

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, March 9, 2022
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on March 9, 2022.
Chair Scott Clein convened the meeting at 7:30 p.m.

A. Roll Call

Present: Chair Scott Clein; Board Members Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin; Student Representative MacKinzie Clein

Absent: Board Member Robin Boyle; Student Representative Andrew Fuller

Administration:

Nick Dupuis, Planning Director
Leah Blizinski, City Planner
Brooks Cowan, Senior Planner
Laura Eichenhorn, City Transcriptionist

Master Planning Team:

Matt Lambert, DPZ

03-49-22

B. Approval Of The Minutes Of The Regular Planning Board Meeting of February 23, 2022

Mr. Share stated that on page six the "real estate consultant who regularly does business in Birmingham" is Sam Munaco.

Motion by Mr. Williams

Seconded by Ms. Whipple-Boyce to approve the minutes of the Regular Planning Board Meeting of February 23, 2022 as amended.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

03-50-22

C. Chair's Comments

Chair Clein welcomed MacKinzie Clein, one of the Board's two new student representatives, and reviewed the meeting's procedures.

D. Review Of The Agenda **03-51-22**

E. Unfinished Business **03-52-22**

None.

F. Rezoning Applications **03-53-22**

None.

G. Community Impact Studies **03-54-22**

None.

H. Special Land Use Permits **03-55-22**

1. 100 Townsend – Townsend Hotel/Rugby Grille – Request for new outdoor dining platform (Postponed from January 26, 2022)

CP Blizinski presented the item.

In reply to Mr. Share, CP Blizinski explained the Fire Marshal shared no concerns with the plans as presented. The Fire Marshal had expressed that he had written his comments to pre-empt potential issues in the future.

PD Dupuis noted that all City Departments review outdoor dining requests every year, and that the City would be entitled to take remedial action if an establishment were to run afoul of its agreement with the City.

John Gardner, architect, and Steven Kalczynski, Managing Director of the Townsend Hotel (the Townsend), were present on behalf of the item.

In reply to Mr. Share, Mr. Kalczynski stated he did not anticipate that the proposed outdoor dining would impede traffic outside the Townsend. He noted that the Townsend had a structure outside during Covid-19 and that no traffic issues arose during that period.

Chair Clein noted that since the outdoor dining would be located within public parking spaces it should not impact the queuing area in front of the Townsend.

Mr. Share said he was concerned that the outdoor dining deck would be off-set relative to the outdoor dining that is adjacent to the building, and that a five foot clear path may not be wide

enough in a case when there is outdoor dining on both sides of the path. He also expressed some concern about the covering being proposed for the deck.

Chair Clein noted that in addition to the five foot clear path, the Townsend would not be occupying two to three feet of a 'furniture zone' which adds to the available width in this case. He said that fact and the fact that the two outdoor dining areas are staggered made him less concerned about feeling infringed upon as a pedestrian passing through the area.

Mr. Gardner confirmed that the deck would be strictly within the width of the two parking spaces.

Mr. Jeffares noted that presently the two parking spaces in question can already be occupied by vehicles, and that the proposed condition would be no different from the present condition in its effect on the clear path.

Ms. Whipple-Boyce offered praise for the proposal.

Mr. Share and Ms. Whipple-Boyce members noted some ongoing concern about approving outdoor dining requests when the Board has not yet completed its recommended outdoor dining ordinance revisions.

Chair Clein reminded the Board that this outdoor dining proposal was submitted within the context of the current ordinance, and that the Board must make its recommendations within the current ordinance until the outdoor dining ordinance revisions are approved and implemented by the Commission.

Messrs. Williams and Koseck affirmed Chair Clein's statement.

Chair Clein also noted that outdoor dining proposals do not represent an approval in perpetuity should issues arise.

Chair Clein informed the applicants that the City was reminded in a letter from the Department of Justice of its obligations to adhere to the Americans with Disabilities Act (ADA). He said that the applicant should speak with the Building Department to ensure that all aspects of the outdoor dining proposal comply with ADA regulations.

