaluate the current system of listing only permitted uses in each zone district ✓ Determine whether to continue this system, or switch to broad use categories (ie. retail is permitted, instead of listing drugstore, shoe store, grocery store) 				
11	Potential residential zoning changes; MF & MX garage doors	<ul style="list-style-type: none"> ✓ Consider adding garage placement standards and/or garage and garage door size or design standards for mixed use and multi-family residential developments 				
12	Sustainable Urbanism (Green building standards, pervious surfaces, geothermal, native plants, low impact development etc.)	<ul style="list-style-type: none"> ✓ Incentive option in Triangle District ✓ Guest speakers in LEED Certification, Pervious Concrete, LED Lighting, Wind Power, Deconstruction ✓ Sustainability website & awards ✓ Native Plant brochure 	2/09/2005 7/11/2007 8/08/2007 9/12/2007 1/9/2008 9/10/08 1/14/09 1/28/09 2/10/09 (LRP) 5/13/09 8/12/09 11/11/09 1/23/10 (LRP) 5/12/10 6/9/10	2/25/09 (PB - Solar) 1/13/10 (PB-Wind) 2/10/10 (PB-Wind) 6/14/2010 (CC-Wind)	Solar ordinance completed. Wind ordinance completed.	

1 3	Review Process for Public Projects	<ul style="list-style-type: none"> ✓ Clarify review process for projects on public property ✓ Consider requiring same site plan review process as that for private projects 				
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**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, NOVEMBER 28, 2018**

11-192-18

2. Planning Board Action List

Ms. Ecker recalled that on November 12, 2018, the City Commission reviewed a revised draft of the Planning Board's 2018-2019 Action List based on the items discussed at the joint meetings held earlier this year. The City Commission voted to approve the Revised Draft Planning Board Action List 2018 – 2019. In addition, the City Commission also approved a formal process for amendments to the Planning Board's Action List between Annual Report submissions.

Since then the Commission approved the vast majority of Item 1, Bistro Standards, except for definition of Bistro and that will be back to them on Monday, December 3, 2018.

Item 2, Definition of Retail - Long Term Study only received one bidder and the Commission decided to re-bid the RFP. Therefore, staff is in the process of making changes in accordance with Commission comments and re-issue it.

Item 3, Amend Cost of Parking Space for payment-in-lieu of parking was recently approved by the City Commission.

Item 4, Overlay Signage Standards will need to go to the Design Review Board when a quorum is present and then move on to the City Commission.

The Planning Board is presently considering Item 5, Commercial Projections onto Public Property.

Board members decided to cross out Item 13, Additional Items to be Considered during Master Plan Process because it is covered in the RFP and the proposal that was received for the Master Plan.

Consensus was to take up glass railings and dumpster enclosures. The City Manager will make the decision as to whether the Board can review them quickly and easily, or whether they should go to the City Commission for a revision to the Action List.

Motion by Mr. Jeffares

Seconded by Mr. Williams to ask the City Manager if we can investigate ordinance amendments (a) to permit glass railings; (b) to permit metal panels as exterior veneer; and (c) to expand dumpster enclosure materials.

No one from the public wished to speak about the motion.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

DATE: April 10th, 2019

TO: Planning Board

FROM: Brooks Cowan, City Planner

SUBJECT: Rooftop Uses

A number of new mixed use and multi-family developments throughout the country have included rooftop amenities such as recreation spaces, terraces, patios, gardens or pools. Providing rooftop amenities allows building owners to maximize space. The view that rooftop amenities provide is often cited as one of the biggest benefits for patrons of such spaces. Examples in Birmingham include the All Seasons in the Triangle District and Social Kitchen in the Downtown District. Rooftop use above the building height limit is currently permitted in all zoning districts except the MX District. Issues with rooftop access for mechanical equipment servicing has also been an issue due to height restrictions for the MX zone.

Article 4.18 of the Zoning Ordinance contains a section for structures excluded from height limits such as rooftop mechanical equipment, but it does not apply to the MX District.

