

**CITY OF BIRMINGHAM
 PLANNING BOARD ACTION ITEMS
 OF WEDNESDAY, AUGUST 9, 2017**

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**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, AUGUST 9, 2017
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held on August 9, 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; Alternate Board Member Daniel Share; Student Representative Ariana Afrakhteh

Absent: Alternate Board Member Lisa Prasad; Student Representative Isabella Niskar

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

08-148-17

APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF JULY 12, 2017

**Motion by Mr. Boyle
Seconded by Ms. Lazar to approve the Minutes of the Regular Planning Board Meeting of July 12, 2017**

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Abstain: None

Absent: Prasad

APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF JULY 26, 2017 as presented

**Motion by Ms. Whipple-Boyce
Seconded by Ms. Lazar to approve the Minutes of the Regular Planning Board Meeting of July 26, 2017**

Motion carried, 4-0.

VOICE VOTE

Yeas: Whipple-Boyce, Lazar, Boyle, Koseck
Nays: None
Abstain: Clein, Jeffares, Williams
Absent: Prasad

08-149-17

CHAIRPERSON'S COMMENTS (none)

08-150-17

APPROVAL OF THE AGENDA (no change)

08-151-17

OLD BUSINESS

Final Site Plan Review

- 1. 298 S. Old Woodward Ave. (former Doctors House Call Building)**
Request for approval of a new five-story hotel with commercial and residential uses (postponed from July 26, 2017)

Ms. Lazar recused herself from this review as well as the public hearing to amend Chapter 126. Chairman Clein also recused himself from this review because his firm is involved in the project. Mr. Share joined the board.

Motion by Mr. Williams

Seconded by Ms. Whipple-Boyce for Mr. Boyle to take over as Chairman.

Motion carried, 6-0.

ROLLCALL VOTE

Yeas: Williams, Whipple-Boyce, Boyle, Jeffares, Koseck, Share
Nays: None
Recused: Clein, Lazar
Absent: Prasad

Final Site Plan

Ms. Ecker recalled the subject property is currently the site of two vacant office buildings and a surface parking lot, and has a total land area of .618 acres. It is located on the northwest corner of S. Old Woodward Ave. and Brown St. in the Downtown Overlay District. The applicant is proposing to demolish the existing buildings and surface parking lot to construct a 25,182 sq. ft., five-story mixed-use building. The building will provide ground floor retail, three floors of hotel guest rooms, and 17 residential units on the fifth floor. Parking for the residential units will be provided in the lower level of the building. As the building is located within the Parking Assessment District, no on-site parking is required for commercial uses.

On May 24, 2017, the Planning Board approved the Community Impact Statement ("CIS") and Preliminary Site Plan Review for 298 S. Old Woodward Ave. on the conditions that the applicant revise the traffic and parking study to address the comments provided by Fleis & Vandenbrink regarding the trip generation and parking generation assumptions and traffic operations,

respond to the concerns and requests of all City Departments and provide all necessary information. All of those issues have been resolved.

On August 2, 2017, The Advisory Parking Committee approved a recommendation to remove eight on-street parking meters in front of the new boutique hotel, and to charge them \$3,000 per meter per year for this benefit. The fee matches what is happening at the Townsend Hotel per a similar arrangement started in 1999.

Design Review

The applicant is proposing to utilize the following materials for the construction of the five-story, mixed-use building:

- Dark grey granite for the base of the building (Wisp granite from Quarrastone);
- Limestone cladding for the façade of the first – fourth floor facades (Grey, “Madison Café” from Quarrastone);
- Various varieties of vegetation for the green roof on the mezzanine, second level, and fifth level terraces;
- Aluminum window systems along all elevations (Low E glass with slight grey tint);
- Dark bronze coated metal to surround the windows and coping along top of the fourth and the fifth floor (Lintec, “Ascher Bronze”);
- A dark bronze coated metal canopy at the main entrance on S. Old Woodward;
- Corrugated metal panels to screen the rooftop mechanical units (Lintec, “Ascher Bronze”); and
- Aluminum and glass skylights on the S. Old Woodward Ave. elevation.

