

**CITY OF BIRMINGHAM  
PLANNING BOARD ACTION ITEMS  
OF WEDNESDAY, DECEMBER 12, 2018**

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<b>1. 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank)</b> Request to reconsider application in light of new information to be presented to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed use building (postponed from November 14, 2018, and the applicant has asked for additional postponement)	2
<b>Motion by Mr. Williams</b> <b>Seconded by Ms. Whipple-Boyce that the rehearing of the rezoning request for 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank) be postponed to the regular Planning Board meeting of January 23, 2019.</b>	2
<b>Motion carried, 7-0.</b>	
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<b>Motion carried, 7-0.</b>	
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**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, DECEMBER 12, 2018  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held on December 28, 2018. Chairman Scott Clein convened the meeting at 7:31 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:** Brooks Cowan, Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**12-197-18**

**B. APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF NOVEMBER 28, 2018**

Mr. Williams made the following changes:  
Page 5 - On the first motion, he voted no and Mr. Share voted yes.

Mr. Share noted the following:  
Page 4 - Under Mr. Brokavich's comments add "Mr. Brokavich acknowledged that he was aware that his representative told the Planning Board they would build one single-family home on the outlot under consideration."

**Motion by Mr. Boyle  
Seconded by Mr. Share to approve the Minutes of the Regular Planning Board Meeting of November 28, 2018 as amended.**

**Motion carried, 7-0.**

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

**12-198-18**

**C. CHAIRPERSON'S COMMENTS** (none)

**12-199-18**

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

**12-200-18**

**E. REZONING REQUEST**

**1. 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank) Request to reconsider application in light of new information to be presented to rezone from B-3 and D-4 to B-3 and D-5 to allow a nine-story mixed use building** (postponed from November 14, 2018, and the applicant has asked for additional postponement)

**Motion by Mr. Williams**

**Seconded by Ms. Whipple-Boyce that the rehearing of the rezoning request for 469-479 S. Old Woodward Ave. (former Mountain King and Talmer Bank) be postponed to the regular Planning Board meeting of January 23, 2019.**

**Motion carried, 7-0.**

There were no comments from members of the public at 7:35 p.m.

VOICE VOTE

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

Nays: None

Absent: None

Mr. Williams asked that upon republishing this material, staff note any new information on the first page.

**12-201-18**

**F. COMMUNITY IMPACT STUDY ("CIS") AND PRELIMINARY SITE PLAN REVIEW**

**1. 35001 Woodward Ave. (Hunter House and vacant parking lot)**

**Request for approval of new five-story mixed use building with hotel, retail and residential uses.**

Ms. Ecker advised that the subject site has a total land area of 0.5 acres. The property is located on the west side of Woodward Ave. and surrounded by four streets: Maple Rd. to the south, Park to the west, Hamilton Row to the north, and Woodward Ave. to the east.

The Downtown Birmingham 2016 Master Plan suggests several specific projects for Birmingham's Downtown, including the Maple Gateway to Downtown. The proposed development for a five-story hotel would complete the Maple Gateway. The applicant was required to prepare a CIS in

accordance with Article 7, section 7.27 (E) of the Zoning Ordinance as they are proposing a new building containing more than 20,000 sq. ft. of gross floor area.

*CIS*

### **A. Planning and Zoning Issues**

Use: The proposed commercial, hotel, and residential uses are permitted principal uses in the B-4 and D-4 Zone Districts.

Master Plan Compliance: Downtown Birmingham 2016 Plan ("2016 Plan"): The 2016 Plan calls for two significant buildings in the Maple Gateway. The Greenleaf Trust Building is on the south side and this will be a five-story building on the north side.

The new building would be compatible with its context, and its use is pedestrian related. Retail is proposed on the southern edge along Maple Rd., which contains the hotel lobby and a restaurant. The fifth floor is designed to contain residential units as required in order to get a fifth floor. The proposed development is also located at a terminating vista as outlined by the 2016 Plan and Article 3, section 3.04 (E) of the Zoning Ordinance.

In addition, the applicant will be required to maintain the pedestrian scale street lighting, street trees, sidewalks, seating, etc. along all adjacent roadways. The new building must relate to the Historic Central Business District. Therefore, the materials proposed are similar to those used in other buildings throughout Historic Downtown. The fifth floor is stepped back to ensure that the mass is consistent with other buildings.