4.18 HT-03

This Height Standards section applies to the following districts:

01 02 P B1 B2 B2B B2C B3 B4 TZ1 TZ3

The following height standard applies:

- A. Structures Excluded: The maximum height limits set forth in the two-page layout in Article 2 shall not apply to any penthouses, rooftop screening, rooftop mechanical equipment and/or other rooftop mechanical appurtenances, providing they are screened in accordance with Section 4.54.

Article 4.19 of the Zoning Ordinance contains height standards for the Mixed Use (MX) District, which provides as follow

Height Standards (HT)

Article
04

4.19 HT-04

This Height Standards section applies to the following district:

MX

The following height standards apply:

- A. Roofs:
1. Flat roofs shall be no more than 45 feet.
 2. Eave line for sloped roofs shall be no more than 40 feet.
 3. Peak or ridge of any sloped roof shall be no more than 50 feet as measured to the average grade at the sidewalk at the frontage line.
 4. Maximum overall height including the mechanical and other equipment shall be no more than 50 feet.
 5. Sloped roofs no greater than 45 degrees measured to the horizontal shall be permitted for the screening of mechanical and other equipment.
 6. Any other use or occupancy above 40 feet shall be prohibited.
 7. Maximum of 4 stories.
- B. Structures Along Eton Road: The minimum eave height for a 1 story building along Eton Road shall be 18 feet.

If a flat roof building is built to the maximum height of 45', it would only be allowed 5' for rooftop structures and mechanical equipment such as stair enclosures or elevator lobbies that provide access to the rooftop. This is due to Section 4.19(A)(4) restricting the maximum overall height including mechanical equipment to 50'.

Also, if a property owner in the MX District constructs a building with a roof height of 40' or above, no rooftop use or occupancy may be permitted based on Section 4.19(A)(6) which States:

Any other use or occupancy above 40 feet shall be prohibited.

The MX District is the only zoning district that prohibits rooftop use above its height limit. The District Lofts at the northwest corner of Villa and Eton and the Sheridan senior living center are two properties that have recently been built and are currently prohibited from having uses or occupancy on the roof based on section 4.19 of the Zoning Ordinance.

This matter was discussed at the joint meeting of the City Commission and Planning Board on October 15, 2018. After much discussion, the consensus of the City Commission was to consider ordinance amendments to allow rooftop uses and occupation in the MX District so that such uses are permitted in all zone districts that allow mixed use buildings. In addition, the City Commission also expressed a desire to allow small lobbies or area of enclosed space around elevators that extend up to rooftops in all districts.

On October 24th 2018 the Planning Board considered draft ordinance language that eliminated line 6 of Section 4.19(A) "*Any other use or occupancy above 40 feet shall be prohibited.*" There was consensus that the Board wanted more in depth review of ordinance language in relation to rooftop uses before making any definitive decisions.

On December 12th, 2018 the Planning Board reviewed ordinance language from the cities of Denver, CO and Portland, OR. The Board discussed Denver's height exceptions which states mixed-use buildings up to three stories may exceed the permitted building height by 12 feet for elevator lobbies and open structures. In comparison, Portland, Oregon allows rooftop mechanical equipment to exceed the maximum height by 16 feet as long as it is setback 15 feet from the building frontage.

The Planning Board then reviewed proposed changes to ordinance language related to rooftop uses. Changes included adding MX to the list of zones in Section 4.18(A) for structures excluded from the maximum height limit. Language was also added in Section 4.18(A) to incorporate stair enclosures, elevator shafts, and elevator lobbies.

In order to address the City Commission's directive to consider ordinance amendments to allow rooftop uses and occupation in the MX District, line 6 of Section 4.19(A) "*Any other use or occupancy above 40 feet shall be prohibited*" was eliminated for consideration. A section titled "Rooftop Uses" was also added to section 4.18(B) which attempted to limit rooftop uses. There was general consensus that this section needed revision, specifically related to permitted uses on rooftops.

On February 13th, 2019, the Planning Department presented updated language addressing previous comments and borrowing similar language from other City Ordinances. The Planning Board expressed concern about nuisance complaints, especially related to noise at night, and suggested a time limit of rooftop uses from 7 a.m. to 12 p.m which has been included in the following draft language.