Material samples were passed around for review by the Planning Board. The applicant indicated that the garage doors will be coated metal with a grey tone. The proposed building appears to meet most of the architectural standards set out in Article 3, 04 (E) Downtown Birmingham Overlay District, of the Zoning Ordinance, as the first-floor storefronts are directly accessible from the sidewalk, the storefront windows are vertically proportioned, no blank walls face a public street, and the main entry has a canopy to add architectural interest on a pedestrian scale. The applicant has submitted calculations showing 90% of the exterior façade consists of high quality building materials (91.7% on the east façade and 90.6% on the south façade). Calculations have also been submitted for the glazing requirements outlined in Article 3, Section 3.04 of the Zoning Ordinance.

Mr. Richard Rassel, Williams Williams Rattner & Plunkett, 380 N. Old Woodward Ave., said the conditions that have been specified by the Planning Dept. are acceptable to the developer/owner. He introduced their design team: Mr. Charlie Stetson and Mr. Scott Seifers, Architects from Booth Hansen; Mr. Sweig from Giffels Webster; and Mr. David Berman with Lorient Capital, agent for Woodward Brown Ventures, LLC Ownership Group.

Acting Chairman Boyle invited the architects to talk about the finish, the design process they brought to this property, and the glazing and lighting.

Mr. Charlie Stetson gave a brief design overview of the project. He showed images of the building exterior. The ground floor is intended to create interest and excitement for pedestrians as they walk by. The via to the north is also pedestrian friendly and has an entrance to a wine bar. He described the two types of light fixtures proposed for the via. The 3.5 ft. high bollard fixture has a cut off and it shines straight down. The second fixture is in-ground with a plastic reflector upright at the top. The proposed lighting will ensure an inviting and safe place for people to walk.

Mr. Stetson took the board through the hotel's floor plan. The mezzanine has meeting rooms that open up out onto a green roof. Acting Chairman Boyle inquired whether the managers have experience in running a green roof. Mr. Stetson replied these planting materials require very little maintenance. He went on to talk about tinting on the glazing. The ground floor windows will be as inviting and transparent as possible. Maybe a little less transparency on the upper floors. They intend to get the required tinting percentages. Signage is ultimately planned for the top of the canopy.

There were no comments from members of the public at 8:02 p.m.

Mr. David Berman with Lorient Capital responded to Mr. Jeffares that Aparium Hotels cross trains all of their staff to also valet cars. When there is an influx of vehicles pretty much anyone who works at the property can park the cars. Mr. Jeffares asked how parking would work when both the hotels in town are using the same deck for a big event. Mr. Berman said their property is located in a central location that has access to multiple parking facilities within the City. Additionally, with stacking they can get a total of 88 cars into their own parking garage.

Motion by Mr. Williams

Seconded by Mr. Koseck that the Planning Board recognizes that the applicant has addressed the comments provided by Fleis & Vandenbrink as set forth in the Fleis & Vandenbrink letter in the materials dated July 19, 2017 regarding Trip Generation and Parking Generation Assumptions and Traffic Operations and is now in compliance with the conditions set forth in the initial CIS approval.

There were no comments from the audience on the motion at 8:08 p.m.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Recused: Clein, Lazar

Absent: Prasad

Motion by Ms. Whipple-Boyce

Seconded by Mr. Williams to approve the Final Site Plan & Design Review for 298 S. Old Woodward, including the use of non cut-off bollard and in-ground lighting in the via to the north of the building, with the following conditions:

- (1) Advisory Parking Committee approval of removal of eight parking spaces on Old Woodward Ave. or applicant must apply for revised Final Site Plan.**
- (2) Submit a revised photometric plan providing measurements for lights proposed on the property only for administrative approval;**
- (3) Comply with the requirements of all City departments; and**
- (4) Provide tint levels for all glazing for administrative approval.**

The Chairman called for public comments on the motion at 8:10 p.m.

Mr. James Eshshaki, Essco Development Co. received confirmation that the eight spaces that will be removed are right in front of the property.

