
**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, MARCH 28, 2018**

Item	Page

APPROVED

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, MARCH 28, 2018
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held on March 28, 2018. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Vice-Chairperson Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Student Representatives Madison Dominato (arrived at 8:05 p.m.), Ellie McElroy (arrived at 7:45 p.m.)

Also Present: Alternate Board Members Nasseen Ramin, Daniel Share

Absent: Student Representative Sam Fogel

Administration: Matthew Baka, Sr. Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

03-44-18

CHAIRPERSON'S COMMENTS

03-45-18

APPROVAL OF THE AGENDA (no change)

03-46-18

PUBLIC HEARING

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

TO AMEND ARTICLE III, SECTION 2.37 (B-4), TO ALLOW HOTELS THAT SERVE ALCOHOLIC LIQUOR.
AND

AN ORDINANCE TO AMEND CHAPTER 10, ALCOHOLIC LIQUORS, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE II, LICENSES, TO AMEND DIVISION 5, SECTIONS 10-100 TO 10-107, LICENSES FOR THEATERS, TO ADD A NEW CATEGORY OF LIQUOR LICENSES FOR HOTELS (Courtesy review as public hearing is not required at the Planning Board).

Ms. Lazar recused herself on the basis of a familial relationship with one of the owners of the hotel that will be built.

Chairman Clein also recused himself because his firm is working with the developer of the hotel. Mr. Boyle took over the gavel at this time, and Ms. Ramin and Mr. Share joined the board.

Acting Chairman Boyle opened the public hearing at 7:31 p.m.

Ms. Ecker recalled that on February 20th, 2018, the owners of the property at 298 S. Old Woodward Ave. submitted a request for a Zoning Ordinance amendment that would allow the use of a Liquor License at qualified hotels in Downtown Birmingham. Specifically, the owners of the proposed Daxton Hotel at 298 S. Old Woodward Ave. have submitted a request for an amendment to Chapter 10, Alcoholic Liquors, Division 5. - Licenses for Theaters of the City Code to include allowing a new category of Liquor Licenses to be permitted for hotels in Downtown Birmingham. In order to permit the use of such hotel licenses, proposed zoning amendments are presented that would allow the sale of liquor at both theaters and hotels downtown with a Special Land Use Permit ("SLUP"), in the B-4 Business-Residential Zone District. The Daxton Hotel is located in the B-4 Zone District.

In order to qualify, it is recommended that a hotel have a minimum of 100 guest rooms.

In response to Mr. Share, Ms. Ecker explained the issue is there is no way for the hotel to bring in a Liquor License from outside of the jurisdiction unless they purchase a quota license of which there are none available.

All proposed amendments to the Zoning Ordinance are required to be reviewed by the Planning Board, and a public hearing at the Planning Board level is required. To ensure full public notice is given, the Planning Board will review and make recommendations to the City Commission on both the proposed amendments to Chapter 10, Alcoholic Liquors, and Chapter 126, Zoning. The City Commission has the final authority to approve or deny the proposed amendments.

Acting Chairman Boyle invited comments from the public at 7:37 p.m.

Mr. Rick Rattner, 380 N. Old Woodward Ave. spoke to represent the hotel. This ordinance amendment would provide them with a necessary competitive situation. If a hotel has banquet facilities, they always have liquor. This amendment would allow them to bring in a Liquor License from outside of the City.

Mr. Greg Obloy, 1135 N. Glenhurst, objected to this ordinance issue. It seems there should be availability of a quota license with the recent closings. With this amendment, any future hotels could come in and want to pay 5% of what a true quota license would cost to transfer in. Land owners and users have invested tremendous sums into their venues and their Liquor Licenses. Further, future users could come in and ask to be treated in the same manner so they could get a license for \$25,000 or \$30,000 rather than paying \$500,000 to \$750,000 for a quota license. Therefore, he does not think that the City should be whimsically amending its ordinances on a post hoc basis.