A concern about rooftop items being carried off of the rooftop by wind was also expressed. While reviewing ordinance language, the Building Department addressed this issue by suggesting the inclusion of text under the *Rooftop Use* category stating "*All rooftop structures and furniture must be confined, of sufficient weight or anchored to the building to resist anticipated wind loads.*"

The Building Department also had the following comments related to the proposed language for rooftop uses. In regards to the proposed *Article 4, Section 4.18(B) Rooftop Use* language, it was noted that Rooftop Uses are not height standards and should be moved to *Article 5, Specific Use Standards*.

On March 13th, 2019 the Planning Board reviewed suggestions from the Building Department and determined *Rooftop Use* should be moved to Chapter 5 of the Zoning Ordinance. In regards to permissible rooftop items, the Planning Board suggested further research into other cities such as Chicago to help specify what is and is not allowed on rooftops. Suggestions related to guardrail materials and setback were also made.

In researching the City of Chicago's Zoning Ordinance, The Birmingham Planning Department contacted Chicago's Planning Department and was informed that there are no limitations regarding furniture on the roof top patios of high rise commercial buildings or residential rooftops. All types of couches and grills are permitted. Eating and Drinking Establishments on rooftop patios in Chicago require a Special Use Application and approval from the Board of Zoning Appeals for commercial buildings. Also, Chapter 15 of Chicago's Municipal Code defines Deck and Rooftop Deck, and defines the maximum deck size for combustible and noncombustible decks.

The Chicago Zoning Ordinance Chapter 17-17, *Limitation on Rooftop Features in Residential Districts* addresses similar issues to what the Planning Board has previously discussed. Stairway enclosures and elevator penthouses must be setback 20 feet from the building line and may not exceed the height limit by more than 15 feet, or 9 feet measured from the parapet, whichever results in lesser height. Chicago also limits the size of stairway enclosures to 170 square feet and an elevator penthouse to 465 square feet.

Pergolas, arbors and trellises located on rooftops of principal residential buildings and private garages are allowed to exceed the maximum building height, provided that:

- (a) on principal buildings less than 80 feet tall, they are set back at least 20 feet from the building line, or in the case of corner lots, at least 15 feet from the front and side building lines.
- (b) on principal buildings and private garages, they do not exceed 11 feet in overall height above the rooftop deck, or extend more than 8 feet above the building parapet, whichever is greater.

(c) They are safely and securely attached to the rooftop.

Language from Chicago's Ordinance has been applied to the suggested ordinance language for *Structures Excluded* from Height Standards.

To address the discussion of guardrails, the feature was added to the list of items under *Structures Excluded*, and a line was added to require guardrail material to be consistent with the materials of the building.

Items in *Rooftop Uses* were moved to *Structures Excluded* when they were relevant to the maximum height limitations. At the past meeting, the Planning Board recommended that items in *Rooftop Uses* be moved to Chapter 5 of the Ordinance. Revisions have been made to where the only item remaining in *Rooftop Uses* is the line regarding timeframe for rooftop use, which the Planning Department would like to review for clarification.

The definition of rooftop was also discussed at the meeting on March 13th, 2019, as well as the difference between a rooftop and a terrace. Preliminary suggestions for rooftop and rooftop terrace, are provided below. The Planning Board may also wish to discuss how to define balcony and rooftop deck as well.

Accordingly, please find cited Ordinance language from Chicago, as well as attached draft ordinance language for your review.

CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 4, SECTION 4.18(A), HEIGHT STANDARDS, TO REGULATE ROOFTOP USE AND AMENITIES.

This Height Standards section applies to the following districts: O1, O2, P, B1, B2, B2B, B2C, B3, B4, TZ1, TZ3, **MX**

The following height standard applies:

A.) Structures Excluded:

