

**CITY OF BIRMINGHAM  
PLANNING BOARD ACTION ITEMS  
OF WEDNESDAY, MARCH 27, 2019**

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**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, MARCH 27, 2019**

City Commission Room  
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on March 27, 2019. Chairman Scott Clein convened the meeting at 7:30 p.m.

**A. ROLL CALL**

**Present:** Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Daniel Share, Bryan Williams; Alternate Board Member Jason Emerine; Student Representatives Sophia Trimble, John Utley

**Absent:** Board Members Bert Koseck, Janelle Whipple-Boyce; Alternate Board Member Nasseen Ramin

**Administration:** Jana Ecker, Planning Director  
Laura Eichenhorn, Transcriptionist

**03-041-19**

**B. APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING OF MARCH 13, 2019**

**Motion by Mr. Share**

**Seconded by Mr. Williams to approve the minutes of the Regular Planning Board Meeting of March 13, 2019 as amended.**

**Motion carried, 5-0.**

VOICE VOTE

Yeas: Share, Williams, Boyle, Clein, Emerine

Nays: None

Abstain: Jeffares

**03-042-19**

**C. CHAIRPERSON'S COMMENTS**

Chairman Clein said it was going to be an interesting meeting covering many different aspects of the zoning ordinance.

**03-043-19**

**D. APPROVAL OF THE AGENDA**

Planning Director Ecker noted the following two items were withdrawn from the agenda per the applicant's request:

F2. **360 W. Maple – Pernoï Bistro (formerly Café Via)** – Request for approval of transfer of Café Via bistro to Pernoï Bistro, in same location but under new ownership.

and

G2. **360 W. Maple – Pernoï Bistro (formerly Café Via)** – Request for approval of transfer of Café Via bistro to Pernoï Bistro, in same location but under new ownership.

In lieu of the above items, the applicant requested a preapplication discussion with the Planning Board. The applicant also opted to submit a new bistro application which was received by the Planning Department on March 27, 2019, instead of applying for a transfer of the previous bistro application.

Chairman Clein confirmed the Planning Board would proceed with a preapplication discussion with the applicant during the evening's meeting.

#### 03-044-19

#### E. Regulated Use Reviews

1. **33828 Woodward – Vespa Scooters (former Barbara's Paper Bag) – Request for approval of a Regulated Use and Final Site Plan to open a scooter sales facility.**

#### F. Request for Special Land Use Permit Review

1. **33828 Woodward – Vespa Scooters (former Barbara's Paper Bag) – Request for approval of a Regulated Use and Final Site Plan to open a scooter sales facility.**

#### G. Request for Final Site Plan and Design Review

1. **33828 Woodward – Vespa Scooters (former Barbara's Paper Bag) – Request for approval of a Regulated Use and Final Site Plan to open a scooter sales facility.**

Chairman Clein explained that the Planning Board previously did not do regulated use reviews, but had been asked by the City Commission to begin doing so. Since the applicant had both a regulated use review, request for a special land use permit review, and a request for a final site plan and design review on the agenda, Chairman Clein noted that the topics would be discussed at the same time, but the separate reviews would be subject to different criteria for approval, different findings of fact, and different motions to deny or approve.

Chairman Clein suggested that City Planner Dupuis' first presentation of the item focus on the regulated use aspects of the application. Chairman Clein asked if the Planning Board had another preference, and no other preferences were raised.

City Planner Dupuis reviewed the item, noting the site plan only encompassed the building and not the required 200 foot surrounding area, and that the required survey was also not included in the application.

Chairman Clein explained partial applications hinder the Planning Board in making any recommendation to the Commission because Regulated Use approval requires Special Land Use approval, and the Commission requires those approval or disapproval recommendations be made at the same time.

Mr. Jeffares noted that the service part of this business is separated from a residential area by just an alley.

Part of the regulated use ordinance reads "because of their nature, uses defined as 'regulated uses' have objectionable operational characteristics, especially when concentrated in small areas." Mr. Boyle quoted that aspect and observed that the proposal for this regulated use is concentrated in a small area. He added that while he has no objection to this particular land use, the existence of two such business in a small area may be considered a "concentration" and thus should be the starting point for the Board's consideration of approval or disapproval.

