

**CITY OF BIRMINGHAM  
PLANNING BOARD ACTION ITEMS  
OF WEDNESDAY, MAY 8, 2019**

Item	Page
<p><b>B. Approval Of The Minutes Of The Regular Planning Board Meeting Of April 24, 2019</b></p> <p><b>Motion by Mr. Boyle</b> <b>Seconded by Ms. Whipple-Boyce to approve the minutes of the Regular Planning Board Meeting of April 24, 2019 as submitted.</b></p> <p><b>Motion carried, 7-0.</b></p>	3
<p><b>E. Public Hearings</b></p> <p><b>Motion by Mr. Share</b> <b>Seconded by Mr. Boyle to recommend approval to the City Commission for an amendment to Article 3, Section 3.04(E)(12) of the Zoning Ordinance to amend the permitted materials for balconies, railings, and porch structures in the Downtown Overlay District to allow the use of glass.</b></p> <p><b>Motion carried, 7-0.</b></p>	4
<p><b>Motion by Ms. Whipple-Boyce</b> <b>Seconded by Mr. Share to recommend approval to the City Commission for an amendment to Article 4, Section 4.54(B)(8) to amend the permitted materials to be used for the screening of trash enclosures to allow the use of metal and to prohibit the use of chain link fencing.</b></p> <p><b>Motion carried, 7-0.</b></p>	4
<p><b>F. Unfinished Business</b></p> <p><b>Motion by Mr. Share</b> <b>Seconded by Ms. Whipple-Boyce to recommend APPROVAL to the City Commission of the Special Land Use Permit Amendment for 280 E. Merrill – Sidecar Slider Bar/Rojo Mexican Bistro with the following conditions:</b></p> <p style="padding-left: 40px;"><b>1. The applicant must add an outdoor trash receptacle to both the Sidecar outdoor dining area and the Rojo outdoor dining area and submit specification sheets on the proposed outdoor planter boxes prior to appearing before the City Commission for final approval; and,</b></p> <p style="padding-left: 40px;"><b>2. The applicant must provide consistent elevations and plans prior to appearing before the City Commission.</b></p> <p><b>Motion carried, 7-0.</b></p>	5
<p><b>Motion by Mr. Share</b></p>	6
<p><b>Motion by Mr. Share</b></p>	7

**Seconded by Ms. Whipple-Boyce to recommend APPROVAL to the City Commission of the Final Site Plan Review for 280 E. Merrill – Sidecar Slider Bar/Rojo Mexican Bistro with the following conditions:**

- 1. The applicant must add an outdoor trash receptacle to both the Sidecar outdoor dining area and the Rojo outdoor dining area and submit specification sheets on the proposed outdoor planter boxes prior to appearing before the City Commission for final approval; and,**
- 2. The applicant must provide consistent elevations and plans prior to appearing before the City Commission.**

**Motion carried, 7-0.**

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**G. Study Session Items**

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**Motion by Mr. Boyle**

**Seconded by Ms. Whipple-Boyce to move the matter of Rooftop Uses and Design Elements to public hearing to be held on June 12, 2019 in accordance with Planning Director Ecker's summary.**

**Motion carried, 7-0.**

APPROVED

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, MAY 8, 2019**

City Commission Room  
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on May 8, 2019. Vice-Chairman Bryan Williams convened the meeting at 7:30 p.m.

**A. ROLL CALL**

**Present:** Board Members Robin Boyle, Stuart Jeffares, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Naseem Ramin; Student Representative John Utley

**Absent:** Chairman Scott Clein; Board Member Bert Koseck; Student Representative Sophia Trimble

**Administration:** Jana Ecker, Planning Director  
Brooks Cowan, City Planner  
Laura Eichenhorn, Transcriptionist

**05-062-19**

**B. Approval Of The Minutes Of The Regular Planning Board Meeting Of April 24, 2019**

**Motion by Mr. Boyle  
Seconded by Ms. Whipple-Boyce to approve the minutes of the Regular Planning Board Meeting of April 24, 2019 as submitted.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Boyle, Whipple-Boyce, Williams, Emerine, Jeffares, Ramin, Share

Nays: None

**05-063-19**

**C. Chairperson's Comments**

Vice-Chairman Williams reviewed the agenda.

**05-064-19**

**D. Approval Of The Agenda**

No changes.

05-065-19

**E. Public Hearings**

**1. An Ordinance To Amend Chapter 126, Zoning, Of The Code Of The City Of Birmingham: To Amend Article 3, Section 3.04(E)(12), Architectural Standards, To Regulate Balcony, Railing, And Porch Materials.**

Vice-Chairman Williams opened the public hearing at 7:34 p.m.