Mr. Peter Noonan with Bailey Schmidt, managers of the building next door, received an explanation that the via will terminate into their parking lot and not obstruct any of their parking spaces. No gate is proposed.

Motion carried, 6-0.

ROLLCALL VOTE

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

Nays: None

Recused: Clein, Lazar

Absent: Prasad

08-152-17

PUBLIC HEARINGS

1. An ordinance to amend Chapter 126, Zoning to consider changes to Article 03 section 3.04 to exclude community uses in the Redline Retail District and Article 09, Definitions to define Personal Services

The Chairman opened the public hearing at 8:15 p.m.

Ms. Lazar and Mr. Share recused themselves and Chairman Clein rejoined the board.

Ms. Ecker explained that at the last meeting based on the direction memo from the City Manager, the point was to solely focus on the Personal Services definition. Thus, tonight the board will focus on Article 9, section 9.02 Definitions to add a definition for Personal Services. The proposed definition is as follows:

Personal Services: An establishment that is open to the general public and engaged primarily in providing services directly to individual consumers, including but not limited to: personal care services, services for the care of apparel and other personal items but not including business to business services, medical, dental and/or mental health services.

There has been a lot of discussion so far and Ms. Ecker briefly went through some of that history. The Planning Board started discussing retail at large in March of this year. In April and again in May there was direction from the City Commission to move forward with ordinance amendments that would provide temporary relief to halt the addition of non-retail uses into storefronts in Downtown while the Planning Board continues to study the issue of retail uses Downtown. The Planning Board talked about this at several subsequent meetings.

On June 19, 2017 the Planning Board and City Commission held a joint workshop session. At that time it was discussed that the public hearing scheduled for July 12, 2017 should be postponed. The Planning Board postponed the public hearing to August 9, 2017 to allow the Planning Board to hold an additional study session on July 12, 2017, specifically with regards to drafting a definition for Personal Services. Based on the direction by the City Commission and City Manager to review the Redline Retail Area, staff provided a review of the retail intent in the 2016 Plan, including the type of uses through the definition of retail and commercial. Within the definition of commercial the 2016 Plan said that personal services should be included and permitted in the Redline Retail District. It did not, however, define personal services.

Therefore, the City Commission has directed the Planning Board to zero in on a discussion of personal services and to draft a definition to be added to the Zoning Ordinance.

Thus, tonight the board will talk about a potential definition for personal services and what should be included in the Redline Retail District. In the direction from the City Manager that the Planning Board received, there was a recommendation not to list the businesses that are not included. However, at the last meeting the Planning Board felt they wanted to leave in the list of exclusions for business to business services, medical, dental and/or mental health services. The thought was that this list clarifies which services are allowed and which services are not allowed when reading the ordinance.

Mr. Williams received information that the Red Line Retail District stops just before Oak on the east side of Woodward and goes all the way down to Lincoln. In response to Mr. Williams, Ms. Ecker noted the City does not have a listing of all vacancies, although the BSD does have a list of some vacancies as reported by brokers and property owners. Also, the City has a list of all of the Downtown businesses, but they are not categorized as retail or non-retail under the definitions in the Zoning Ordinance.

It was concluded that in order to categorize a business the City would need a letter from them indicating what their primary business is.

Mr. Boyle noted this is a very wide spread concern among other communities and not something that is specific to Birmingham. This board is attempting to try and find a way to continue to have activity on our City streets. Mr. Jeffares thought Birmingham has been incredibly successful for being able to still have its retail environment.

Chairman Clein brought out the fact that the 2016 Plan was drafted in 1996 and it is 21 years old now. If there is ever a reason a Master Plan should be updated it is this. It will be important to have a full discussion with all stakeholders about the nature of modern businesses in our community.

Mr. Williams stated it is a mistake to downplay the Master Plan in order to have piecemeal items before it on the Planning Board's Action List. On a priority basis the board will never get to it. The Master Plan should be moved up, but this board does not control that agenda. He feels the board is currently dealing with a problem that doesn't exist.