Chair Clein expressed concern regarding the use of non-recycled, non-recyclable plastic for outdoor dining furniture within the broader context of climate change. He said he would not hold up the application on that basis but did question why more sustainable materials could not be used for outdoor dining in 2022.

Mr. Gardner stated the literature indicates that the outdoor dining furniture would be fully recyclable.

Motion by Mr. Jeffares

Seconded by Ms. Whipple-Boyce to recommend approval to the City Commission the Special Land Use Permit application for 100 Townsend St. – Rugby Grille – subject to the following conditions:

- 1. The applicant should submit revised plans that clarify the width of the metal awning frame will not be greater than the width of the deck (6'6"); and,**
- 2. The applicant must comply with the requests of all City Departments.**

Mr. Share said he would support this motion but not a motion for approval of the final site plan and design review motion for 100 Townsend. He clarified that he felt the cover for the deck would not be consistent with the adjacent uses of land and would be damaging to the surrounding neighborhood. He said he would vote to approve the SLUP because even with his reservations about the cover the proposal is still an appropriate land use.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

03-56-22

I. Site Plan & Design Reviews

- 1. 100 Townsend – Townsend Hotel/Rugby Grille – Request for new outdoor dining platform (Postponed from January 26, 2022)**

Discussion occurred during Item H1.

Motion by Mr. Jeffares

Seconded by Ms. Whipple-Boyce to recommend approval to the City Commission the Special Land Use Permit application for 100 Townsend St. – Rugby Grille – subject to the following conditions:

- 1. The applicant should submit revised plans that clarify the width of the metal awning frame will not be greater than the width of the deck (6'6"); and,**
- 2. The applicant must comply with the requests of all City Departments.**

Motion carried, 6-1.

ROLL CALL VOTE

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

Nays: Share

- 2. 159 N. Eton – Request for building and site improvements (POSTPONE)**

PD Dupuis stated that a final site plan would not likely be required for this item so no motion was made to postpone.

3. 525 E. Brown – Birmingham Roast – Request for changes to outdoor dining patio (Postponed from September 9, 2021)

PD Dupuis summarized the item.

Jesse Dhillon, Managing Partner of Birmingham Roast, was present on behalf of the item.

Mr. Jeffares said that of all the outdoor dining examples that arose during Covid-19 this was the best. He said he would be pleased if more outdoor dining looked like the proposal in this case. He said the fire suppression requirements should not be an issue, noting that other establishments do the same.

Chair Clein said that while he usually does not like proposals with awnings he likes this one and thinks the overall proposal is appropriate for its location.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Williams to approve the Design Review application for 525 E. Brown – Birmingham Roast – with the following conditions:

- 1. The applicant must either maintain or enter into a new rental agreement with the City for the use of the public property; and,**
- 2. The applicant must comply with the requests of all City Departments.**

Mr. Share said he remained concerned about the type of proposed cover and would be voting no on this motion.

Motion carried, 6-1.

ROLL CALL VOTE

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

Nays: Share

03-57-22

J. Study Session

PD Dupuis proposed that the Board review Item J2 prior to Item J1.

Motion by Mr. Williams

Seconded by Mr. Share to reverse the order of review for Items J1 and J2.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

1. 2040 Master Plan (previously Item J2)

PD Dupuis introduced the item.

Board comment regarding the 'General Direction' section of Mr. Lambert's memorandum were as follows:

- Number five should address the broader thematic goal of uniting the east and west side of the City, with common elements of crossings being a tool for doing so;
- Number 15 should say the Master Plan (the Plan) recommends the City look at each neighborhood to see if the allowable height, bulk, and setbacks should be modified to better reflect the conditions of each neighborhood;
- Number 16 could be more generally about micro-mobility options instead of specifically mentioning golf carts;
- The Plan should recommend the City explore how to make public property available for private use; and,
- While there was some skepticism from one Board member about a 20 m.p.h. speed limit as mentioned in Number 17, both in terms of legality and efficacy, there was a more general consensus that the recommendation should be explored and the discussion could go from there.