Mr. Jurade Markus said his group owns the Holiday Inn on Woodward Ave. He pointed out that although Birmingham is still in the race, it will come to a point where Detroit takes over as the city of where to develop. In order to keep Birmingham relevant, he thinks the City should open up Liquor Licenses in hotels. Hotels are the major draw to any city. He doesn't believe allowing Liquor Licenses in hotels should be based on a capricious number of guest rooms. It should be based on how much money is spent and how much economic impact results.

Mr. David Foster, 512 Wallace, said with respect to the proposal to amend the Ordinance that it seems to him the City is opening itself up to a challenge in court because it would be making a special exception for some ~~well-healed~~ **well-heeled** developers to not compensate an existing entrepreneur whose restaurant failed, but thought it had a valuable asset to sell. He urged a balance in the City by this board between the residential community and the Downtown area.

Mr. Jeffares and Ms. Whipple-Boyce believed the City should incentivize what it wants and give a hotel like this the ability to sell alcohol. Ms. Whipple-Boyce thought an Economic Development License may be a better way to get where they want to be.

Mr. Share wondered if they wouldn't want to set a numeric size for guest rooms such as 60 or 75 rooms in a boutique hotel. Perhaps that could be tied to a district. He felt the proposal merits more thought.

Mr. Koseck said he does not have an issue with the Zoning Ordinance amendment. He doesn't see the owners of Liquor Licenses lined up to oppose this. In his mind having this hotel will stimulate going beyond the retail and it will bring people to Birmingham.

Mr. Williams thought it would be a mistake for the Planning Board to try and speculate what size boutique hotel less than 100 rooms is appropriate. He is very comfortable with the 100 limit on this project at this time. If the board wants to address it for a different hotel in a different location they can do that later.

Motion by Mr. Williams

Seconded by Mr. Koseck to recommend approval to the City Commission of the proposed amendments to Chapter 126, Zoning, Article 2, section 2.37, B-4 Business Residential, to allow the sale of liquor in hotels in the B-4 Zoning District with a valid SLUP, and to recommend approval of the associated amendments to Chapter 10, Alcoholic Liquors, Article II to include hotels.

There was no input from the public on the motion at 8:05 p.m.

Mr. Share commented that he was reluctant to support the motion because he is uncomfortable with the idea of adopting an Ordinance amendment that is specifically tailored to a particular development. He would much prefer to think about it in the context of hotels throughout the different areas of the City.

Motion carried, 6-1.

ROLLCALL VOTE

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

Nays: Share

Recused: Clein, Lazar

Absent: None

The public hearing closed at 8:06 p.m.

Motion by Mr. Williams

Seconded by Mr. Share to consider 298 S. Old Woodward Ave., The Daxton Hotel, at this time.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Recused: Clein, Lazar

Absent: None

03-47-18

FINAL SITE PLAN AND DESIGN REVIEW

1. 298 S. Old Woodward Ave.

The Daxton Hotel (formerly Doctors House Calls)

Request for approval of revised exterior materials on all elevations

Mr. Baka recalled that on August 9, 2017, the Planning Board approved the Final Site Plan Application for a five-story hotel at 298 S. Old Woodward Ave.

At this time the applicant is seeking approval to replace the previously approved stone cladding on the fifth floor with aluminum panels. As a result of this proposed change the façade would fall below the requirement of Article 03 section 3.04 E (1) which mandates that 90% of the exterior finish material on all facades that face a street be constructed of glass, brick, cut stone, cast stone, coarsely textured stucco or wood. ***If approved by the Planning Board, the applicant would also be required to obtain a variance from the Board of Zoning Appeals ("BZA").***

However, after recent consideration, the applicant has decided that instead of aluminum panels, they will go with coarsely textured stucco which is permitted by the Ordinance and does contribute to the 90% requirement of high quality architectural materials for the Overlay District. Making this change would allow them to avoid going to the BZA.

Mr. Charlie Stetson, Principal with Booth Hanson Architects in Chicago, apologized for this late change in their approach. It made all the sense in the world for them to pursue an avenue for the fifth floor cladding material that allows them to propose something that is approved by the Ordinance as opposed to something that is not approved. The fifth floor is set back from the ~~parameter~~ **perimeter** and is intended to reduce the mass of the building. They think the coarsely textured stucco material will help to minimize the impact of the fifth floor. The intent is to make it a little darker than the rest of the facade so that it feels like a background material. Aesthetically it will provide the look they are after and differentiate the fifth floor both in texture and in color, which will be a mid-range grey. Therefore he asked the board to consider the substitution of materials.