- 1.) The maximum height limit set forth in the two-page layout in Article 2 shall not apply to any **mechanical** penthouses, **stair enclosures**, **elevator shafts**, **elevator lobby**, **rooftop guardrail**, rooftop screening, rooftop mechanical equipment and/or other rooftop mechanical appurtenances, providing they are screened in accordance with Section 4.54.
- 2.) **An elevator lobby may exceed the maximum height limit provided that it is no larger in area than the area of the elevator shaft which it abuts, measured to the exterior walls.**
- 3.) **rooftop features such as pergolas, trellises, furniture and other similar accessories may exceed the maximum height limit, provided that:**
 - a. They are set back at least 10 feet from the front and side building facade.
 - b. They are of sufficient weight or anchored to the building to resist anticipated wind loads.
 - c. They do not have full enclosures, nor do they consist of eisenglass or similar enclosure materials.
- 4.) **Rooftop guardrails shall consist of high quality materials consistent with the materials of the building.**
- 5.) **All structures excluded from the maximum height limit set forth in the two-page layout in Article 2 may be no more than 12 feet above the maximum height set forth in the two-page layout for each district in Article 2.**
- 6.) **Rooftop structures and features excluded from the maximum height limit may not contain habitable space.**

A. Rooftop Uses:

- ~~1. All rooftop building features above the maximum floor and height limit set forth in the two page layout in Article 2 shall not **contain habitable space**. include space for living, sleeping, bathrooms, toilet compartments, halls, or similar space.~~
- ~~2. **Shelters and coverings such as canopies and pergolas are permitted so**~~

~~long as they are not enclosed and may not cover more than 20 percent of the rooftop area.~~

- ~~3. All rooftop structures and furniture must be confined, of sufficient weight or anchored to the building to resist anticipated wind loads.~~
- ~~4. Enclosures such as eisenglass and similar materials facilitating year-round uses are not permitted.~~
5. Rooftop use is permitted only between the hours of 7:00 a.m. and midnight.

ORDAINED this _ day of _____, 2019 to become effective 7 days after
_____ publication.

Patricia Bordman, Mayor

Cherilynn Mynsberge, City Clerk

CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 4, SECTION 4.19(A), HEIGHT STANDARDS, TO ALLOW ROOFTOP USE AND AMENITIES IN THE MX ZONE DISTRICT.

The following height standards apply:

B. Roofs:

1. Flat roofs shall be no more than 45 feet.
2. Eave line for sloped roofs shall be no more than 40 feet.
3. Peak or ridge of any sloped roof shall be no more than 50 feet as measured to the average grade at the sidewalk at the frontage line.
4. Maximum overall height including the mechanical and other equipment shall be no more than ~~50 feet~~ **57 feet**.
5. Sloped roofs no greater than 45 degrees measured to the horizontal shall be permitted for the screening of mechanical and other equipment.
6. ~~Any other use or occupancy above 40 feet shall be prohibited.~~
7. Maximum of 4 stories.
8. ~~Rooftop structures shall, to the best extent possible as determined by the Planning Board or Design Review Board, not extend above the top edge of an imaginary plane extending upward no more than 45 degrees from the eave line facing the street front.~~

ORDAINED this _____ publication day of _____, 2019 to become effective 7 days after publication.

Patricia Bordman, Mayor

Cherilynn Mynsberge, City Clerk

CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 9, DEFINITIONS TO DEFINE ROOFTOP ROOFTOP TERRACE.

Rooftop: The external upper covering of a building.

Rooftop Terrace: Rooftop outdoor living area connected to a residential or commercial space which exists on the same floor.

ORDAINED this _____ publication day of _____, 2019 to become effective 7 days after publication.

Patricia Bordman, Mayor

Cherilynn Mynsberge, City Clerk

Municipal Code of Chicago, Title 17, Chicago Zoning Ordinance:



17-17-0311-B Limitations on Rooftop Features in R Districts.

1. Stairway enclosures and elevator penthouses in R districts are allowed to exceed the maximum *building height*, provided:

(a) they are set back at least 20 feet from the front *building line*, and
(b) do not exceed 9 feet in overall height or extend more than 5 feet above the building *parapet*, whichever results in a lesser height, except that where access to the roof is required under Chapter [18-11](#) of the Municipal Code, an elevator penthouse may exceed 9 feet but shall not exceed 15 feet in overall height, and may extend more than 5 feet but shall not extend more than 11 feet above the building *parapet*, whichever results in a lesser height.