Per Chairman Clein's request, City Planner Dupuis reviewed the criteria for approval of a regulated use:

1. The use will be compatible with adjacent use of land, considering the proximity of dwellings, churches, schools, public structures, and other places of public gatherings;
2. The use will not adversely impact the capabilities of public services and facilities including sewers, water, schools, transportation, and the ability of the City to supply such services;
3. The use will not adversely impact and cultural or historic landmarks;
4. The use is in compliance with all other requirements of this zoning ordinance; and
5. The use is in compliance with federal, state, and local laws and regulations.

Charlie Knoll, applicant and owner of Ducati Detroit, was asked questions by the Board. He explained:

- The proposed business would be exclusively sales and service of Vespa scooters. No scooters would be available for rent. There will be no underground tanks storing gasoline or lubricants. The shop will have pneumatic lifts.
- Due to the smaller variation in parts needed, the business will need much less room for storage of repair parts than a motorcycle or automotive repair shop would.
- It is questionable whether Vespa sales would be considered a regulated use since they are scooters and not motorcycles.
- He decided to pursue opening a Vepsa dealership as a result of the City's October 2018 finding that motorcycle and scooter parking around the City was underutilized while other parking is in very high demand.
- It would not be possible to sell Vespas out of Ducati Detroit.
- There would be no pneumatic tooling. All repairs on scooters and most repairs on motorcycles are done by hand torque tools.
- In the five-and-a-half years of its existence, Ducati Detroit has had no noise ordinance violations.

- The front door would serve as the service entrance and exit in order to avoid service traffic through the residential area, and would use the same door design as the ones extant at Ducati Detroit.

Chairman Clein noted a discrepancy between Mr. Knoll's statement and the submitted plans, since the plans reflect service traffic passing through the residential area. He added that an application for a Special Land Use Permit (SLUP) is tied to a detailed dimension scaled interior floorplan, detailed dimension site plans, and a survey, none of which were provided by the applicant.

Mr. Knoll clarified that the backdoor is a double man door with a 24-inch dropoff which would prevent the utilization of the door for entering or departing scooters.

Planning Director Ecker explained that the proposed business's proximity to another regulated use would require them to receive approval from the Planning Board, a variance from the Board of Zoning Appeals, and then a positive recommendation from both Boards to the Commission.

Mr. Emerine noted the proposed business might also be within 1,000 feet of Abbott's Coins, Jewelry and Loans, which is another regulated use business.

Mr. Jeffares noted that Ducati Detroit is next to Birmingham Coin & Jewelry, another regulated use business. Since Ducati Detroit is 100 feet from the proposed business, then the proposed business would also be within 1,000 feet of Birmingham Coin & Jewelry.

Mr. Knoll confirmed that Ducati Detroit did receive a variance for its proximity to Birmingham Coin & Jewelry and for its proximity to BABS Salon and Spa, which has a tattoo parlor license. He explained that he has a good relationship with the owners of both businesses, and that during the original request for a variance the Board of Zoning Appeals said the regulated use ordinance is dated and they were therefore willing to grant the variance.

Chairman Clein noted the application is in compliance with federal, state, and local laws; is in compliance with all other aspects of the zoning ordinance; will not impact a cultural or historic landmark; and, will not adversely affect impact the capabilities of public service. He said the issues remaining are the concentration of regulated uses in the area and the compatibility of the proposed business with adjacent land uses. He invited Mr. Knoll to comment on the proposed business' proximity to single family residential uses, particularly the home with a garage that opens onto the alley.

Mr. Knoll replied that the home in question is owned by the owner of Blossoms, rented to some of the Blossoms employees, and the garage is used as storage for the business. He explained he has very respectful relationships with the neighbors and will continue to do so. He also shared that Ducati Detroit has been in the top ten Ducati retailers in North America every year because he cares about the Birmingham area and the quality of his businesses.

In reply to Mr. Jeffares, Mr. Knoll stated that all Vespas are street-legal. In order to test ride a Vespa an individual would need a valid motorcycle license and proper safety gear. In addition, both Ducati and the proposed Vespa dealership prefer to send test riders out on Woodward instead of sending them through the residential neighborhood in order to avoid being a nuisance

to the local residents. There is a range of models, and different models have different top speeds: on the low end, a 50cc model could go up to 35 miles per hour, and on the high end the 500cc can do over 100 miles per hour.

Chairman Clein advised Mr. Knoll to hire an architect or engineer to review the application requirements and to make sure all materials are submitted in compliance with the ordinance.

