

**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, MAY 10, 2017**

Item	Page														
<p>PUBLIC HEARING</p> <p>1. An ordinance to amend Chapter 126, Zoning, of the Code of the City of Birmingham as follows:</p> <p>1. AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM AS FOLLOWS:</p> <p>TO AMEND ARTICLE 2, SECTION 2.43, TZ-2 (TRANSITION ZONE 2) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO ADD THE TZ-2 ZONING CLASSIFICATION;</p> <p>TO AMEND ARTICLE 2, SECTION 2.44, TZ2 DEVELOPMENT STANDARDS TO ADD STANDARDS FOR THE TZ-2 DISTRICT;</p> <p>TO MOVE THE EXISTING TZ-3 (TRANSITION ZONE 3) ZONING CLASSIFICATION, DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO ARTICLE 2, SECTION 2.45 WITH NO CHANGES;</p> <p>TO MOVE THE EXISTING TZ-3 (TRANSITION ZONE 3) ZONING CLASSIFICATION, DEVELOPMENT STANDARDS TO ARTICLE 2, SECTION 2.46 WITH NO CHANGES;</p> <p>TO AMEND ARTICLE 5, SECTION 5.15, USE SPECIFIC STANDARDS, TO ADD USE SPECIFIC STANDARDS FOR THE TZ-2 ZONE DISTRICT;</p> <p style="text-align: center;">AND</p> <p>TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM, ARTICLE 4, ALL SECTIONS NOTED BELOW, TO APPLY EACH SECTION TO THE NEWLY CREATED TZ-2 ZONE DISTRICTS AS INDICATED:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="text-align: center;"><u>Ordinance Section Name</u></th> <th style="text-align: center;"><u>Section Number</u></th> </tr> </thead> <tbody> <tr> <td>Accessory Structures Standards (AS)</td> <td style="text-align: center;">4.02 4.04</td> </tr> <tr> <td>Essential Services Standards (ES)</td> <td style="text-align: center;">4.09</td> </tr> <tr> <td>Fence Standards (FN)</td> <td style="text-align: center;">4.10</td> </tr> <tr> <td>Floodplain Standards (FP)</td> <td style="text-align: center;">4.13</td> </tr> <tr> <td>Height Standards (HT)</td> <td style="text-align: center;">4.16 4.18</td> </tr> <tr> <td>Landscaping Standards (LA)</td> <td style="text-align: center;">4.20</td> </tr> </tbody> </table>	<u>Ordinance Section Name</u>	<u>Section Number</u>	Accessory Structures Standards (AS)	4.02 4.04	Essential Services Standards (ES)	4.09	Fence Standards (FN)	4.10	Floodplain Standards (FP)	4.13	Height Standards (HT)	4.16 4.18	Landscaping Standards (LA)	4.20	<p>2</p>
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Open Space Standards (OS)	4.30	
Outdoor Dining Standards (OD)	4.44	
Parking Standards (PK)	4.45 4.46 4.47 4.53	
Screening Standards (SC)	4.54 4.59	
Setback Standards (SB)	4.65	
Street Standards (ST)	4.73	
Structure Standards (SS)	4.74 4.83	
Temporary Use Standards (TU)	4.84	
Utility Standards (UT)	4.88	
Vision Clearance Standards (VC)	4.89	
Window Standards (WN)	4.90	
<p>Motion by Mr. Jeffares Seconded by Mr. Boyle to accept as pointed out in the packet:</p> <p>An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to add Article 02 District Intent, Permitted Uses, and Special Uses, Section 2.43 TZ-2 (Transition Zone) District to create the TZ-2 Zoning Classification.</p> <p>An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to add Article 02 Development Standards, Section 2.44 TZ-2 (Transition Zone) to adopt the following development standards for the TZ-2 Zone District, as in the packet.</p> <p>An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to renumber the existing TZ-3 (Transition Zone 3) Zoning Classification, District Intent, Permitted Uses, and Special Uses to Article 2, Section 2.45 with no changes.</p> <p>An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to renumber the existing TZ-3 (Transition Zone 3) Zoning Classification, Development Standards to Article 2, Section 2.46 with no changes.</p>		