Planning Director Ecker presented the item. There was no discussion and no questions from the Board members. No members of the public wished to comment on the matter.

**Motion by Mr. Share**

**Seconded by Mr. Boyle to recommend approval to the City Commission for an amendment to Article 3, Section 3.04(E)(12) of the Zoning Ordinance to amend the permitted materials for balconies, railings, and porch structures in the Downtown Overlay District to allow the use of glass.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Share, Boyle, Emerine, Jeffares, Ramin, Whipple-Boyce, Williams

Nays: None

**2. An Ordinance To Amend Chapter 126, Zoning, Of The Code Of The City Of Birmingham: To Amend Article 4, Section 4.54(B)(8), Screening Standards, To Regulate Trash Receptacle Screening Materials.**

Planning Director Ecker presented the item. There was no discussion and no questions from the Board members.

**Motion by Ms. Whipple-Boyce**

**Seconded by Mr. Share to recommend approval to the City Commission for an amendment to Article 4, Section 4.54(B)(8) to amend the permitted materials to be used for the screening of trash enclosures to allow the use of metal and to prohibit the use of chain link fencing.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Whipple-Boyce, Share, Boyle, Emerine, Jeffares, Ramin, Williams

Nays: None

Vice-Chairman Williams closed the public hearing at 7:40 p.m.

05-066-19

**F. Unfinished Business**

**1. Request for Special Land Use Permit Review, 280 Merrill – Rojo / Sidecar – Request for approval of a SLUP Amendment to permit a change of in the size and interior layout of each establishment (Postponed from April 24, 2019).**

**2. Request for Final Site Plan Review, 280 Merrill – Rojo / Sidecar – Request for approval of a SLUP Amendment to permit a change of in the size and interior layout of each establishment (Postponed from April 24, 2019).**

Vice-Chairman Williams asked the Board if it was their preference to address both items at once.

The Board confirmed this was the case.

Mr. Share noted that the City Attorney had previously advised the Board that even if items are considered at the same time, separate motions should be made.

Vice-Chairman Williams agreed with Mr. Share.

Planning Director Ecker reviewed the item.

Vice-Chairman Williams asked Planning Director Ecker if the three conditions for approval pertained to both items.

Planning Director Ecker confirmed the three conditions for approval pertained to both items.

Mr. Share stated the sidewalk in front of Rojo/Sidecar is comprised of a few feet of red brick abutting the building with the rest of the sidewalk being concrete. He asked how far into the sidewalk the outdoor dining would extend in order to clarify whether pedestrians would be walking on both sidewalk surfaces or just the concrete.

The architect for the project signalled from the audience with an affirmative nod that the outdoor tables cover the brick portion of the sidewalk, leaving only the concrete portion of the sidewalk exposed to pedestrian traffic.

Planning Director Ecker told Mr. Boyle that the signage reading "The Plaza" above Rojo/Sidecar was signage for the building, and not part of the signage allowance for the two restaurants.

Chris Longe, architect, addressed the Board. He said:

- The canopy height is indicated on the plans as 10 feet, four inches.
- He would select the outdoor planters and provide the specification sheets.
- Stephen Simon, the owner of Rojo/Sidecar, would have trash receptacles installed outside the establishments per the City's requirements.
- Signage will remain as-is. One red awning will be ~~repainted~~ **replaced with a black awning.**

Ms. Whipple-Boyce noted discrepancies between the elevation and the plan regarding the long wall to the east Sidecar's door and in the exterior window sizes to the east of said wall, all of which was represented as smaller in the elevation than in the plan.

Mr. Longe told Ms. Whipple-Boyce that the scale was different between the plan and the elevation.

Ms. Whipple-Boyce confirmed her awareness of that fact and clarified that the discrepancies remained even when taking the difference in scale into account. She explained that, due to the discrepancy, if the elevation is accurate, Rojo/Sidecar may not be able to fit as many seats as designated in the plan.

Mr. Longe said the exteriors shown in the elevation and the plan were not diligently measured. He stated that the images were taken from portable document format (PDF) files and scaled up from those. He clarified that the interior was measured, however, so the plan was likely to be the more accurate of the two.

Planning Director Ecker said both the elevation and the plans should be corrected before being presented to the Commission.

Mr. Longe confirmed he would correct both documents.

