

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

Item	Page
<b>E. PRELIMINARY SITE PLAN REVIEWS</b>	
<b>1. 361 E. Maple Rd. (Historic Resource - Hawthorne Building)</b> <b>Addition of four stories on top of the existing one-story historic resource</b> (postponed from November 14, 2018)	2
<b>Motion by Mr. Williams</b> <b>Seconded by Mr. Koseck that the Preliminary Site Plan Review for 361 E. Maple Rd. (Historic Resource - Hawthorne Building) be postponed to January 9, 2019.</b>	2
<b>Motion carried, 7-0.</b>	2
<b>2. 695 W. Brown St. (formerly 525 Southfield Rd.), The West Brown Preliminary Site Plan Review of Phase 2</b>	3
<b>Motion by Mr. Williams</b> <b>Seconded by Mr. Share to receive and file the following:</b> <ul style="list-style-type: none"> <li>• Letter dated November 25, 2018 from Martin and Colleen McGough;</li> <li>• Letter undated from Jeff and Jill Sesplankis;</li> <li>• Seven pages of partially signed petitions.</li> </ul>	3
<b>Motion carried, 7-0.</b>	3
<b>Motion by Mr. Williams</b> <b>Seconded by Mr. Koseck that 695 W. Brown St. (formerly 525 Southfield Rd.), The West Brown, Preliminary Site Plan Review of Phase 2 be postponed without a date certain with the requirement that the City provide notice the next time it comes before the Planning Board.</b>	5
<b>Motion failed, 2-5.</b>	5
<b>Motion by Mr. Williams</b> <b>Seconded by Ms. Whipple-Boyce that 695 W. Brown St. (formerly 525 Southfield Rd.), The West Brown, Preliminary Site Plan Review of Phase 2 be postponed until January 23, 2019.</b>	5
<b>Motion carried, 7-0.</b>	5
<b>F. STUDY SESSION ITEMS</b>	

Item	Page
<b>2. Planning Board Action List</b>	6
<b>Motion by Mr. Jeffares</b> <b>Seconded by Mr. Williams to ask the City Manager if we can investigate ordinance amendments (a) to permit glass railings; (b) to permit metal panels as exterior veneer; and (c) to expand dumpster enclosure materials.</b>	7
<b>Motion carried, 7-0.</b>	7
<b>3. Planning Board Rules of Procedure</b>	8
<b>Motion by Mr. Share</b> <b>Seconded by Mr. Williams to approve the Planning Board's Rules of Procedure as presented.</b>	8
<b>Motion carried, 7-0.</b>	8

APPROVED

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

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

**A. ROLL CALL**

**Present:** Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams

**Also Present:** Alternate Board Member Jason Emerine

**Absent:** Alternate Board Member Nasseen Ramin; Student Representatives Madison Dominato, Sam Fogel, Ellie McElroy

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

**11-186-18**

**B. APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF OCTOBER 24, 2018**

Mr. Share made the following change:

Page 3 - Second full paragraph, replace "no matter how many" with "if fewer."

**Motion by Mr. Boyle**

**Seconded by Ms. Whipple-Boyce to approve the minutes of the Regular Planning Board Meeting of October 24, 2018 as amended.**

**Motion carried, 6-0.**

VOICE VOTE

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

Nays: None

Abstain: Williams

Absent: None

**11-187-18**

**C. CHAIRPERSON'S COMMENTS**

Chairman Clein stated that the board has a mixed meeting this evening with site plan reviews along with study session items.

**11-188-18**

**D. APPROVAL OF THE AGENDA** (no change)

**E. PRELIMINARY SITE PLAN REVIEWS**

**11-189-18**

**1. 361 E. Maple Rd. (Historic Resource - Hawthorne Building)  
Addition of four stories on top of the existing one-story historic resource  
(postponed from November 14, 2018)**

Mr. Baka advised that the applicant was scheduled to appear before the Historic District Commission ("HDC") on November 7, 2018. However, the applicant requested postponement in order to consider the comments contained in the staff report. Based on the current design, the proposed addition does not conform to the guidelines provided by the National Park Service. The Planning Dept. feels that this proposal exceeds what is acceptable for an addition to this historic building. In addition, the proposed changes to the façade of the historic building dramatically change the character by eliminating the storefront window system and pressed metal storefront.

Mr. Chris Longe, Architect, 461 E. Maple Rd., said he understands that the HDC may alter what they are proposing to do. He would like the opportunity to overcome those obstacles in front of the HDC prior to a full review by the Planning Board.

**Motion by Mr. Williams**

**Seconded by Mr. Koseck that the Preliminary Site Plan Review for 361 E. Maple Rd. (Historic Resource - Hawthorne Building) be postponed to January 9, 2019.**

There were no comments from the public on the motion at 7:35 p.m.