### **B. Land Development Issues**

The applicant has noted that there are no major land development issues present for the site, as there are no sensitive soils and the site is flat.

The applicant has submitted an environmental site assessment report for the proposed development site dated May 4, 2018 by PM Environmental ("PM"). It was noted that the site contains a closed Leaking Underground Storage Tank that has been addressed.

In April of this year, PM completed five soil borings and concluded that soil analysis did not identify any concentrations of Volatile Organic compounds and Polychlorinated Biphenyls that exceed method detection limits. Roughly 12,000 cubic yards of in-place soils will be removed from the site for the construction of the new building with underground parking.

### **C. Utilities, Noise and Air Issues:**

The site is not located in an area that has an air quality issue. In accordance with the 2016 Plan, all utilities on the site should be buried in order to visually enhance the property. Presently there are some complicated utilities issues with regard to the site because of DTE equipment that was placed on the site.

The existing water system has a missing link and the applicant would have to add a 12 in. diameter public water main from Hamilton Row to Maple Rd. on the Woodward Ave. right-of-way adjacent to their building.

A noise study for the site was prepared by Kolano and Saha Engineers, Inc. Presently the noise level on the site is at an unacceptable level for residential. However, this can be overcome with the methods of construction and materials that are used.

#### **D. Environmental Design and Historic Values:**

The site is not listed on the National Register of Historic Places nor is it located in a local historic district. The CIS states that there are no properties or elements within the site plan that are historic.

The City is in the process of doing Phase II of the Downtown Project along E. Maple Rd. to Woodward Ave. Changes will include:

- Reducing **each of** the five lanes on E. Maple Rd. to 10 ft. in width in order to pick up extra sidewalk on the north side;
- Return Park to a two-way street;
- Signal light changes at Park/Peabody/Maple Rd.

It is requested that the applicant bring their plans into compliance with what is proposed.

Chairman Clein indicated he would like to see the Traffic Consultant's report incorporate the proposed build-out condition with Park as a two-way street. He needs that information in order to make a value judgment on what is being proposed.

Separate recycling storage facilities will need to be addressed by the applicant.

#### **E. Refuse, Sewer and Water:**

The CIS describes a refuse storage area on the Park (west) side of the building. They are also proposing two separate trash areas, one for the Hunter House restaurant and one for the rest of the building. The solid waste generated from the building will be standard and can easily be handled by local waste management companies.

The capacity of the combined sewer has been reviewed and confirmed by the City Engineer that it is not anticipated to exceed the limits of the municipal combined sewer.

#### **F. Public Safety:**

The Police and Fire Depts. have reviewed the proposed plans and the Fire Dept. states they have a need for a 20 ft. lane width for fire vehicle access. The lanes on Park St. are proposed at 10 ft. in width. Details of the proposed security system must be provided to and approved by the Police Dept. The Building Dept. had some concerns about the Fire Command Center. Also, the applicant has not provided information on a fire suppression system or a Knox Box.

#### **G. Transportation Issues:**

The applicant has provided a transportation study prepared by Stonefield Engineering. The hotel is projected to generate 59 trips during the weekday morning peak hour and 75 trips during the weekday evening peak hour, and the Hunter House restaurant is projected to generate 25 and 28 of those, respectively. The Hunter House has its own separate parking area that can be entered off of Hamilton Row.

The site is located in the Downtown Parking Assessment District; thus no parking is required for the development, except for the 5<sup>th</sup> floor residential units. However, the site will provide 71 spaces in an off-street, underground parking garage as well as 14 ground-level spaces for the Hunter House restaurant for a total of 85 spaces.

Ms. Ecker noted the Traffic Consultant could be present at the Planning Board meeting when this matter is discussed.

#### **H. Natural Features:**

There are no natural features on the site to be disturbed.

#### **TRAFFIC STUDY**

The traffic analysis portion of the CIS refers to a valet queuing area for three vehicles at one time. It is noted that the valet will not be in a position to fail, wherein vehicles are arriving faster than they can be processed. Vehicles standing at the intersection of Maple Rd. and Park St., particularly during the peak hour, will quickly cause queuing to extend into Woodward Ave., where the potential for crashes is significant. Further, disruption of westbound Maple Rd. traffic will cause the level of service for the Woodward Ave. and Maple Rd. intersection to fall even further than it already is, impacting a large number of motorists. Any adjustments that can be made to the site plan to provide additional queuing space for the valet is strongly recommended.