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<p>An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to add Article 5, Section 5.15, Use Specific Standards, to add Use Specific Standard for the TZ-2 District, as in the packet.</p> <p>Ms. Ecker added a friendly amendment and it was accepted by the makers of the motion:</p> <p>An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to update the following sections in Article to add TZ-2 as a zone district to which they apply: 4.02, 4.04, 4.09, 4.10, 4.13, 4.16, 4.18, 4.20, 4.21, 4.22, 4.24, 4.30, 4.44, 4.45, 4.46, 4.47, 4.53, 4.54, 4.59, 4.65, 4.73, 4.74, 4.83, 4.84, 4.88, 4.89, 4.90.</p> <p>Motion carried, 7-0.</p>	5
<p>STUDY SESSION ITEMS</p>	5
<p>1. Window Tinting</p>	
<p>Motion by Mr. Williams Seconded by Mr. Jeffares that the Planning Board set a public hearing for June 14, 2017 to allow the public to comment on these proposed changes and for the Planning Board to make a recommendation to the City Commission on these issues.</p>	7
<p>Motion carried, 7-0.</p>	7

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, MAY 10, 2017
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held on May 10, 2017. 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 Representative Isabella Niskar

Absent: Student Representative Ariana Afrakhteh

Alternates: Lisa Prasad and Dan Share were not asked to attend

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

05-86-17

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
OF MARCH 29, 2017**

Motion by Mr. Williams

**Seconded by Ms. Whipple-Boyce to approve the Planning Board Minutes of
March 29, 2017 as presented.**

Motion carried, 5-0.

VOICE VOTE

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

Nays: None

Abstain: Koseck, Lazar

Absent: None

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
OF APRIL 26, 2017**

Mr. Jeffares noted with respect to 2010 Cole St. that the CIS was accepted by the board and the Preliminary Site Plan Review was postponed, correction on pages 2 and 11.

**Motion by Mr. Koseck
Seconded by Mr. Jeffares to approve the Planning Board Minutes of April 26, 2017
as amended.**

Motion carried, 5-0.

VOICE VOTE

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

Nays: None

Abstain: Williams, Boyle

Absent: None

05-87-17

CHAIRPERSON'S COMMENTS (none)

05-88-17

APPROVAL OF THE AGENDA (no change)

05-89-17

PUBLIC HEARING

1. An ordinance to amend Chapter 126, Zoning, of the Code of the City of Birmingham as follows:

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TO AMEND ARTICLE 2, SECTION 2.43, TZ-2 (TRANSITION ZONE 2) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO ADD THE TZ-2 ZONING CLASSIFICATION;

TO AMEND ARTICLE 2, SECTION 2.44, TZ2 DEVELOPMENT STANDARDS TO ADD STANDARDS FOR THE TZ-2 DISTRICT;

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TO MOVE THE EXISTING TZ-3 (TRANSITION ZONE 3) ZONING CLASSIFICATION, DEVELOPMENT STANDARDS TO ARTICLE 2, SECTION 2.46 WITH NO CHANGES;

TO AMEND ARTICLE 5, SECTION 5.15, USE SPECIFIC STANDARDS, TO ADD USE SPECIFIC STANDARDS FOR THE TZ-2 ZONE DISTRICT;

AND

TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM, ARTICLE 4, ALL SECTIONS NOTED BELOW, TO

APPLY EACH SECTION TO THE NEWLY CREATED TZ-2 ZONE DISTRICTS AS INDICATED:

<u>Ordinance Section Name</u>	<u>Section Number</u>
Accessory Structures Standards (AS)	4.02 4.04
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The Chairman opened the public hearing at 7:35 p.m.