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: None

**11-190-18**

**2. 695 W. Brown St. (formerly 525 Southfield Rd.), The West Brown  
Preliminary Site Plan Review of Phase 2**

**Motion by Mr. Williams**

**Seconded by Mr. Share to receive and file the following:**

- **Letter dated November 25, 2018 from Martin and Colleen McGough;**
- **Letter undated from Jeff and Jill Sesplankis;**
- **Seven pages of partially signed petitions.**

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: None

Ms. Ecker explained the portion of the site under review currently as Phase 2 is the southern 0.24-acre portion of the 0.829-acre parcel confined by Southfield Rd. to the west, Brown St. to the north, and Watkins St. to the east in the R-8 Zoning District. The entire parcel was previously home to a wellness center and parking lot, but a portion of the site is currently under construction with an eight-unit attached single-family development that was approved with all units facing W. Brown St. (Phase 1).

The applicant went before the Planning Board on February 28, 2018 for a Final Site Plan and Design Review for the initial eight units (Phase 1). The final site plan was approved with several conditions.

*Phase 2*

The applicant is currently proposing the addition of two attached single-family homes on a portion of the site facing Watkins, which is currently open green space (Phase 2). Attached single-family residential units are permitted in the R-8 Zoning District, and are defined in Article 9, section 9.02.

Each attached single-family unit is proposed to be separated from the adjoining unit by a wall extending from the basement floor to the roof, with each separating wall to meet or exceed an STC rating of 70. Each residential unit has its own stairway and individual front door that leads directly into each unit, and thus are permitted within the existing R-8 zoning. Two parking spaces are proposed for each of the units and five additional spaces are provided for guest parking.

However, during the review and approval process for Phase 1, the applicant stated they had plans to develop Phase 2 along Watkins as a single-family home. Several Planning Board members agreed that they would prefer to see a single-family home facing Watkins in Phase 2.

At this time the applicant has not provided a detailed existing conditions plan including the subject site in its entirety, including all property lines, buildings, structures, curb cuts, sidewalks, drives, ramps and all parking on site and on the street(s) adjacent to the site, and showing the same detail for all adjacent properties within 200 ft. of the subject sites property lines. This is now required for all site plan applications. With regard to placement on the lot, they meet the side and rear yard setbacks for the units. However, there is an issue with the distance between structures with the single-family attached unit on the south and its distance to the existing home along Watkins to the south. They would have to be 41 ft. from that home and the distance is only 20 ft.

In response to questions from Mr. Share and Chairman Clein, Ms. Ecker said currently this is submitted as all one parcel and all of the calculations have been based on the entire parcel. However, the applicant could apply for a lot split and divide the parcel into two lots: Phase 1 and Phase 2, which would then trigger different requirements.

Mr. Williams clarified that tonight's review is for an amendment to the original site plan.

Mr. Chris Longe, architect for the project, said they can supply all of the information that has been requested. Their conundrum is whether to split the lot off as a 60 ft. wide R-8 lot or go to the Board of Zoning Appeals ("BZA") for a variance to allow them to front on Watkins with greater setbacks than if the property was R-2. The benefit to the neighbor to the south is they would get an additional 2 ft. of setback if they are successful.

Chairman Clein pointed out it was presented to the Planning Board on at least two occasions that the applicant was going to build a single-family house. His conundrum is that he feels kind of duped. He asked for help in understanding why the two attached units are not something he should be worried about.

Mr. Longe replied there was no intent to bait and then switch.

Mr. Chris Brokavich, 115 Maxwell, Royal Oak, the developer, **acknowledged he was aware his representative told the Planning Board they would build one single family home on the outlot under consideration.** He said they planned a single-family home but as they have progressed people purchasing the town homes have had a concern about having only five guest parking spaces for all of the units on the site. So with this proposal they can get nine or twelve parking spots. Also, the plan would create just one driveway to the two new residences on Watkins.

Mr. Koseck stated this use is allowed by right. It doesn't comply with the ordinance relative to setbacks. Therefore, the applicant will have to go to the BZA and make their case for the setback. The consensus was that the information submitted does not have the details needed and does not reflect the current configuration of the parcels.

Ms. Whipple-Boyce said that when the applicant comes back they should consider going back to their original single-family suggestion. There is no other condition along the south side of Brown St. where attached living units have come around the corner and into the neighborhoods.

Mr. Williams suggested that the applicant should meet with the neighbors before coming back to show them exactly what the proposal will look like facing Watkins.

The Chairman took comments from the public at 8:17 p.m.

Ms. Maria VanNeese who lives on the Southfield side was opposed to adding more impervious surface for parking.

Ms. Anita Rigalotto, 952 Watkins, felt she was duped into thinking a single-family home would be built on her street. There are enough condos along Brown St. and she doesn't want to see more on Watkins.

Mr. Martin LeGoff, 543 Watkins right across the street, said it is terrible that townhouses will start encroaching down Watkins.

Mr. Paul Reagan, 997 Purdy, who is the president of the Central Birmingham Residents Assoc., spoke against turning the corner onto Watkins with condos.

