

**BIRMINGHAM CITY COMMISSION /
PLANNING BOARD JOINT WORKSHOP SESSION**

June 21, 2021

7:30 PM

VIRTUAL MEETING

MEETING ID: 655 079 760

WORKSHOP SESSION

This will be considered a workshop session. No formal decisions will be made. The purpose of this workshop format is to focus on problem definition and desired outcomes. Each commissioner will have an opportunity to share their perspective and thoughts on problems and possible solutions and engage the Planning Board for input. Citizens will have an opportunity to make public comment at the end of the workshop meeting.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Pierre Boutros, Mayor

II. ROLL CALL

Alexandria Bingham, City Clerk

III. NEW BUSINESS

- A. Outdoor Dining Discussion
 - i. Public Comment
- B. Parking Standards Discussion
 - i. Public Comment
- C. Activation of Public Property at Southfield and Wakefield Discussion
 - i. Public Comment

IV. PUBLIC COMMENT

The City of Birmingham welcomes public comment limited at the Mayor's discretion to allow for an efficient meeting. The Commission will not participate in a question and answer session and will take no action on any item not appearing on the posted agenda. The public can also speak to agenda items as they occur when the presiding officer opens the floor to the public. When recognized by the presiding officer, state your name for the record, and direct all comments or questions to the presiding officer.

V. ADJOURN

NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.

Las personas que requieren alojamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al [\(248\) 530-1880](tel:248-530-1880) por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).



MEMORANDUM

Planning Division

DATE: June 15, 2021
TO: Thomas Markus, City Manager
FROM: Jana Ecker, Planning Director
SUBJECT: Joint Meeting Discussion

1) Outdoor Dining

Background:

On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

Issue:

The Zoning Ordinance currently prohibits outdoor dining enclosures of all kinds, including the use of more temporary materials such as Eisenglass, both in the outdoor dining season and in the off-season. This prohibition applies to all food and drink establishments, regardless of whether they serve alcoholic liquors, and regardless of the type of liquor license they may hold. In addition, outdoor dining is not currently permitted in the street during the off-season to ensure there are no obstructions for snow removal operations. Off-season outdoor dining is currently permitted off-street on both public and private property, with the provision that all furnishings, heaters and other equipment must be brought indoors every evening to ensure full access for snow removal operations. In addition to the questions raised by the City Commission, the Planning Board seeks further discussion regarding the scope of study requested to clarify if the desire is for a focused approach on key issues only, such as allowing tents or structures, materials to be used etc., or whether a thorough review of all outdoor dining regulations should be conducted and related to best practices elsewhere.

Discussion:

Does the City Commission wish to allow permanent outdoor dining enclosures to remain in place during the entire off-season?

Does the City Commission wish to allow outdoor dining enclosures to extend into the street during the off-season?

Does the City Commission wish to regulate the design and materials of outdoor dining enclosures?

Does the City Commission wish to study all aspects of outdoor dining regulation, or focus solely on whether or not to allow outdoor dining enclosures for any or all food and drink establishments?

City Commission Minutes December 7, 2021

12-267-20 Request for Planning Board Review of Proposed Ordinance Amendments

Planning Director Ecker presented the item. Some Commissioners wanted the Planning Board's review to take into account findings of what worked or what did not work over the winter of '20-'21, while other Commissioners wanted the review done more expeditiously so restaurant owners could know which purchases for outdoor dining could be used during both winter '20-'21 and winter '21-'22.

After discussion there was a general understanding among the Commissioners that even if this review were requested now the Planning Board's findings would not likely be available until late spring 2021 at the earliest, which meant that the circumstances of winter '20-'21 could be factored into the review but that by necessity restaurant owners would not be able to use the findings to guide their purchases for outdoor dining for the '20-'21 season.

Commissioners asked that the Planning Board consider the following topics during their review, including that:

- The outdoor dining structures should be taken down in the summer;
- The approvals of outdoor seating should be considered vis-a-vis the type of license already held by the restaurant (bistro, Class C, etc.);
- The size of the tents should be maximized where possible since the sizes of the aisles inside the tents are dictated by building code;
- Issues that have already arisen with outdoor dining during the winter of '20-'21 should be discussed; and,
- The differences between outdoor dining that would be on public or private property, offer alcohol or not, or other potential variations should be addressed.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Sherman: To direct the proposed ordinance amendments Chapter 126, Zoning, Article 4, Section 4.44 to the Planning Board for their review and recommendation.

ROLL CALL VOTE:

Ayes, Commissioner Hoff Commissioner Sherman Commissioner Nickita Commissioner Host Mayor Boutros Mayor Pro-Tem Longe

Nays, None

2) Parking Standards

Background:

Parking issues continue to be a central focus of discussion during the review of most land development applications before the Planning Board, both within and outside of the Parking Assessment District ("PAD"). The Zoning Ordinance parking standards have not been addressed comprehensively in decades.