2. Stairway enclosures in R districts may not contain habitable space and may not exceed 170 square feet in area.

3. Elevator penthouses in R districts may not contain habitable space and may not exceed 465 square feet in area.

4. Rooftop wind energy systems shall be considered permitted accessory structures within all districts provided they comply with the height limits and setbacks established in this Section. A rooftop energy conversion system shall consist of a wind turbine(s) and associated equipment for converting wind energy to power. Wind energy conversions systems shall be permitted as rooftop accessory structures provided such structures:

(a) are set back at least 20 feet from the front building line, or in the case of corner lots, at least 15 feet from the front and side building line.

(b) are limited to a height of no more than 15 feet above the roof or top of the *parapet*, whichever is greater.

(c) comply with all noise limitations of the Chicago Municipal Code.

(d) are safely and securely attached to the rooftop in compliance with the Chicago Building Code.

5. Pergolas, arbors and trellises located on rooftops of *principal buildings* and private garages in R Districts are allowed to exceed the maximum *building height*, provided that:

(a) on *principal buildings* less than 80 feet tall, they are set back at least 20 feet from the front *building line*, or in the case of *corner lots*, at least 15 feet from the front and side *building lines*;

(b) on *principal buildings* and private garages, they do not exceed 11 feet in overall height above the rooftop deck, or extend more than 8 feet above the building *parapet*, whichever is greater;

(c) they are safely and securely attached to the rooftop



17-17-0104-K Eating and Drinking Establishments. Provision of prepared food or beverages for on- or off-premises consumption. The following are examples of eating and drinking establishments:

1. Restaurant. An establishment primarily engaged in serving prepared food to the public pursuant to required licenses, including those with outdoor seating areas.

(a) Limited Restaurant. A restaurant in which there is no service of alcoholic liquor or in which the service of alcoholic liquor is clearly incidental and subordinate to the primary activity (prepared food service) and in which live entertainment or dancing, if any, is clearly incidental and subordinate to the primary activity (prepared food service).

(b) General Restaurant. A restaurant in which alcoholic liquor may be served in conjunction with the primary activity (prepared food service) and in which live entertainment and dancing are permitted in completely enclosed areas.

2. Tavern. An establishment that is primarily engaged in serving alcoholic liquor for consumption on the premises and in which the serving of prepared food, live entertainment and dancing are permitted.

3. Outdoor patio. Outdoor patio shall have the meaning ascribed to it in Section [4-60-010](#) of this Code. For the purposes of the *special use* provisions of Section [17-3-0200](#) of this zoning ordinance, any outdoor patio located on or above the roof or above the first story of any *building* or any other structure shall be considered to be located on a rooftop. For the purposes of the *permitted use* provisions of Section [17-3-0200](#) of this zoning ordinance, any outdoor patio located adjacent to the grade-level floor, or below the surface of the floor next above the grade-level floor, of any *building* or any other structure shall be considered to be located at grade level. The provisions of Section [17-3-0200](#) of this zoning ordinance regarding outdoor patios do not apply to any location subject to a special club license pursuant to Chapter [4-388](#) of this Code.

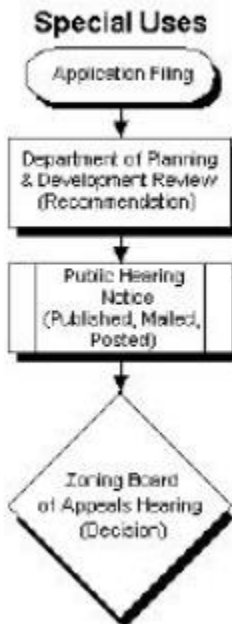
17-3-0207 Use Table and Standards.

For a printer-friendly PDF version of Table 17-3-0207, please [click here](#).

USE GROUP		Zoning Districts						Use Standard	Parking Standard
Use Category		B1	B2	B3	C1	C2	C3		
	Specific Use Type								
AA. Eating and Drinking Establishments									
1.	Restaurant, Limited	P	P	P	P	P	P		§ 17-10-0207-M
2.	Restaurant, General	-	-	P	P	P	P		§ 17-10-0207-M
3.	Tavern	-	-	S	P	P	P		§ 17-10-0207-M
4.	Outdoor patio (if located on a rooftop)	-	-	S	S	S	S		§ 17-10-0207-M
5.	Outdoor patio (if located at grade level)	P	P	P	P	P	P		§ 17-10-0207-M

17-13-0901 Purpose. *Special uses* are uses that, because of their widely varying land use and operational characteristics, require case-by-case review in order to determine whether they will be compatible with surrounding uses and development patterns. Case-by-case review is intended to ensure consideration of the *special use's* anticipated land use, site design and operational impacts.