**Motion by Mr. Williams**

**Seconded by Mr. Koseck that 695 W. Brown St. (formerly 525 Southfield Rd.), The West Brown, Preliminary Site Plan Review of Phase 2 be postponed without a date certain with the requirement that the City provide notice the next time it comes before the Planning Board.**

No one from the public wanted to comment on the motion at 8:25 p.m.

**Motion failed, 2-5.**

VOICE VOTE

Yeas: Williams, Koseck, **Share**

Nays: Boyle, Clein, Jeffares, Share, Whipple-Boyce, **Williams**

Absent: None

**Motion by Mr. Williams**

**Seconded by Ms. Whipple-Boyce that 695 W. Brown St. (formerly 525 Southfield Rd.), The West Brown, Preliminary Site Plan Review of Phase 2 be postponed until January 23, 2019.**

There were no comments from members of the public at 8:26 p.m.

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: None

**F. STUDY SESSION ITEMS**

**11-191-18**

**1. Projections into the Right-of-Way**

Mr. Baka advised that as requested by the Planning Board at their meeting on November 14, 2018, Planning staff has provided draft language that includes an intent section and also makes recommendations for further restrictions beyond what is permitted by the Building Code. Staff has intentionally allowed for flexibility within the standards to give the reviewing body discretion on a case-by-case basis without the need for the applicant to obtain a variance.

Mr. Jeffares indicated he would like to see a maximum allowable encroachment onto the sidewalk rather than two-thirds which may be excessive in some cases. Mr. Koseck added that a unique use such as the Birmingham Theatre might require a higher level of review. Further, the requirement that permanent architectural features such as windows, balconies, and overhangs cannot extend more than 18 in. into the right-of-way should require a little more study.

Referring to D(4)(c)(iii), Permanent encroachments that create usable space, Ms. Whipple-Boyce suggested that the bump out on the new Peabody site building be added to the other three examples.

Mr. Share asked for elimination of "said this" or "said that." Additionally, think about different percentages of allowable projection for different streets.

Mr. Boyle suggested under D(1) reverse "light, space" so that it reads "space, light."

Mr. Share said to mention something about not interrupting the flow of people on the street and that the pedestrian path needs to be maintained unobstructed.

Chairman Clein said in D(4)(b) and (c) note with consistency who is authorized to approve above grade encroachments. Also, review the proposed ordinance to ensure it meets the requirements of the Building Code.

Mr. Boyle hoped to see some schematic drawings included in the Ordinance. It was thought that perhaps Mr. Koseck could help with that.

Staff agreed to bring back the suggested changes.

**11-192-18**

## **2. Planning Board Action List**

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

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

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

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

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

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

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



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

**Motion by Mr. Jeffares**

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

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

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: None

**11-193-18**

**3. Planning Board Rules of Procedure**

Ms. Ecker stated that on May 9, 2018, the Planning Board discussed amending the Rules of Procedure to comply with the new site plan submittal requirements approved by the City Commission. The Board approved provisions that incorporated new submittal requirements (the requirement that all property lines, buildings and structures on adjacent properties within 200 ft. of a subject site be marked on the site plan).

Given the length of time since the last review of the Rules of Procedure, the Planning Board also verified that all references to the Open Meetings Act remained correct, and revised the third clause in Article VI – Code of Ethics, to require compliance with the City’s Ethics Ordinance which was not in place when the Rules were last updated.

At this time, the Planning Board has expressed a desire to amend the Rules of Procedure to establish a procedure for the review of Regulated Uses by the Planning Board. Previously, Regulated Uses were reviewed by the City Commission only. At least five votes are required for the Planning Board to amend the Rules of Procedure.

Chairman Clein noted that some of the Board's motions are rather short and they should be clarified in terms of compliance with ordinance requirements. He added that under Article II - Meetings (B) the last paragraph, insert Regulated Uses where needed. He further added that the appropriateness of the Regulated Use, the SLUP, the Site Plan, and the CIS will be reviewed by the Planning Board and then sent as one package to the City Commission.

**Motion by Mr. Share**

**Seconded by Mr. Williams to approve the Planning Board's Rules of Procedure as presented.**

**Motion carried, 7-0.**

ROLLCALL VOTE

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

**11-194-18**

**MISCELLANEOUS BUSINESS AND COMMUNICATIONS**

- a. Communications (none)
- b. Administrative Approval Requests (none)
- c. Draft Agenda for the next Regular Planning Board Meeting of December 12, 2018
  - 469-479 S. Old Woodward Ave., rezoning hearing;
  - 35001 Woodward Ave., Hunter House site, revised plan for a five-story hotel building with the Hunter House incorporated. CIS and Preliminary Site Plan Review;
  - Projections into the right-of-way;
  - Rooftop uses.
- d. Other Business
  - In response to Mr. Boyle, Ms. Ecker said she will verify if Toast continues to violate their SLUP by not serving dinner, or if this has been corrected.

**11-195-18**

**PLANNING DIVISION ACTION ITEMS**

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

**11-196-18**

**ADJOURNMENT**

No further business being evident, the Chairman adjourned the meeting at 9:15 p.m.

Jana L. Ecker  
Planning Director