In response to a question from the board, Ms. Ecker explained that any existing use can continue as long as it is consistent and continuous and isn't stopped for more than six months.

Mr. Jeffares thought it is very remiss that the people in this building who could be of help as part of this process are not present. At this point several board members thought the list of businesses not included as Personal Services causes more trouble than it is worth.

Chairman Clein noted the following correspondence that has been received:

- Letter dated July 27, 2017 from Joseph A. Sweeney, Intercontinental, against the definition;
- Letter dated August 4, 2017 from Paul S. Magy, Clark Hill, concerned that the planned action will erode the City's tax base by restricting the use of first floor commercial in the Redline Retail District;
- Letter dated August 8, 2017 replying to Mr. Magy from Timothy J. Currier, Birmingham City Attorney, indicating that public meetings are the place for discourse;

- Letter dated August 9, 2017 from James Esshaki, Essco Development Co., against the proposed definition and citing several buildings that would be difficult if not impossible to fill with retail.

Motion by Mr. Williams

Seconded by Mr. Koseck to receive and file the four letters.

Motion carried, 6-0.

ROLLCALL VOTE

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

Recused: Lazar, Share

Nays: None

Absent: Prasad

At 8:43 p.m. Chairman Clein opened up public discussion on the definition before the board.

Mr. James Esshaki, Essco Development Co., questioned how medical services cannot be considered as Personal Services. Chairman Clein responded there is strong consideration to just eliminate that from the definition. Further Mr. Esshaki asked what landlords, after spending millions of dollars for their buildings, should do with their spaces when they cannot lease them. No retailer would come in and pay money for a secondary location where there is no traffic. In his mind this is a take.

Mr. Paul Terrace, 1288 Bird, said he is a host of *Tough Talk with Terrace*, which is a public access TV show. It is his intention to tape a show with a developer and a broker and invited anyone who supports this proposal to come on his show also.

Mr. Ted Alsos, Retired Regional Manager of Ford Motor Credit Co, said he resides at 401 S. Old Woodward, unit 806. He is president of the Condominiums of Birmingham Place Master Association and is appearing on behalf of the members of the association. He read a statement to the effect that their association is opposed to the proposed action to limit the uses in the Redline Retail District. They believe that restructuring the uses in Downtown Birmingham will result in increased numbers of vacant storefronts. As vacant storefronts increase, the appeal of Downtown Birmingham decreases and correspondingly decreases values for property owners in Downtown Birmingham, if not the entire City. They are concerned that reduction of the tax base will fall on the residents. Lastly, the Association firmly believes that landlords need flexibility to cope with the changing market conditions for tenancy in Downtown Birmingham.

Mr. Michael Surnow, 320 Martin, co-founder of the Surnow Co. said that boards rely on experts and hire them all the time. The experts are right here - the landlord community -and they are all vehemently opposed to this action.

Mr. Richard Huddleston asked if there is a precise definition of the Redline Retail District in words in the Zoning Ordinance. Ms. Ecker answered that the ordinance refers to a map of the District, which can be found on the City's website.

Mr. Derick Hakow, 211 E. Merrill, Apt. 504, noted that he appreciates the vibrancy of the Downtown Community. He loves the live, work, play mentality that the City has created and would not want to see that jeopardized by change.

Mr. Richard Sherer said he owns multiple properties in Birmingham. He read a couple of sentences from two magazines. Amazon has online sales six times higher than those of Walmart, Target, Best Buy, Nordstrom, Home Depot, Macy's, Kohl's and Cosco combined. The New York Times states that the retail sector looks quite vulnerable economically with the transition to e-commerce. However, health care has much better numbers. This is the direction things are going.

Ms. Jeanette Smith is VP of Core Partners who has a lot of clients and listings in Birmingham. She has been to all of these meetings and thinks there are a couple of points that are recurring:

- Incomplete data - Other communities should be investigated for either successes or failures when they have enacted a change like this. It just feels premature to make a change at this time;
- She believes it is within the Planning Board's purview to decline to vote this and send it forward as well as to urge the City Commission to work on the Master Plan.