17-13-0900 Special uses.



Municipal Code of Chicago, Title 15 Fire Prevention, Chapter 15-8:

15-8-321 Decks.

(a) A deck shall be defined as an open, unroofed floor structure designed or used for more than incidental occupancy.

(b) A combustible deck shall be located not closer than six feet to an interior lot line and not closer than six feet to any building on the same lot, other than the building to which it is attached, except that:

(1) A combustible deck may be located not closer than three feet from an interior lot line provided the deck does not exceed 400 square feet in area and is separated by not less than six feet from another structure on the same lot.

(2) If the combustible deck is laid directly on the ground without any air spaces under individual boards, it may be carried up to the lot line.

(c) The maximum area and location of a deck of unprotected noncombustible construction, or supported by unprotected noncombustible construction and with a walking surface meeting requirements for Class A roofing, is unlimited.

(d) The maximum area of a deck of combustible construction located not less than six feet from any interior lot line, not less than six feet from any building on the same lot, and not more than six feet above grade is unlimited.

15-8-322 Rooftop decks.

(a) A rooftop deck is a deck that is erected on top of the roof or on top of any part of a building and shall comply with all the requirements for decks in Section [15-8-321](#), except as expressly modified in this section.

(b) Rooftop decks are roof structures and shall comply with Section [15-8-510](#).

(c) A rooftop deck that is protected by a two-hour noncombustible parapet wall at least three feet high, and that does not exceed the greater of 500 square feet or 33 percent of the total roof area of the building on which it is located, may be run to the face of the parapet wall, provided that no more than one such deck shall be allowed per building. A parapet wall shall not be required on any side that is not less than six feet from an interior lot line and not less than six feet from another building.

(d) A rooftop deck must have access to two exits, except only one exit shall be required for a rooftop deck:

(1) not more than 800 square feet in area, not more than 12 feet above grade, and adjoining a public way;

(2) not more than 300 square feet in area and not more than 40 feet above grade; or

(3) on a building of A-1 occupancy.

(e) Exterior stairs, when otherwise permitted, may be used for all required exits from a rooftop deck.

(f) A level containing no habitable space other than a rooftop deck shall not be considered a separate floor or story.

(g) Rooftop decks shall not be erected above any building of type IV-B construction.

(h) The construction of a roof below a rooftop deck shall provide fire resistance of not less than one-half hour from both sides

(Added Coun. J. 10-2-95, p. 8040; Amend Coun. J. 3-29-17, p. 45477, § 5)

**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, March 13, 2019**

03-037-19

F. STUDY SESSION ITEMS

1. Rooftop Uses

City Planner Cowan presented the item. He noted the section on rooftop uses is under consideration by the Building Department as to whether that topic should remain under Height Standards within the ordinance or should be moved to Use Standards.

Mr. Boyle asked if there was language regarding guardrail requirements for rooftop usage.

Planning Director Ecker explained the height of a guardrail would be dictated by the Building Code, not the Zoning Ordinance. The materials are dictated in the Overlay only.

Mr. Boyle suggested it might make sense to compile the criteria for guardrails within the ordinance language so it is more easily accessible to developers.

Mr. Koseck confirmed that could be helpful.

Chairman Clein said it would be necessary to find a way to reduce the possible confusion that could stem from different requirements and language for different zones if these changes were made.

City Planner Cowan said guardrails could be added to 4.18(a)(1) where it also addresses penthouses, stair enclosures, and elevator shafts.

Planning Director Ecker explained that the material restrictions in the Overlay are to offset the extra density bonus. She stated it is not entirely necessary to restrict materials for other zones within the ordinance because projects are already subject to design review, though the Board could do so if it chooses.

Mr. Williams recalled a conversation regarding rooftop usage in the MX District that discussed the virtues of a setback of the usage so as not to disturb neighbors.