Board comment regarding the 'Prioritization' section of Mr. Lambert's memorandum were as follows:

- There was Board consensus that Number seven should more specifically be 'updating the zoning code to foster neighborhood preservation'. It arose often as a core resident concern and should be considered a significant priority;
- The revision of the Multi-Modal Plan, as it relates to Woodward, should be listed as a high priority;
- Implementing unimproved streets recommendations should be moved higher on the list;
- Establishing a Sustainability Board should remain high on the list, as it needs to be done imminently and would not be difficult to achieve;
- Bates Street and moving the Farmer's Market should be considered as part of Number Two;
- A Senior Facility should be included somewhere on the priority list;
- Number Four should be described a bit more in layperson's terms;
- The Plan should make clear why the priorities are important, why ordinance changes should be considered to reflect the priorities, and why time is of the essence; and,
- Worth Park and a parking structure for the Triangle should be added to the priority list.

Board comment regarding the 'Further Direction Needed' section of Mr. Lambert's memorandum were as follows:

- Number three is not particularly important in the context of a Plan that focuses on the neighborhoods;
- Attention should be maintained on creating attainable housing and diversifying housing stock in the Triangle, the Rail, and the 14 Mile-to-Lincoln stretch of Woodward in order to bring in and retain young families;
- The City should work with Birmingham Public Schools to find further use for the facilities for both senior and/or community uses;
- There was consensus that traffic calming and enhancement of the Woodward and Maple intersection should occur; and,

- Number Two merits inclusion in terms of its effects neighborhood cohesion.

Public Comment

Samuel Oh, resident and member of the Corridor Improvement Authority, spoke on behalf of his neighborhood group in the Triangle. He expressed concerns about the speed and density of traffic, about the process of appointments for the Corridor Improvement Authority, and about potentially increasing density in the Triangle. He requested that a park or open space be considered for the Triangle.

Chair Clein clarified that:

- The Plan itself makes recommendations but does not rezone properties; and,
- The recommendations made for the Triangle in the Plan align with the Triangle Plan which was adopted by the City in 2007.

Mr. Oh reiterated his belief that the Plan rezoned properties in the Triangle to a higher density.

David Bloom said the Plan should provide more clarity on how a Master Plan influences zoning, noting that the process may confuse some residents. He advocated for clarity in the Plan as to whether there is insufficient parking in the City, recommended public engagement on the Plan's recommendations, raised concerns about having cafes in the parks, and said there should be clarity regarding whether a mezzanine is considered a 'floor' in describing building heights.

Jack Reinhardt, Managing Partner of the 555 Building, expressed concern about the S. Old Woodward project. He said he had not received notice of discussions of the S. Old Woodward project.

Chair Clein clarified that the present topic before the Board was the Master Plan.

Mr. Williams said Mr. Reinhardt's comments regarding the S. Old Woodward project would be more appropriately directed to the Commission.

Mr. Reinhardt then expressed concern about the loss of parking in the S. Old Woodward area.

2. Outdoor Dining Standards (previously Item J1)

PD Dupuis introduced the item.

Mr. Share recommended in Article 4, Section 4.44(B), "or by the Planning Division at the discretion of the Planning Director" would be changed to "or by the Planning Division at the discretion of the Planning Board", and that "throughout the year with a valid Outdoor Dining License" be removed from Article 4, Section 4.44(B)(5).

Mr. Jeffares and Chair Clein said the 'written permission' referenced in Article 4, Section 4.44(B)(4) should require renewal yearly and should be submitted to the City as part of the Outdoor dining patio renewal process. Chair Clein recommended Staff determine where best to include that as part of the policy.

Mr. Jeffares said dining establishments should be permitted to store their planters against the building during January, February, and March. He noted that the City and establishments without outdoor dining leave their planters out year-round.