Ms. Ecker noted the proposed development encroaches into public property. The applicant proposes to expand their parking area underneath public property. Thus, they would need a lease agreement with the City to use the at-grade parking lot next to the Hunter House restaurant, and to use the air space over the lot. The applicant would also need a lease agreement to expand their underground parking into the right-of-way underneath the sidewalk. Further, above ground a portion of the hotel projects into public property, so that would also need a lease agreement with the City.

Mr. Kevin Biddison, Biddison Architecture, 320 Martin, commented there will be a couple of DTE transformer boxes on the NW corner of the property at Park and Hamilton Row just within their property lines and the building will be cut back there. A pole is proposed on their side of the street that would go across to the alley where the current line goes.

Assuming there are no issues with M-DOT they propose to meet all of the City's streetscape conditions along Woodward Ave.

Mr. Koseck indicated he is having a hard time understanding how the streetscape and vehicular entry points relate to neighboring sites. The survey needs to depict that information.

Mr. Boyle said he is really concerned about the traffic movements and how vehicles will stack. Chairman Clein echoed that thought. He has grave concerns about operations of pedestrian and vehicular movements. He felt the driveway into the Hunter House restaurant parking lot from Hamilton Row will not work. Also, he was concerned about the large area in the middle with the ramp into the building and two loading spaces. Further, the way the valet is queued and the lack of any detailed pedestrian routing through there is a "no go" for him. He needs to see how all of that relates to each other and the surrounding sites. Therefore, he suggested the applicant sit down with the traffic people and work through how everything will fit.

Mr. Koseck noted there are parts of the proposed plan that don't comply with the Zoning Ordinance. There is parking within 20 ft. of the frontage. If they comply with the ordinance it will fundamentally change the front of the building. It seemed to him that a lot is being crammed into this site.

Several board members were not in favor of going forward with the Preliminary Site Plan because they felt the Traffic Consultant's report is needed. Mr. Williams thought the report may cause the applicant to react to what is said in the report by changing the site plan.

Chairman Clein called for public comments at 8:28 p.m.

Mr. Kelly Cobb, one of the owners of the Hunter House, asked for the opportunity to speak at a future time to address their concerns.

**Motion by Mr. Williams**

**Seconded by Mr. Share to postpone consideration of the CIS and Preliminary Site Plan Review for 35001 Woodward Ave. (Hunter House and vacant parking lot) to January 9, 2019.**

There were no comments from the public on the motion.

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: None

## **G. STUDY SESSION ITEMS**

### **1. Rooftop Uses**

Mr. Cowan explained that a number of new mixed use and multi-family developments throughout the country have included rooftop amenities such as recreation spaces, terraces, patios, gardens, or pools. Providing rooftop amenities allows building owners to maximize space. The view that rooftop amenities provide is often cited as one of the biggest benefits for patrons of such spaces. The use of rooftops for building amenities has been on the rise in recent years. Examples in Birmingham include the All Seasons in the Triangle District and Social Kitchen in the Downtown District. Rooftop amenities and recreational uses are currently permitted on buildings built to their maximum height in all zoning districts except in the MX District.

Article 4.18 of the Zoning Ordinance contains a section for structures excluded from height limits in Article 2, but it does not apply to the MX District.

Article 4.19 (A) (4) of the Zoning Ordinance restricts the maximum overall height in the MX District, including mechanical equipment to 50 ft., which only allows 5 ft. of height for structural amenities such as stair enclosures or elevator lobbies that provide access to the rooftop.

This matter was discussed at the joint meeting of the City Commission and the Planning Board on October 15, 2018. After much discussion, the consensus of the City Commission was to consider ordinance amendments to allow rooftop uses and occupation in the MX District so that such uses are permitted in all zone districts that allow mixed use buildings. In addition, the City Commission expressed a desire to allow small lobbies or areas of enclosed space around elevators that extend up to rooftops.