Ms. Whipple-Boyce indicated that she would like the color to be approved. Mr. Boyle wanted the color to be integral, rather than painted on. Mr. Koseck received clarification from Mr. Stetson that the stucco will have lots of control joints in it and it may have a distinct pattern, As everything about the building this far has been quality, Mr. Koseck suspected the applicant is not looking to cheapen it,

No one from the public wished to speak about this appeal at 8:15 p.m.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Williams to approve the Final Site Plan and Design Review for 298 S. Old Woodward Ave., The Daxton Hotel, with the following conditions:

- 1. The applicant comply with all previous conditions of approval;**
- 2. The coarsely textured stucco material color be integrated into the mix;**
- 3. The color selection come back to the Planning Board for final approval informally on April 11th.**

At 8:20 p.m. there were no members of the public who wished to comment on the motion.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Recused: Clein, Lazar

Absent: None

03-48-18

2. 260 N. Old Woodward Ave.

The Morrie (formerly Au Cochon and Arthur Avenue)

Application for FINAL SITE PLAN REVIEW AND SLUP to allow a new restaurant with entertainment

Ms. Ramin and Mr. Share gave up their places to Chairman Clein and Ms. Lazar who re-joined the board.

Mr. Baka advised that the subject site, 260 N. Old Woodward Ave., is proposed in the first floor of the Palladium Building just north of the Hamilton Row and N. Old Woodward Ave. Intersection. The existing zoning is B-4/D-4 in the Downtown Overlay. The Morrie features a casual dining style while serving eclectic neighborhood roadhouse cuisine. The applicant is proposing that the renovated 7,952 sq. ft. restaurant space will contain 214 indoor seats and 16 outdoor seats on a raised platform. Thirty-three of the proposed indoor seats will surround a bar and 240 sq. ft. raised performance stage for live entertainment.

Ms. Ecker noted discussion at the City Commission concluded that in general they want to know what the concept is for the entertainment. Ordinance amendments are in place now so that if a problem arises, the Police Chief can address it right away.

The applicant is seeking a SLUP to engage in the sale of liquor. The liquor license is currently with the tenant space, and the Morrie is proposing to utilize that license.

The applicant is also proposing new signage for the Morrie to be located above the restaurant windows.

Design Review

Exterior: The applicant is proposing the façade to be comprised of existing stone, existing "Nana" wall glass wall system, existing glass entry doors, a new painted aluminum awning at the northern entry, a new metal fascia mounted to the stone façade to replace the existing sign band, and new signage. The Trex Wood composite outdoor platform is proposed to be 10 in. off of the ground with 42 in. high aluminum railings. The applicant has not indicated the color or manufacturer of the newly proposed façade materials. The applicant must submit material specification sheets for all newly proposed materials to complete the design review, including any signage.

Signage: The proposed signage will be constructed of metal letters and mounted atop the newly proposed metal fascia. The proposed signage reads "The Morrie" and measures 10 ft. long by 2 ft. high (20 sq. ft.). The Overlay Sign Ordinance allows a single external sign band or zone to be applied to the facade of a building between the first and second floors, provided that it shall be a maximum of 1.5 ft. in vertical dimension by any horizontal dimension. **The proposed signage does not meet the sign standards outlined in Article 3, Section 3.04(F) of the Zoning Ordinance, as the sign height is greater than 1.5 ft.** The applicant must submit revised signage plans depicting proposed signage that measures no more than 1.5 ft. by any vertical dimension.