Mr. Paul Magi from Clark Hill, 151 S. Old Woodward Ave., Suite 200, and also a Birmingham resident at 708 Shirley, said he represents many of the people in the room this evening. They not only care about their buildings, but they really deeply care about the City. It seems that it would be appropriate for the board to say they are very interested in doing the right thing. However, before they do that they will make sure they have a full and complete understanding that there is in fact a problem to solve; that they have a study of this District that identifies all of the existing uses and the vacancies; an understanding of how long those vacancies may have occurred; what efforts have been made to re-tenant those spaces, and what the prospects are. Their recommendation should be to first determine if it is broken before it is fixed. If the board has to do something it seems what they could do is request that the important studies be done, including what the long-term impact might be on the City's tax base. This is an absolutely wonderful place and it is likely to continue that way without any kind of change.

Ms. Cheryl Daskas, a resident, property owner and successful retailer spoke. She said the reason people want to come to Birmingham is because of the vibrancy of the Downtown. If it all became offices people would not want to be here. That would affect the property values of the people who do live here. Every other business would shut down at 5 p.m. and at night Downtown will be dark and dreary. It is a shame the building owners don't want to work with someone who is experienced with bringing retailers into town. They would rather lease to office.

Mr. Dan Jacob, 361 E. Maple Rd., said he works with many national retailers every day. He doesn't think the landlords should be restricted. It is not like people are knocking on their doors. He understands the synergy of retail and that some of the retailers want that co-tenancy, but trends are changing and landlords are desperate. Malls pay their tenants for co-tenancies but for individual landlords it is hard to get that synergy.

Mr. Williams noted the BSD expert has not come to these meetings. He thought it would be difficult to take a percentage of how many sales a business has to individuals versus to contractors. What evidence will be required and how will it be policed.

Mr. Koseck wondered how medical/dental crept in as an exclusion and why some are suggesting that it be included. For simplicity purposes he is willing to move this forward and let the Commission do as they please, but he really would like to study it in greater detail.

Mr. Jeffares said that personally he does not like to walk by a storefront and see people hunched over in a cube and working on a PC. It would be horrible to have that everywhere. However, this process doesn't feel right to him for something that has this kind of magnitude - the first floor on the biggest chunk of Downtown. He doesn't feel that he has all of the necessary information to move this forward. He still thinks it is something for a Master Plan and he would prioritize that as number one on the Action List.

Ms. Whipple-Boyce indicated she doesn't like the definition for a couple of different reasons. She doesn't believe that medical/dental and mental health services are an appropriate use for our first-floor retail. Also she does not see how it is possible to not allow a business to business service and be able to understand and keep track of that. She is in favor of a true retail situation in the Redline District and she thinks a lot of the Personal Services that are included in the definition are inappropriate. She hopes to have an opportunity to study the retail situation further through a Master Plan approach.

Mr. Williams indicated he does not like the definition for a variety of reasons. He thinks the board can vote no and send it up to the City Commission and that is what he intends to do.

Mr. Boyle proposed that the board vote tonight on a request to the City Commission that its conclusion is to delay any decision on retail zoning until the City completes its deliberations through a comprehensive Master Plan process.

Chairman Clein took that a step further and made the following motion:

Motion by Chairman Clein

Seconded by Mr. Williams that the Planning Board of the City of Birmingham acknowledges the importance of a vibrant, active Downtown with strong first-floor retail uses. However, tonight he moves that the Planning Board recommend that the City Commission does not adopt the definition of Personal Services as presented in the proposed amendment to Zoning Ordinance Article 9, section 9.02, Definitions, and further recommend that the City of Birmingham expedite an immediate update to our comprehensive City wide Master Plan in order to properly address this issue and those that surround it.

Mr. Koseck summarized that this motion suggests the Master Plan be taken off the back burner and brought to the front so that the Planning Board can bring in people with much more of a global expertise and unbiased opinions. The Chairman explained that his point is to address not only the definition but to address the limits of the Redline Retail as well as residential neighborhoods, the Triangle and Rail Districts, along with the parking implications.