On October 24, 2018 the Planning Board considered draft ordinance language that eliminated line 6 of Section 4.19 (A): "Any other use or occupancy above 40 ft. shall be prohibited." There was consensus that the Board wanted more in-depth review of ordinance language in relation to rooftop uses before making any definitive decisions. It was suggested that staff look into cities such as Denver, CO and Portland, OR. Each has an ordinance with a designated section for exceptions to the building height regulations.

As an example, the table for Denver's Zoning Ordinance Section 7.3.7.1 Height Exceptions indicates that mixed use buildings up to three stories may exceed the permitted building height by 12 ft. for utility purposes, limited recreation, elevator lobbies and open structures.

Portland, Oregon's Zoning Ordinance allows rooftop mechanical equipment and stairwell enclosures that provide rooftop access to exceed the height limit by 16 ft. as long as it is set back at least 15 ft. from all street facing facades. This is 4 ft. higher than the example provided from Denver for buildings of similar size and use. A suggested issue for discussion is the setback requirement for rooftop uses and equipment which is addressed in the proposed language for Section 4.19 (A) (8).

Draft ordinance language was presented for the Planning Board's review to consider the first issue of removing a prohibition on rooftop use and occupation in the MX District in order to allow rooftop uses and amenities that are currently permitted in other mixed use zoning districts in the City.



Mr. Koseck questioned what can go wrong on rooftops. Chairman Clein said the concern that was expressed to him was where the building is located in context to other residential. The second concern was whether rooftop use takes away from street activation. He added that the rooftop acts as a back yard for residents of a building.

Ms. Ecker said the concern she has heard is that an enclosure may get so big that it almost becomes akin to another story.

Mr. Jeffares thought there should be as much space outside an elevator as there is inside to allow queuing to fill the elevator. Additionally, non-permanent structures may become airborne during high winds.

The necessity of imposing a Special Land Use Permit ("SLUP") was discussed but board members hoped to find a way to make the addition of rooftop amenities work more easily than that. Problems could be dealt with by contacting building management or by calling the Police.

There was consensus to list what limited recreational uses along with permanent outdoor equipment for use by the building occupants would be permitted.

## **12-203-18**

### **H. PRE-APPLICATION DISCUSSION**

#### **1. 34000 Woodward Ave.**

Mr. John Marusich, Marusich Architecture, gave a preliminary application presentation of a five-story building that is proposed to be located at the south end of the Triangle District on the site where there is an existing bridal salon and nail salon. The zoning is MU-5. The first and mezzanine levels of the building will contain retail and parking. There are 12 residential condo units on each of the three stories above, for a total of 36. The penthouse level will have a setback terrace all around. They are 13 over their parking space requirement of 54. That allows them the flexibility of making the units smaller and increasing their number. Access to the parking is off of Adams through an existing curb cut.

Responding to Mr. Boyle, Mr. Marusich indicated the price point of the units will be \$750+ per square foot.

Mr. Koseck summed up that this will be a landmark building that defines the southern edge of town. It generally looks good and generally works, given the constraints they have with the site and neighbors. He encouraged the applicant to continue to talk with the neighbors.

Mr. Boyle questioned whether they have considered an automatic parking system. Mr. Marusich replied that people may be hesitant because they are not familiar with it. These systems work well in more densely populated areas.

Mr. Marusich noted they meet two of the criteria for an additional floor: LEEDS certification and a green roof. Also, traffic is an issue that will have to be worked out.

### **I. MISCELLANEOUS BUSINESS AND COMMUNICATIONS**

a. Communications

- Board members agreed to get back to study sessions in February.
- The Master Plan kick-off meeting will be towards the end of January.

b. Administrative Approval Requests

- 1589 W. Maple Rd., First United Methodist Church, wants to add a landscape feature in their front yard along Maple Rd. It is a paved round structure at grade with plantings that is meant as a quiet meditation area. Board members were okay with the proposal.

c. Draft Agenda for the next Regular Planning Board Meeting of January 9, 2019

- 361 E. Maple Rd., Historic Building Preliminary Site Plan;
- 35001 Woodward Ave.. CIS and Preliminary Site Plan Review.

**12-204-18**

**J. PLANNING DIVISION ACTION ITEMS**

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

**12-205-18**

**K. ADJOURNMENT**

No further business being evident, the Chairman adjourned the meeting at 9:30 p.m.

Jana L. Ecker  
Planning Director