Chair Clein stated that the Board is trying to maintain the public space for pedestrians by requiring the removal of planters during January, February, and March. He contended that planters that would normally demarcate outdoor dining would unnecessarily clutter the sidewalk during those months.

Mr. Share concurred with Chair Clein.

Ms. Whipple-Boyce said there were likely some planters that could be allowed to be placed against the building during January, February, and March, and some planters where it would not be appropriate to allow that. She said she was not immediately sure of how to differentiate between the two types.

The Board then addressed the three discussion points posed in the Staff report under Study Session #9.

After discussion, the Board concurred that for Number One establishments should be permitted outdoor dining on both a sidewalk and a deck if requested as long as the clear path meets the five foot minimum and the deck does not encroach past the curb.

PD Dupuis noted that the majority of outdoor dining is regulated by SLUPs, meaning the City can make modifications if necessary.

For Number Two, there were a range of opinions about what sort of coverings should be permitted for outdoor dining adjacent to a building and for outdoor dining on a deck.

Mr. Koseck proposed that awnings or umbrellas be allowed along the buildings, and that only umbrellas be allowed on the decks. He noted that it would make the pedestrian clear path feel less closed in, and would also keep the streetscape view more open.

Messrs. Share and Williams and Chair Clein agreed with Mr. Koseck.

Mr. Jeffares and Ms. Whipple-Boyce spoke in favor of awnings being allowed in both conditions. Ms. Whipple-Boyce noted prior Departmental comments had raised the issue of umbrellas potentially being moved and encroaching into the road or pedestrian clear path.

Mr. Jeffares agreed that umbrellas' ability to be moved was possibly a drawback, and noted that awnings more effectively protect against inclement weather.

For Number Three, there was Board consensus that there would be no appropriate way to limit the number of decks per block.

Chair Clein said he would sooner discuss limiting the number of dining establishments in an area than he would limiting the number of outdoor dining decks permitted per block, though he clarified he was not particularly interested in doing either.

Mr. Williams agreed it would be better to limit the number of dining establishments in an area than it would be to limit the number of outdoor dining decks permitted per block.

Ms. Whipple-Boyce asked if using recycled materials for outdoor dining furniture could be discussed as part of the topic.

Chair Clein said he wanted to avoid delaying this topic so that restaurateurs know what to expect for outdoor dining, but said he would be open to discussing appropriate outdoor dining furniture materials as a future, separate topic.

Motion by Mr. Williams

Seconded by Mr. Share to set a public hearing on April 13, 2022 to amend Article 4, Section 4.44 Outdoor Dining Standards, Article 3, Section 3.04 – Specific Standards (Downtown Overlay District), Article 3, Section 3.16 – Specific Standards (Via Activation Overlay District), and Article 9, Section 9.02 – Definitions.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Public Comment

Richard Astrein, owner of Astrein's Jeweler, member of the Advisory Parking Committee, and member of the Birmingham Shopping District Board, expressed a concern that too many outdoor dining decks could negatively impact other retailers.

03-58-22

K. Miscellaneous Business and Communications

Motion by Mr. Share

Seconded by Mr. Williams to have whatever needs to be amended be amended so that on March 31, 2022 the special meeting will include consideration of the application for 220 Merrill Street for outdoor dining.

Mr. Williams noted that this item would be reviewed in addition to 770 S. Adams on the same date.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

1. Pre-Application Discussions
i. 100 N. Old Woodward

PD Dupuis summarized the item and asked the Board to refer the item to the Historic District Commission (HDC).

The Board referred the item to the HDC.

- 2. Communications**
- 3. Administrative Approval Correspondence**
- 4. Draft Agenda**
- 5. Other Business**
 - i. Action List – 2022**

03-59-22

- L. Planning Division Action Items**
 - a. Staff Report on Previous Requests**
 - b. Additional Items from tonight's meeting**

03-60-22

M. Adjournment

No further business being evident, the Chair adjourned the meeting at 10:08 p.m.



Nick Dupuis
Planning Director



Laura Eichenhorn
City Transcriptionist