Planning Director Ecker reviewed the difference between a Class C license versus a bistro license in response to Mr. Emerine's request. **The applicant is not operating under the bistro ordinance provisions.**

Vice-Chairman Williams suggested Condition Three in the suggested action should be deleted since there are no proposed signage changes, and asked if Condition Two should be modified since the planned height for the awnings was provided in the plan.

Planning Director Ecker suggested Condition Two could be changed to require the applicant provide consistent plans and elevations.

Mr. Share said that since neither of the conditions impact any of the six criteria under Article 7, Section 7(2)(7) of the zoning ordinance, he would move to recommend approval.

**Motion by Mr. Share**

**Seconded by Ms. Whipple-Boyce to recommend APPROVAL to the City Commission of the Special Land Use Permit Amendment for 280 E. Merrill – Sidecar Slider Bar/Rojo Mexican Bistro with the following conditions:**

**1. The applicant must add an outdoor trash receptacle to both the Sidecar outdoor dining area and the Rojo outdoor dining area and submit specification sheets on the proposed outdoor planter boxes prior to appearing before the City Commission for final approval; and,**

**2. The applicant must provide consistent elevations and plans prior to appearing before the City Commission.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Share, Whipple-Boyce, Boyle, Emerine, Jeffares, Ramin, Williams

Nays: None

Mr. Share said again that since neither of the conditions impact any of the six criteria under Article 7, Section 7(2)(7) of the Zoning Ordinance, he would move to recommend approval.

**Motion by Mr. Share**

**Seconded by Ms. Whipple-Boyce to recommend APPROVAL to the City Commission of the Final Site Plan Review for 280 E. Merrill – Sidecar Slider Bar/Rojo Mexican Bistro with the following conditions:**

- 1. The applicant must add an outdoor trash receptacle to both the Sidecar outdoor dining area and the Rojo outdoor dining area and submit specification sheets on the proposed outdoor planter boxes prior to appearing before the City Commission for final approval; and,**
- 2. The applicant must provide consistent elevations and plans prior to appearing before the City Commission.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Share, Whipple-Boyce, Boyle, Emerine, Jeffares, Ramin, Williams

Nays: None

**05-067-19**

**G. Study Session Items**

**1. Rooftop Uses**

City Planner Brooks Cowan presented the item.

Planning Director Ecker clarified that a parapet wall could not exceed a height limit of 42 inches, but a railing could exceed that height up until it comes into conflict with the maximum allowed height for the building.

Mr. Jeffares noted that if the parapet wall cannot exceed 42 inches, but also must be 42 inches high to act as a railing, then that leaves no room for error in the construction of the element.

Mr. Emerine agreed, noting that a parapet built too low by a quarter of an inch would be non-compliant with the Building Code and a parapet built too high by a quarter of an inch would be non-compliant with the Zoning Ordinance. He said as a design engineer he tries to build in a bit

of tolerance for possible, minor human error. He said he did not necessarily have a problem with the issue, but did want the Board to be aware of it.

Vice-Chairman Williams said there seemed to be issues with the hours of allowed use and the proposed setbacks.

Mr. Jeffares asked why the noise ordinance is sufficient for management of social gatherings in residential neighborhoods, but residents desiring to use their rooftops would be subject to an additional time requirement in addition to being subject to the noise ordinance.

Planning Director Ecker noted that if rooftop users are subject to an additional time limitation of 7 a.m. to midnight, a resident with access to a rooftop, if they desired to, could not quietly drink coffee on their own rooftop at 6 a.m.

Vice-Chairman Williams noted that the time limitation would also impact a number of rooftops in Birmingham that are already being utilized by the occupants of the buildings.

Mr. Share noted that rooftop terraces do not have time limitations, while rooftops do.

City Planner Cowan said the difference between a rooftop terrace and a rooftop were not yet clear and needed to be clarified by the Board.

Mr. Emerine suggested a rooftop terrace would be host to smaller, private gatherings, whereas the rooftop itself would be more accessible to the public.

Planning Director Ecker concurred that the City might want to limit the possibility of large groups gathered on rooftops all night, but that the noise ordinance would do a sufficient job of addressing the most significant concerns likely to arise from such a gathering.

Vice-Chairman Williams said he did not see much gain from adding additional time limitations on rooftop or rooftop terrace use. He also did not see much gain from distinguishing between a rooftop and a rooftop terrace.

Mr. Share agreed, noting the Board could always ~~re-approach~~ **re-approach** the question should further issues arise.

Planning Director Ecker told the Board that to her knowledge the City has never received a complaint about rooftop usage. She said the only similar complaint was when an individual using their terrace called the City to state that the restaurant below their terrace was too loud.