Mr. Williams explained one of the reasons he felt the impetus to move towards a Master Plan was the experience with O-1, O-2, TZ-1, TZ-2, TZ-3 where they tried to grapple with transition areas affecting residents and commercial property owners in transition areas. What the board learned was that they didn't have a Master Plan and it took them seven years from the time they started talking about it until they reached a final conclusion on all of the pieces. They took their time, did it right, and didn't move on an interim solution. What they learned was that piecemeal solutions are a bad idea. That is why he thinks this City needs a Master Plan. He would like to hear from all property owners and would also like the residents to speak up.

No one from the public had comments on the motion at 9:24 p.m.

Motion carried, 6-0.

ROLLCALL VOTE

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

Recused: Lazar, Share

Nays: None

Absent: Prasad

The Chairman closed the public hearing at 9:30 p.m. and board members took a short recess.

08-153-17

STUDY SESSIONS

1. Bistro Regulations

Mr. Baka noted that in 2007 the City of Birmingham amended the Zoning Ordinance to create the bistro concept that allows small eclectic restaurants to obtain a Liquor License. Bistros are permitted in certain zone districts with a valid Special Land Use Permit ("SLUP") under several conditions. As the bistro concept has evolved over the past ten years, new applicants have sought creative ways to make their establishments distinctive from the other restaurants and bistros in the City, and to increase the number of seats through the use of all season outdoor dining.

At the joint City Commission/Planning Board meeting of June 19, 2017 the issue of clarifying bistro regulations was discussed at length. There seemed to be consensus that a review of the bistro requirements and how they relate to the various areas in which they are permitted is warranted. Additionally, Commission members saw good reason to potentially regulate bistros differently depending on the district in which they are located.

The Planning Division would like to begin to consider addressing the issues of **parking, outdoor dining** and **Eisenglass enclosures** via ordinance language changes. The following examples of potential ordinance language changes are based on two methods of regulating bistros. The thinking is that current bistros would not be impacted by what is being proposed.

The first option would be to amend Chapter 126, Zoning, to universally create development standards for bistros that would apply to all zoning districts that permit bistros. Universal regulation would ensure that the dining experience in one bistro (outside of menu, service, theme etc.) is the same as dining in any other bistro. This could mean putting a limit on outdoor seating of 40 seats for all districts, even if there is room (public property or private property) for more. Eisenglass or vinyl enclosures could be prohibited entirely as to not abuse the outdoor dining season limit set forth by the City (April-November). As for parking, requiring all bistros to include their outdoor dining square footage in parking requirements could make sure that there will be enough parking for all of those extra seats. Creating extra parking requirements, though, could also discourage outdoor seating and counteract a key intent of the Bistro Ordinance.

The second approach to clarifying bistro regulations would be to amend Chapter 126, Zoning, to create separate bistro standards depending on the bistro's location in the Downtown, Triangle or Rail Districts. In doing so separately, the City can take into account the different space and parking conditions present in different districts. Adding parking requirements, like including outdoor dining area square footage in the parking calculation, to the conditions of certain bistro

location districts could help alleviate parking issues. Outdoor dining maximums are a reasonable consideration Downtown because there is less space for a large outdoor dining area. In the Rail and Triangle Districts where street frontage is typically larger, outdoor dining maximums of 40 or 60 seats could be appropriate. Finally, Eisenglass or vinyl enclosures might be considered in some areas along the Woodward Ave. frontage of the Triangle District to alleviate the noise pollution patrons receive from the major road.

Mr. Williams thought the major focus should be that one size doesn't fit all. Mr. Jeffares commented that it would be interesting to find out how much of the lunch crowd consists of office users who are already parked in town. It was consensus that there should not be an enclosure that allows bistros to extend their outdoor dining season. The bistro concept is being pushed beyond its original boundaries.

Mr. Boyle thought they should be discussing the issue of 65 indoor seats. The board needs to review that and consider the possibility that number could go up. Then bistros could rely less on large outdoor seating and have a stronger business that doesn't tie them to 65 indoor seats.