Mr. Baka stated that the City Commission and Planning Board have held a number of meetings relating to this issue. On March 29, 2017, the Planning Board held a study session to further discuss the TZ-2 Zone. After much discussion the Planning Board set a public hearing for May 10th, 2017 to consider the adoption of the TZ-2 Zoning District and all of the additional provisions associated with the creation of this new zone. In addition to setting the hearing the board also requested some minor changes to the existing draft ordinance that would make it consistent with the TZ-3 Zone in regards to permitted uses. However, at this time the Planning Board is not considering applying the new zone to any specific properties. Accordingly, the Planning Division has revised

the draft ordinance language in accordance with the comments of the Planning Board. He highlighted the standards as they are currently proposed.

Discussion concluded that "hours of operation" includes when employees are present and not just when business is being conducted. If an extension is needed those affected can apply to have that made a condition of the SLUP.

No comments from the public were heard at 7:48 p.m.

Mr. Williams noted it needs to be explained to the City Commission that the distinction between TZ-2 and TZ-3 has more to do with massing and less to do with types of uses. It was discussed that the cost to obtain a SLUP is \$2,800.

Motion by Mr. Jeffares

Seconded by Mr. Boyle to accept as pointed out in the packets:

An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to add Article 02 District Intent, Permitted Uses, and Special Uses, Section 2.43 TZ-2 (Transition Zone) District to create the TZ-2 Zoning Classification.

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An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to add Article 5, Section 5.15, Use Specific Standards, to add Use Specific Standard for the TZ-2 District, as in the packet.

Ms. Ecker added a friendly amendment and it was accepted by the makers of the motion:

An Ordinance to amend Chapter 126 Zoning of the Code of the City of Birmingham, to update the following sections in Article to add TZ-2 as a zone district to which they apply: 4.02, 4.04, 4.09, 4.10, 4.13, 4.16, 4.18, 4.20, 4.21, 4.22, 4.24, 4.30, 4.44, 4.45, 4.46, 4.47, 4.53, 4.54, 4.59, 4.65, 4.73, 4.74, 4.83, 4.84, 4.88, 4.89, 4.90.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

Chairman Clein closed the public hearing at 7:57 p.m.

05-90-17

OLD BUSINESS

1. 225 E. Maple Rd., Social Kitchen

Request for Special Land Use Permit ("SLUP") Amendment and Revised Final Site Plan to allow construction of a glass enclosure system around the existing outdoor dining in the via, and to allow a new canopy on the rooftop
(postponed from March 22, 2017)

The applicant was not present.

Ms. Ecker said the applicant met with the Building Official as the Planning Board had asked; however the Building Official requested them to send a letter outlining all of their arguments as to why the glass enclosure system is not a permanent structure and an interior space with over 65 seats. The Building Official has not received anything back from them.

Board members noted it was not part of their original contemplation for bistros that there would be such large facilities all year around.

No one motioned to postpone, so the matter died.

05-91-17

STUDY SESSION ITEMS

1. Window Tinting

Mr. Baka stated that the City Commission has held a public hearing and the Planning Board has held several study sessions to discuss the issue of window standards and examine potential changes to the Ordinance to address the concerns of the City Commission. As a result of those discussions, a general consensus was reached that prohibiting the tinting of windows would promote the intent of creating a pedestrian friendly interactive condition in the commercial areas of the City.

With regards to the treatment of glazing in passageways and vias, the Planning Board decided not to recommend a required amount of glazing in these spaces as it might impede important "back of house" functions and have a negative impact on businesses. Presently, the Via Activation Overlay Standard does indicate a requirement for windows

but does not set a specific percentage that is required. As currently written, this provision allows the Planning Board to evaluate projects on a case-by-case basis but does not provide a baseline or minimum amount of glazing that is required in these spaces.

Discussions have concluded that clear glass must have a visual transmission level of at least 80%. Further, not less than 70% visual transmission qualifies as lightly tinted. (The lower the percentage, the darker the tint.)