Motion by Mr. Williams

Seconded by Ms. Whipple-Boyce to make two documents a part of the record:

- 1. Letter from the City Manager dated January 23, 2018 addressed to Imagine Palladium dealing with changes to the Zoning Ordinance;**
- 2. An e-mail from Jana. Ecker to board members sent on March 26, 2018 in which she forwards an e-mail from Kelly Allen, Counsel to the applicant, where the applicant describes the types of entertainment that they envision at this location.**

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

Mr. Kevin Biddison, Biddison Architecture, passed around samples of the materials. They feel that they are simplifying somewhat of a cluttered elevation and hopefully cleaning it up and making it a bit more visually interesting. They will be more than happy to comply with the Sign Ordinance on the height of the letters. The Morrie will have good food combined with fun and a family orientation.

Mr. Keith Schofield, Director of Operations for the company, described what will happen at the restaurant on a typical week-end. They feel there is a broad enough distance between their property in Royal Oak and this property. They predict that their demographic range in Birmingham will skew between ages 30 to 32, whereas their Royal Oak restaurant attracts a younger crowd. In response to Mr. Jeffares, Mr. Schofield anticipated there would be times

when the Nana walls would be open when music is playing. There will be a cover charge for bands on the week-ends.

Chairman Clein asked for comments from the public on the proposal at 8:50 p.m.

Mr. Kirk Karamanian, 655 Oakland, thought this is a great idea; a family restaurant that also has entertainment in the evening. He feels the Morrie in Royal Oak is a really well run establishment. He urged the Planning Board to approve the proposal.

Mr. Jordan Jonna said he is with Jonna Development Co., the company that redeveloped the Palladium four years ago. In his mind, this is the last key to their project. After visiting the Morrie in Royal Oak, he indicated that he is impressed with every aspect.

In response to Mr. Williams, Ms. Ecker assured him that if there is an issue with noise the City is prepared to deal with a situation where the noise might be considered by some residents to be excessive.

Ms. Whipple-Boyce said she visited the Morrie in Royal Oak and was pleasantly surprised by the atmosphere, by the food, and everything they have done. She thought this really can work in Birmingham. There are tools in place now in the event that something goes wrong. This is unlike anything else in town, and she is really supportive of it and hopes that it succeeds. She felt that it can with something a little different and more than just dining.

Mr. Jeffares added that he thinks the City has a dire need for this type of entertainment.

Mr. Koseck spoke in favor of the proposal but wished they had gone further with the facade treatment.

Mr. Boyle thought their website could be improved.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Williams to recommend approval of the applicant's request for Final Site Plan and a SLUP for 260 N. Old Woodward Ave., the Morrie, with the following condition:

1. The applicant revise the proposed signage to comply with the Overlay Signage Standards.

At 8:57 p.m. there were no comments from the public on the motion.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

03-49-18

3. 857 Redding Rd. (existing single-family home)

Request for approval of addition of existing single-family home and new detached garage

Ms. Ecker explained that Article 7, Section 7.25 of the Zoning Ordinance requires the improvements to the residence to come before the Planning Board for a Final Site Plan and Design Review, as it is located in the R-4 Two-Family Residential Zone.

The subject site is a 0.39 acre parcel. There is already a house and garage on this site. The applicant is proposing to add a rear addition to the house, tear down the existing garage, and replace it with a new 600 sq. ft. detached garage. The proposed garage would match the house; however, it is a little taller and larger than is permitted in the R-3 Zone. ***The applicant is planning to go before the Board of Zoning Appeals and seek variances to increase the height and area of the garage.*** The area is surrounded by R-1 which allows a taller and bigger garage.

The proposed addition will displace two air conditioning units that exist at the rear of the building. The applicant is proposing to relocate the units to the east side of the building with both units to be screened by the relocated 6 ft. vinyl fence. ***However, mechanical units are not permitted to be placed in the side yard in an R-4 Zoning District, and thus must be relocated to the rear of the home or the applicant will be required to obtain a variance from the Board of Zoning Appeals ("BZA").***

Design Review

The applicant has indicated that the construction of the addition will utilize matching materials including red brick, beige stucco, and brown trim in the same colors that exist currently on the house. The applicant has also indicated that the brown roof shingles and overhang dimensions will match the existing home. No material samples have been provided; however the applicant has provided color photos of the existing home to illustrate the materials and colors proposed. The proposed detached garage will be constructed from the same brick, stucco and trim to match the house. The garage door is proposed to be purchased from Canyon Ridge collection Ultra-Grain series carriage house garage doors. The garage door will be steel with a composite overlay molded from actual wood pieces for a natural look.