Ms. Whipple-Boyce thought there could be implications to allowing more indoor seating. They don't want Birmingham to become an all restaurant city. She doesn't think parking is that much of a concern because when the offices clear out the restaurants become busy. Don't forget that there are many local residents who walk from their homes to the Downtown bistros. She does not want to encourage a bistro model behind the building. She likes the outdoor seating in the front of buildings to activate the sidewalk space. Look at each bistro independently and see what makes sense, rather than putting a number to it. Also, consider opportunities for rooftop dining. Maybe the districts need be viewed differently because they are different and because some of the parking situations are different.

Mr. Koseck said in his opinion the bistros are working. The intent was to attract small scale, unique establishments with a variety of different food types. Why treat the districts differently? Forty outdoor seats is fine and he doesn't want to get caught up in parking for outdoor dining. He totally thinks the outdoor dining should not be enclosed. Pick half of the number of interior seating for outdoor dining; 40 seats is fine. He would rather see three small bistros in the Rail District than one that has 150 seats.

Mr. Williams echoed that and added if seating is outdoor, it shouldn't be enclosed. The total seating ought be the combination of both indoor and outdoor. Parking generally works and the only time it doesn't is the 10 a.m. to 12 p.m. window. Lunch is problematic in the Downtown area.

Chairman Clein observed he doesn't think including parking in the count really matters. To him the issue is not so much the size of the bistros; it is that they are allowed to be wrapped in plastic and located in places the board doesn't like. Perhaps some incentives could be put forth for establishments to meet if they want to increase their outdoor dining.

Mr. Boyle hoped to find a way to make the industrial land use in the Rail District work for bistros.

Mr. Baka summarized that the board is divided on whether or not there should be a limit on the number of outside seats. Board members stated they were definitely not in favor of outdoor dining enclosures, and most of the board is leaning against adding additional parking

requirements for outdoor dining seats. Nearly everyone wants to keep the districts separate. Mr. Williams added they need to look at the parking, but not Downtown.

No one from the public wanted to comment at 10:10 p.m.

08-154-17

2. Renovation and New Construction of Commercial and Mixed-Use Buildings

Mr. Baka advised that questions have been posed recently as to the procedure for determining what level of board review is required for the renovation of an existing building or construction of a new building. The Zoning Ordinance establishes the review process for new construction and renovation of existing buildings. However, the Zoning Ordinance is not clear as to the extent an existing building can be renovated before it is deemed new construction, and the ordinance is not clear as to what specific changes trigger site plan review. There are three boards that review building improvements: the Planning Board, the Design Review Board ("DRB") and the Historic District Commission ("HDC").

Article 7, section 7.25 provides for site plan review for new development of all historic properties by the HDC and the Planning Board, and for site plan review for new development of non-historic properties by the Planning Board.

Article 7, section 7.08 of the Zoning Ordinance establishes the review procedure for design reviews for all building renovation and construction activities. For all new non-historic construction projects the Planning Board is responsible for conducting both the Site Plan Review and Design Review. All plans for projects not requiring Site Plan Review or HDC review such as exterior alternations, lighting, signs, equipment or other structures that substantially alter the exterior appearance of the building shall be reviewed by the DRB.

Finally, Article 7, section 7.08 states that all Special Land Use Permit ("SLUP") reviews will be conducted by the City Commission, with recommendations from the Planning Board.

The DRB is responsible for conducting design reviews for new construction and the alteration of existing buildings when no site plan review is required. However, it is not explicitly delineated when a design review is required or what necessitates a site plan review. City policy for many years has been to require proposals that add square footage to a building or make changes to a site that would affect vehicle or circulation patterns to obtain site plan approval. Proposals that are limited to modifying the exterior of the building but do not expand the building or alter the site are required to obtain design review only.

On June 19, 2017 the City Commission and the Planning Board held a joint study session to discuss current planning issues in the City. When discussing the existing regulations regarding the renovation of existing buildings, several deficiencies and/or ambiguities were identified in the Zoning Ordinance. Specifically, the question was raised as to what triggers a Site Plan Review as opposed to a Design Review. There was a general consensus among the group that these issues should be studied by the Planning Board with the goal of providing recommendations to the City Commission for ordinance amendments that will clarify which type of reviews are required.