On March 29, 2017, the Planning Board reviewed draft ordinance language and requested that it be revised to include definitions for clear glazing and lightly tinted glazing that have specific percentages of visual transmittance. Accordingly, those definitions have been drafted and are now incorporated. This draft language also includes the original ordinance amendments that were recommended to the City Commission in July of 2016.

Chairman Clein made a change to 4.90 WN-01 (2) to say "Only clear glazing is permitted on storefront facades . . ."

Discussion from the public was taken at 8:15 p.m.

Mr. Steve Kalczynski from the Townsend Hotel said that regarding their second-story bakery it was strongly suggested they take the blinds down, so they put curtains up because of the need to block the sun.

Ms. Ecker suggested inserting the following provision to the Downtown Overlay Standard 3.04 prior to setting a public hearing: " First floor windows shall not be blocked with opaque materials or furniture, products, signs, blank walls, or the back of shelving units. This language could be added for purposes of discussion at the public hearing. It can always be taken out.

Mr. Koseck indicated his view is to have clear glass throughout the first floor of the City with a visual transmission level of 80%. If the sun is blazing in he is okay with a blind because it might go away, the use might change, etc. Further, above the first floor, blinds may be permitted.

Motion by Mr. Williams

Seconded by Mr. Jeffares that the Planning Board set a public hearing for June 14, 2017 to allow the public to comment on these proposed changes and for the Planning Board to make a recommendation to the City Commission on these issues.

There were no comments from the public at 8:30 p.m.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

05-92-17

2. Definition of Retail

Ms. Ecker advised that last week Planning Staff was directed by the City Manager to come up with a temporary ordinance amendment that would halt the conversion of first-floor retail space to quasi office/quasi retail uses. The City Commission talked about that on May 8 and in the end they voted in favor of directing the Planning Board to bring back to them by July 24 an ordinance amendment that would be a temporary measure of relief until the board's overall discussion of retail is completed. Further, they have asked the board to consider an ordinance amendment that would temporarily stop personal services and community uses from being on first-floor retail space Downtown while the board studies the full issue. They want personal services to be defined.

After researching the subject, Ms. Ecker thought the best example of defining Personal Services came from the City of Bremerton, Washington:

Personal Service Business means an establishment engaged primarily in providing services involving the care of a person or apparel, such as: shoe repairs, laundry and dry cleaning, beauty and barber shops, clothing/costume rental, tanning, other personal grooming facilities and domestic assistance services. This does not include massage parlors, health care services, exercise establishments, nor funeral services.

At their meeting on May 8 it seemed the majority of Commission members appeared to value the beauty services as something that drives activity Downtown.

Mr. Boyle noted this is the fundamental problem of a form based code. It is not easy to take that form and assume you will get what you want in it.

Ms. Lazar observed the board needs to remember that offices like McCann Erickson that have moved into town have increased foot traffic, which also helps the retail. Chairman Clein said this board can either craft a measure for the presumed short term that solves a policy issue that the City Commission has already come to a conclusion on, and then come back and try and make it right; or they can continue to spin until the joint meeting.

Board members decided to add personal services to the definition of retail and to add a definition personal service that includes retail bank branches. Then in the Downtown Overlay, community uses should not be considered retail, but personal services should be allowed.

Consensus was to send this matter back to Staff for due consideration and they will bring back appropriate definitions to the next meeting. Also, invite the BSD Director to that meeting. The board can talk about scheduling a public hearing at that time.

05-93-17

3. Parking Requirements for all uses

Ms. Ecker noted the Planning Board was asked to study the current parking requirements for all uses within the City.

At the March 29, 2017 Planning Board meeting, the board discussed the complex issue of parking throughout the City. After much discussion, the board requested additional information on options that reduce demand, including a sample Transportation Demand Model ("TDM") report to show how developers were designing to reduce reliance on automobiles.