Planning Director Ecker suggested that it may behoove the Board to define 'rooftop' to clarify how these standards apply or do not apply to terraces on all levels.

Chairman Clein opined that the most expedient definition would differentiate between the private use of terraces and balconies and the common use of rooftops.

Planning Director Ecker noted that a rooftop could potentially be private to a penthouse, which means the definition would require more specificity.

According to Mr. Koseck, it might be most appropriate to limit the hours of use and the number of occupants and then to rely on the City's existing Zoning Ordinance and policing to address

issues such as noise or other disturbances should they arise. In addition, the Board would have an opportunity to review all these factors during the site plan approval process should additional concerns arise at that time.

Planning Director Ecker read the definition of "structure" from the ordinance as "anything constructed or erected which requires location on the ground, or attachment to something having location on the ground, including swimming pools. The term structure shall not include walls, fences, ornamental landscape features, driveways and sidewalks."

Mr. Koseck said he thinks of a guardrail as being attached to the structure of a building.

Planning Director Ecker explained that a usable roof space requires adherence to the commercial guardrail standard including 42" in height and the ability to withstand 200 lbs in weight every linear foot.

Mr. Share asked the Board to clarify what question they were focusing on in this discussion.

Mr. Boyle replied, stating he is trying to ascertain whether there are other ways to clarify the Zoning Ordinance for the benefit of developers and architects reading the ordinances on rooftop construction.

Laying out two options, Chairman Clein said the Board could either let the City's Building Code continue to address these questions, or could come up with standards to which developers and architects must adhere. He noted that the focus of the discussion has largely been regarding appropriate materials.

Planning Director Ecker reiterated that the issue of materials would be covered under the design review and the Building Code. If a building is only adding rooftop guardrails, that would be reviewed by the Design Review Board.

Mr. Boyle said the Planning Board should set the standard.

Mr. Share offered that the standard could be descriptive as opposed to material-specific; saying something like "high-quality materials" or "consistent with the materials of the building" might best achieve the Board's goals.

In response to Chairman Clein's question about what can be installed on a rooftop, Planning Director Ecker cited 4.19(a)(8) reading that rooftop structures shall be stepped back in the MX District, which is a prohibitive requirement meaning buildings in the MX District could not have their stair tower at the roof edge. For this reason, Planning Director Ecker suggested the Board strike the line.

Chairman Clein said he was comfortable striking the line, but would like to see rooftop installations appropriately specified.

Planning Director Ecker speculated that if a building is below the height limit it may be allowed to build an enclosed space on the rooftop. She emphasized that 4.18(a) specifies the only types of structures that can be built above a building's maximum height.

Ms. Whipple-Boyce said 4.18(b)(2) could be made less confusing by reading "Canopies and pergolas are permitted as long as they are not enclosed."

The Board agreed that rooftop furniture will be required to be "of sufficient weight or anchored to the building to resist anticipated wind loads."

Ms. Whipple-Boyce added that canopies and pergolas should also be weighted or anchored to the building.

Planning Director Ecker stated saying "all rooftop furnishings and accessories" would sufficiently encompass the different elements on a rooftop that must be weighted or anchored. She confirmed for Chairman Clein that the Planning Department could look into what else gets used on residential rooftops and report back in order to be sure the Board is not leaving anything out of the rooftop usage discussion.

Mr. Share said he wanted to be sure the two-page layout was absolutely clear, and recommended tying the maximum height in each district to either the two-page layout or the overlay standards, as appropriate. The recommended language change was "no more than twelve feet above the maximum height set forth in the two-page layout for each district."

The Board agreed with Mr. Share's recommendation, and said the exact wording could be worked out at a later time.

Planning Director Ecker asked for the Board's preference regarding Mr. Boyle's original suggestion of consolidating the rooftop use information with the appropriate zone sections.

Chairman Clein said he thinks consolidating the requirements for each zone would be wise, so that architects and developers do not have to go looking in the ordinance to make sure they are not missing any information.

Mr. Share suggested the ordinances for the specific zones could specify where the information on rooftop uses is located within the zoning ordinances in order to notify the reader that there is pertinent information elsewhere.

The Board ultimately reached consensus to move 'B. Rooftop Uses' to all the other relevant Use Standard sections.