Ms. Ecker explained that right now there is no distinction between minor renovation and major re-build. Mr. Baka said the DRB did the Design Review for the Fred Lavery building. No one

knew that he was going to tear half of his building down but use the same footings and foundation. Mr. Lavery didn't anticipate how much of his building would have to come down until they were into construction. The question is how to handle that sort of situation.

Ms. Ecker maintained that if nothing else, the board should define what a site plan change is. Applicants are still appearing before a board, unless the change is so minor that it can receive administrative approval. Mr. Baka thought if a threshold is set where a project requires site plan review, but there are larger buildings that might not be making significant changes, they shouldn't be required to have a site plan review.

08-155-17

3. Economic Development Liquor License Boundaries

Ms. Ecker recalled that in 2009, the City Commission approved the creation of an Economic Development Liquor License as an incentive to encourage development in certain areas of the City. The properties that are eligible for this incentive are predominately located on or near Woodward Ave.

On February 13, 2017, the owners of the Whole Foods property at 2100 E. Maple Rd. requested that the City either expand the Rail District boundary to include the Whole Foods property so that a Bistro License could be approved, or expand the boundaries of the Economic Development License area along Woodward Ave. to allow Whole Foods to qualify for an Economic Development Liquor License. The City Commission reviewed both options, and voted to include Whole Foods within the Rail District to allow the operation of a bistro, and decided not to expand the Economic Development boundaries at that time.

On June 19, 2017 at the joint meeting, both the City Commission and the Planning Board discussed the expansion of the Economic Development License area to include a larger area of the City, perhaps including the Triangle District and/or the Rail District. On July 10, 2017, the City Commission amended the Planning Board's Action List to include a review of the Economic Development License boundaries as the third priority.

Draft ordinance language is presented that expands the boundaries established in Exhibit 1 of Appendix C to include all of the Rail District, and the remainder of the Triangle District, with the exception of the single-family residential area (zoned R-2, Single-Family Residential, and ASF-3, Attached Single-Family Residential).

Mr. Williams did not think the Crosswinds project in the Rail District should be on the Economic Development License map. It was discussed that the Economic Development License is already allowed on numerous parcels in the Triangle District. Ms. Ecker suggested cutting out sites that are immediately adjacent to residential and potentially include sites perhaps along Adams that do not abut single-family residential.

The Chairman called for public comments at 10:35 p.m.

Ms. Catherine Abhoud, said she is a resident at 367 Suffield; a property owner of 2125 E. Lincoln and 2159 E. Lincoln; and also a business owner of Armstrong White which is the tenant at 2159 E. Lincoln. Ms. Abhoud observed there has not been an enormous amount of economic development in the Rail District. So she feels that expanding the Economic Development into

the Rail District would foster development. Everything in that area is moving and it is ripe for economic development.

This matter will come to the board one more time with revised draft ordinance language before going to a public hearing.

08-156-17

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications (none)

b. Administrative Approval Correspondence

- Ms. Ecker advised that at 999 Haynes there is a dumpster in the middle of the parking lot facing toward Bowers. They want to move the location to where it is on the south side facing Haynes and tucked in right against the building and against their parking and screenwall. Board members were in favor of relocating the dumpster.

There was general consensus that dumpster gates should be allowed to consist of other materials besides wood.

c. Draft Agenda for the Regular Planning Board Meeting on August 23, 2017

- 277 Pierce, Varsity Shop - Final Site Plan Review;
- 2010 Cole - CIS and Preliminary Site Plan;
- Seven Greens Restaurant - Outdoor dining platform;
- Peabody Site - Preliminary Site Plan Review.

d. Other Business (none)

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PLANNING DIVISION ACTION ITEMS

a. Staff report on previous requests (none)

b. Additional items from tonight's meeting (none)

08-158-17

ADJOURNMENT

No further business being evident, the Chairman adjourned the meeting at 10:43 p.m.

Jana Ecker
Planning Director

APPROVED