Ms. Tamas Donaldson, Architect, said the existing garage is from the 1930s and it really needs to be upgraded. They will seek a variance for the garage area and height. She went on to point out where in the backyard they intend to place the mechanical equipment in accordance with Ordinance requirements.

There were no comments from members of the public at 9:06 p.m.

Mr. Mike Menonte, 857 Redding, pointed out they are minimizing a current non-conforming garage. The current garage is roughly 790 sq. ft. and they are shrinking that size with the proposed garage. It has been designed to R-1 standards so that it will fit in with the neighborhood.

Mr. Koseck said he generally believes that applicants should meet the zoning ordinance but he thinks this is a unique circumstance.

Motion by Mr. Koseck

Seconded by Mr. Jeffares to approve the Final Site Plan and Design Review for 857 Redding with the following conditions:

- 1. The applicant obtain variances from the BZA for the height and area of the proposed detached garage; and**
- 2. The applicant comply with the requests of City departments.**

There were no public comments on the motion at 9:08 p.m.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

Mr. Williams indicated that he hopes this applicant is successful at the BZA.

03-50-18

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications (none)

b. Administrative Approval Requests

820-822 Henrietta - Remove present roofing and install Certainteed Landmark Ar in Moria Black, new flashings, gutters in white.

- 2377 Maple Rd., Maple Crest Apt. BHD - Remove roofing and install Certainteed Landmark Ar shingles in Burnt Sienna color to match rest of complex.
- 2417 E. Maple Rd., Maple Crest Apt. BHE - Remove roofing and install Certainteed Landmark Ar shingles in Burnt Sienna color to match rest of complex.
- 784/786 Henrietta - Remove present roofing, gutters, repair fascias, install Certainteed Landmark Ar shingles in Moria Black, new gutters in white.
- 180 Pierce, 180 Pierce St. Association - Add cooling units to the rooftop; three units total, one each for units 2, 3, and 4. Requesting approval for location of rooftop units.
- Ms. Ecker pulled up the plans for a materials change at 856 N. Old Woodward Ave., The Pearl.
- Mr. Jason Kriger with Kriger Klatt Architects was present with Mr. Frank Simon, the property owner. They seek approval to switch from pre-cast concrete to a brick facade with cast stone accents. They made the change to a different general contractor during the course of this. The contractor scrutinized what they had and questioned the logistics of setting the pre-cast panels because of the tight site. They said they can procure the proposed material faster, it is more readily available, and they could shave several months off of the schedule.

They think this is an upgrade. It adds more texture to the facade and allows them to blend in with some of the other brick buildings in town. Mr. Koseck

suggested brick on the north wall up to the fourth floor and then rough textured stucco from there. Continue the bands throughout. Maybe add some articulation. The consensus was to approve those changes.

c. Draft Agenda for the next Regular Planning Board Meeting of April 11, 2018

- Public hearing on the Bistro Ordinance to deal with enclosures and additional seats in the Rail and Triangle Districts;
- Shell SLUP over again with regard to the path around the bathroom;
- Continue the discussion of Retail ordinances;
- Continue the discussion on the new construction/renovation of existing buildings and how to change the process.

d. Other Business

- Mr. Boyle inquired what will happen when the proposed light controlled pedestrian crossing at Oak is built. Ms. Ecker said she would pass along the request to the Engineering Dept. for the sidewalk to be opened.
- Mr. Jeffares noted there are current high end materials that the Planning Board has to say no to. Ms. Ecker suggested going to the upcoming City Commission meeting on April 9th when the Action List will be discussed and bringing that matter up. The Commissioners might want to consider adding it to the List.

03-51-18

PLANNING DIVISION ACTION ITEMS

a. Staff report on previous requests (none)

Additional items from tonight's meeting (none)

03-52-18

ADJOURNMENT

No further business being evident, the Chairman adjourned the meeting at 9:25 p.m.

Jana L. Ecker
Planning Director