City Planner Cowan asked if the language regarding Rooftop and Rooftop Terrace Definitions should be removed.

The Board confirmed, adding that the time limitations should be removed as well as the setback requirement for non-permanent structures. The setback requirements for non-permanent structures was deemed unnecessary because it has been occurring with no issue around the City for years.



Ms. Whipple-Boyce asked if elevators or stairs from multiple residences could be installed on rooftops.

Planning Director Ecker confirmed it would be allowed per ordinance although unlikely due to cost.

Mr. Boyle stated that safety of rooftop usage is a matter of importance to the Board, and was why they had considered the setbacks and time limitations. He continued that upon further analysis of extant circumstances in the City additional restrictions seemed unnecessary, but that it should be noted that the Board thoroughly considered the issue.

Mr. Jeffares agreed, saying rooftops and rooftop terraces are the equivalent of backyards in terms of the usage that should be permitted to the building occupants.

Mr. Boyle acknowledged the comparison, but specified that the possible safety issues of rooftop use are much greater than the average safety issues of backyard use.

Ms. Whipple-Boyce pointed out that rooftop usage unrestricted as to time and the placement of non-permanent structures already exists throughout the City and has been a non-issue up to this point.

Vice-Chairman Williams agreed, saying it was clear from the discussion that the Board is concerned for residents' safety, but that rooftops all over the City are being utilized safely by building occupants without the additional restrictions.

The Board recommended striking 'furniture' from "Rooftop amenities such as pergolas, trellises, furniture and other similar items are permitted on a rooftop, provided:" for all districts, changing the line to "Rooftop amenities such as pergolas, trellises and other similar items are permitted on a rooftop, provided:".

Planning Director Ecker recommended altering "iv. They do not consist of eisenglass or similar enclosure materials." to read "iv. They do not include eisenglass or similar enclosure materials."

The Board concurred with Planning Director Ecker's recommendation.

The Board added that they would also no longer distinguish between 'rooftop' and 'rooftop terrace', leaving only 'rooftop' and its definition as "the external upper covering of a building".

The Board confirmed for Planning Director Ecker that the line "Rooftop amenities such as pergolas, trellises, furniture and other similar items may exceed the maximum height limit by no more than 10 feet, provided they meet the requirements of Rooftop Use Standards in Article 5" should remain as-is.

**Motion by Mr. Boyle**

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**Seconded by Ms. Whipple-Boyce to move the matter of Rooftop Uses and Design Elements to public hearing to be held on June 12, 2019 in accordance with Planning Director Ecker's summary.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Boyle, Whipple-Boyce, Williams, Emerine, Jeffares, Ramin, Share

Nays: None

**05-068-19**

**H. Miscellaneous Business and Communications:**

**a. Communications**

Planning Director Ecker provided the Board with the Master Plan charrette schedule for the weeks of May 13, 2019 and May 20, 2019. She thanked the Board members who attended the day's earlier session with the Master Plan team on Design.

She also directed viewers to the Master Plan's website, [thebirminghamplan.com](http://thebirminghamplan.com), and stated that the first of three online surveys is now available.

**b. Administrative Approval Correspondence**

Mr. Share noted that Level One Bank does not have an exterior trash receptacle. He asked if the City could compel or encourage the installation of an exterior trash receptacle.

Planning Director Ecker said the Planning Department could request the installation of an exterior trash receptacle, noting that the installation of one is not required.

**c. Draft Agenda for the next Regular Planning Board Meeting (May 22, 2019)**

- Hunter House, 35001 Woodward
- Pernoi Bistro
- Consideration of solar panel placement for a Northlawn Residence

**d. Other Business**

Planning Director Ecker stated there would be a City Commission/Planning Board Joint Meeting on June 17, 2019.

Mr. Jeffares asked if the installation of an exterior trash receptacle could also be requested of the Adams Fire Station.

Planning Director Ecker confirmed she would make the request.

Vice-Chairman Williams asked if the Board had any topic requests for the Joint Meeting.

Mr. Jeffares said homes undergoing unreasonably long constructions may be worth discussing since such long construction times can have a deleterious impact on the surrounding neighborhood.

APPROVED

**05-069-19**

**I. Planning Division Action Items**

- a. Staff Report on Previous Requests**
- b. Additional Items from tonight's meeting**

**05-070-19**

**J. Adjournment**

No further business being evident, the Vice-Chairman adjourned the meeting at 8:35 p.m.

Jana L. Ecker

Planning Director

APPROVED