**Motion by Mr. Share**

**Seconded by Mr. Williams to postpone the consideration of the regulated use review, special land use permit review, and final site plan review for 33866 Woodward by the Planning Board until its regularly scheduled meeting on April 24, 2019.**

Mr. Boyle said the Planning Board should review at a future date whether this use should be a regulated use since the applicant has provided some reason to consider that the categorization as such may be inappropriate.

**Motion carried, 6-0.**

VOICE VOTE

Yeas: Share, Williams, Boyle, Clein, Emerine, Jeffares

Nays: None

**03-045-19**

**F. Preapplication Discussion**

**1. 310 E. Maple – Pernoï Bistro (formerly Café Via)**

Kelly Allen, attorney for the applicant, introduced Luciano DelSignore, owner, and Matthew Lisk of Kyle Evans Design, designer for Pernoï. She thanked the Planning Board for allowing the preapplication discussion to proceed. She explained the applicant would submit the site plan with the required aerial view of all aspects within 200 feet of the property, would meet with the Historic District Commission, would be hiring a sign contractor to create signs compliant with the sign ordinance, all the seating and outdoor streetscape will remain as proposed, will provide a material board, has applied with the Birmingham Police Department and State Liquor Control, and the design allows a safe and efficient pedestrian flow. Pernoï proposes to be open from 5 p.m. to 11 p.m. five nights a week, with Sundays and Mondays being reserved for special events.

Mr. DelSignore explained the concept behind Pernoï, noting he would be working with Chef Takashi Yagihashi to create a kind of dueling-chef experience where Mr. DelSignore would focus on Italian cuisine and Mr. Yagihashi would focus on Japanese, Asian, and French cuisines. Pernoï is a portmanteau coined by Mr. DelSignore based on the Italian phrase 'for us', with the goal that the restaurant would provide meals that other chefs would want to eat, an atmosphere where people would want to celebrate their most special occasions, and a focus on convivial and upscale hospitality.

Mr. Lisk walked the Board through the proposed design elements. He said Pernoï would:

- Keep many of the design elements from Cafe Via ~~on the~~ while removing the awning and the curtain visible on Maple. A sign will be installed above the window. The canopy will be re-wrapped with new signage. The material structure of the design facing the alley will remain as-is. All exterior seating will be beneath the canopy.
- Maintain an understated and minimal design approach. The extant millwork from Cafe Via down the center of the interior space will be preserved and used for wine storage. All the cabinetry will remain, the floors will be refinished, the tablecloths will be all-white, the light fixtures will be updated and a few of the walls will be refinished.
- Have new curtains and valences in the bar room, have an open kitchen to allow the Chefs to engage with the clientele, and the corner which previously housed a florist shop will become a large dining room because it is now part of Pernoï's lease.
- Hang millwork clouds for acoustic purposes within the restaurant. Between the Italian coast and Japan's island nature, a large part of the design inspiration was the idea of an old yacht.
- Create design elements which reflect the rich, refined nature of the food being served.
- Have opportunities for private dining, and would design the barroom to be inviting to people in the Birmingham area looking to have a drink and/or a light meal after work.

Chairman Clein told Mr. Lisk that eisenglass is now prohibited in Birmingham and recommended he work with Staff to determine another option.

Mr. Jeffares advised the applicant to be careful of the number of tables and chairs to make sure they are compliant with the ordinance.

Mr. DelSignore explained Pernoï is trying to avoid having diners feel very observable to the public along the front window, especially since the front of the restaurant will house the premier rooms and diners who are likely to desire some discretion. He said they would be installing a sheer drape in the front window in order to accomplish this.

Mr. Lisk explained that while the design implied there was a set of french doors would open on to two seats within the restaurant, those doors would actually remain closed and function as a window.

The Board said it looked forward to working with Pernoï to aid in compliance with the City's ordinances and to the opening of such a highly-anticipated restaurant.

**03-046-19**

**G. MISCELLANEOUS BUSINESS AND COMMUNICATIONS**

- a. Communications (none)
- b. Administrative Approval Requests (none)
- c. Draft Agenda for the next Regular Planning Board Meeting of April 10, 2019
  - > Rooftop Uses

Mr. Jeffares suggested the Planning Board could review some of the smaller items they have been keeping track of to look at.

Chairman Clein said that would be a good idea, and asked if Planning Director Ecker could request the right for the Planning Board to do that from the City Commission.

**03-047-19**

**H. ADJOURNMENT**

No further business being evident, the Chairman adjourned the meeting at 8:30 p.m.

Jana L. Ecker

Planning Director

APPROVED