Mr. Boyle suggested taking the Community Impact Study ("CIS") model and tweaking it to include certain elements that will or will not affect parking. Chairman Clein said it seems to him many of the complaints about the parking problem are between 11 a.m. and 2 p.m. when all of the offices are full and people have come into town for lunch. Now there are offices in the Parking Assessment District that were not anticipated and they are being given "free" parking. Mr. Williams noted that the perceived 11 a.m. to 2 p.m. parking problem results from the growth of the restaurant business combined with daytime office uses.

Ms. Ecker said the Ad Hoc Parking Development Committee did a parking study and they found the single biggest problem is that more people are being housed in smaller amounts of space.

Mr. Jeffares observed that offices in the absence of affordable housing provide the density required to have retail work.

Ms. Whipple-Boyce thought that asking a potential developer for the added information about how they plan to handle parking for their employees is not about being able to tell an applicant whether or not they can build a building because they cannot accommodate the people who will be in the building. But, asking for the added information will help the Planning Board manage the way they help the building evolve.

Ms. Ecker said that looking at what extra information can be added as part of the CIS is an option. Also, mandating that every new development incorporate bike parking, and having designated ride-share spots in the parking decks or in a private development may be options.

Ms. Whipple-Boyce encouraged the board to take a look at the terms of the Parking Assessment District and identify some of the things they see from the work they do that are contributing to the problem.

Ms. Ecker noted the difficulty is that the parking problem is Downtown where everyone has paid into the Parking Assessment District and there is no parking requirement for most of the uses that cause the problem. Mr. Williams added they can't quantify the extent of the problem. It is not known how many people don't come now to shop in Birmingham because they can't park.

Chairman Clein said there is data that suggests two parking decks within Downtown are at least near capacity during key summer hours. So there is a demand problem there. But if the City doesn't change the processes moving forward there will just be more demand problems. In his view the 2016 Plan has not been successful with Downtown residential. So perhaps this board could offer opinions to the Commission that they not only need to attack the current demand, but immediately move toward with reviewing the Parking Assessment District to determine whether or not they need to make some shifts in the current ordinance that says you get an extra floor of office if you add a fifth floor of residential.

Mr. Boyle said he has had thoughts about asking the Planning Dept. if they would consider organizing a parking workshop. They could invite several people to speak about the current situation, and what other cities are doing. Have open discussion about the current parking situation in Birmingham and the likely changes that will occur based upon the pipeline of development.

Chairman Clein asked staff to bring back to the next study session a bulleted list of problems inside or outside of the scope of the Planning Board. Make a recommendation to the City Manager that a workshop be held and present the key issues, many of which are not under the Planning Board's jurisdiction.

05-94-17

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

- a. Communications (none)
- b. Administrative Approval Correspondence
 - 2100 E. Maple Rd., Whole Foods – Approval of two raceway mounted and one individually mounted channel letter signs, and one ground sign.
 - 2075 E. Fourteen Mile Rd. - Application to locate two (2) A/C condensers 10 ft. south of N/E corner, screened by 4 ft. tall hedge of Hicks Yews.
 - 2200 Holland, Mercedes Benz Storage Facility - To remove Mercedes Benz emblems on the building.
 - 2400 E. Lincoln, The Sheridan at Birmingham – Temporary Use Permit to allow a temporary sales trailer.
- c. Draft Agenda for the Regular Planning Board Meeting on May 24, 2017
 - 298 S. Old Woodward Ave, CIS and Preliminary Site Plan;
 - 2010 Cole, Preliminary Site Plan;
 - 277 Pierce (Varsity Shop), CIS and Preliminary Site Plan;
 - Definition of Retail, Study Session.

- d. Other Business (none)

05-95-17

PLANNING DIVISION ACTION ITEMS

- a. Staff report on previous requests (none)
b. Additional items from tonight's meeting (none)

05-96-17

ADJOURNMENT

No further business being evident, the Chairman adjourned the meeting at 9:50 p.m.

Jana Ecker
Planning Director

APPROVED