Issue:

Currently, for those properties located within the PAD, on site parking is not required for any commercial uses, and the only parking required is for residential units/uses. Members of the public often question the exemption from on site parking requirements for commercial uses within the PAD, and the parking requirements for residential uses do not provide any flexibility to attract a variety of housing types. Outside of the PAD, the parking requirements for many commercial and residential uses end up dictating the uses, form and design of buildings. The City Commission is currently reviewing the parameters of the PAD and any necessary updates. The Planning Board understands that the PAD is an integral part of implementing the 2016 Plan and the future 2040 Master Plan, and is happy to provide recommendations to the City Commission regarding the PAD and its impact on development downtown. In addition, the Planning Board would also like to discuss aligning the parking requirements in the Zoning Ordinance with the goals and objectives of the City's master plans, the PAD and current best practices to ensure that the desired uses and the form and design of buildings contributes to the enhancement and activation of the City.

The elimination of parking standards for residential units may attract smaller unit sizes and lower sale or lease rates for units as developers will not be required to build the cost of parking facilities into their development costs.

Discussion:

Does the City Commission wish to have the Planning Board review the current parking standards for commercial uses outside of the PAD against best planning practices?

Does the City Commission wish to have the Planning Board review the residential parking standards in multi-family and mixed use zone districts to provide more flexibility and/or reduced parking requirements to encourage a variety of housing types?

3) Activation of Public Property at Southfield and Wakefield

Background:

On June 29, 2015, the City Commission approved a lease agreement with the owners of Market Square at Southfield and 14 Mile Road, in conjunction with amended plans approved by the Planning Board to expand the existing building. The approved agreement included leasing City property to Market Square to provide additional off-street parking adjacent to the alley to the west, and to construct an outdoor pavilion on City property adjacent to a new building entrance on the north elevation.

Issue:

Since the approval of the lease agreement by the City Commission in 2015, the owners of Market Square were advised by the City not to proceed with the execution of the lease.

Accordingly, construction of the proposed outdoor pavilion and new building entrance on the north elevation, nor construction of the paved parking area could proceed as both were proposed on public property. Over the past year or so, complaints have been received by the City regarding illegal parking in the section of public property adjacent to the alley that was to be leased and constructed as a parking area. Enforcement action has been ongoing, including the recent installation of No Parking signs in this area. The owners of Market Square have advised the City that it is often landscaping contractors and others not associated with Market Square parking in this area, and their efforts to control this have been unsuccessful. Given the prior approval of plans to activate this corner, and the recommendations contained in the draft 2040 Master Plan to create social gathering places close to neighborhoods, the City may wish to encourage the enhancement and activation of the public property on this corner.

Discussion:

Is the City Commission interested in activating the public property at the corner of Southfield and Wakefield?

Does the City Commission wish to reconsider a lease or license agreement with Market Square to allow the parking area to be constructed and/or to allow the activation of the public property on Wakefield?

**City Commission Minutes
June 29, 2015**

06-129-15 GROUND LEASE AGREEMENT WITH MARKET SQUARE ENTERPRISES, LLC City Planner Ecker explained that the applicant appeared before the Planning Board for their site plan review for an expansion to the building. One of the comments from the Planning Board was to activate the field just north of the property and provide a connection from the store and provide seating to the general public. The applicant is proposing a lease with the City for the use of that public property which includes an outdoor patio, pavilion and fountain area, and six parking spaces. She confirmed that the pavilion would be a permanent structure and include seasonal displays by Market Square. The structure would be secured after the store is closed.

Ms. Ecker explained that the parking spaces are not needed to meet the parking requirement. Victor Saroki, architect for Market Square, explained the expansion to the store.

In response to a question from Mayor Pro Tem Hoff, Mr. Saroki explained that there would be no service from the store to the tables.

MOTION: Motion by McDaniel, seconded by Rinschler: To approve the Ground Lease between the City of Birmingham and Market Square Enterprises, LLC and authorizing the Mayor and Clerk to execute the same on behalf of the City.

Commissioner McDaniel suggested staff be directed to look at cut-thru traffic in the

neighborhood and monitor the speeds.

The following individuals spoke in opposition to the proposal:

Jay Shell, President of the Birmingham Farms Homeowners Association

Diane McShane, 1035 Wakefield

Amy Folberg, 1580 Latham

David Field, 1732 Norfolk

Pat McShane, 1035 Wakefield

Cynthia Yates, 1108 Saxon

Mark Favot, 1190 Wakefield

Patti Bordman, 1091 Lakepark

Patrick Seeburg, 1164 Wakefield

Adam Levitsky 955 Wakefield

Kathryn Ticer, 1199 Wakefield

Laura Mason, 1133 Wakefield

Maureen Field, 1732 Northfolk

The following individuals spoke in support of the proposal:

Adam Lawrie, 1898 Latham

Russ Vorhees, 990 Wakefield

Johnny Karmo, owner of Market Square, explained that he employs fifty people and prefers to have the six additional parking spaces.

In response to a question by Commissioner McDaniel, Mr. Karmo explained that the intention is to bring the tables and chairs inside each night.

Mayor Pro Tem Hoff questioned if the parking spaces were eliminated, would the applicant still want the pavilion. Mr. Karmo stated that the reason he was in favor of the lease was for the six parking spaces.

In response to a question from Commissioner Rinschler, Mr. Karmo stated that he would not be interested in the lease without the parking spaces as the development is quite costly. He noted that the addition to Market Square would move forward regardless of the lease agreement.

VOTE: Yeas, 4

Nays, 1 (Hoff)

Absent, 2 (Moore, Nickita)