

**CITY OF BIRMINGHAM  
PLANNING BOARD ACTION ITEMS  
OF WEDNESDAY, AUGUST 23, 2017**

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<b>OLD BUSINESS</b>	
<b>Preliminary Site Plan Review</b>	
<b>1. 2010 Cole St. New mixed-use building (partially demolished building) Request for Preliminary Site Plan Review to allow the construction of a new three-story mixed-use building (postponed from July 26, 2017)</b>	<b>2</b>
<b>Motion by Mr. Share Seconded by Mr. Koseck to approve the Preliminary Site Review for 2010 Cole St. including setting the front setback to match the front setback of the adjacent pre-existing building to the east, subject to the following conditions:</b>	<b>4</b>
<b>1) The applicant provide a floor plan indicating the number of rooms within the two residential units to ensure all density requirements have been met;</b>	
<b>2) The applicant verify that the first story floor-to-ceiling finished height is at least 12 ft. or obtain a variance from the Board of Zoning Appeals;</b>	
<b>3) The applicant submit rooftop plans and specification sheets for all proposed rooftop mechanical units and screening at Final Site Plan;</b>	
<b>4) The applicant submit a detailed landscape plan with the size of all plant material at the time of planting to verify size requirements have been met including landscaping on the east parking lot;</b>	
<b>5) The applicant add two street trees and four street lights or obtain a variance from the Board of Zoning Appeals;</b>	
<b>6) The applicant submit a photometric plan and specification sheets for all proposed light fixtures at Final Site Plan Review;</b>	
<b>7) The applicant provide a full list of building and screenwall materials and specifications sheets, as well as glazing calculations at Final Site Plan Review;</b>	
<b>8) The applicant comply with the requirements of all City Departments; and</b>	
<b>9) The applicant add bike parking to the site.</b>	
<b>Motion carried, 4-2.</b>	<b>5</b>
<b>2. 34965 Woodward Ave. (former Peabody's Restaurant) Request for approval of the Preliminary Site Plan to allow a new five-story mixed-use building to be constructed (postponed from July 26, 2017)</b>	<b>6</b>

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<p><b>Motion by Mr. Share</b>  <b>Seconded by Mr. Williams to postpone the application for Preliminary Site Plan for 34965 Woodward Ave. to September 13, 2017 and to suspend the rules to hear a site plan at that meeting.</b></p>	<p><b>11</b></p>
<p><b>Motion carried, 7-0.</b></p>	<p><b>11</b></p>
<p><b>FINAL SITE PLAN AND DESIGN REVIEW</b></p>	
<p><b>1. 277 Pierce St. (former Varsity Shop)</b>  <b>Request for approval of a five-story mixed-use building with first-floor retail</b></p>	<p><b>11</b></p>
<p><b>Motion by Mr. Koseck</b>  <b>Seconded by Mr. Boyle to approve the Final Site Plan and Design Review for 277 Pierce St. subject to the following conditions:</b>  <b>1) The applicant provide noise and vibration mitigation strategies prior to obtaining a Building Permit;</b>  <b>2) The applicant obtain a variance from the BZA to allow a commercial use above a residential use or eliminate the residential use in the lower level of the building;</b>  <b>3) Comply with the requests of all City Departments; and</b>  <b>4) The applicant reduce the light levels 5 ft. out from the property lines along Pierce and Merrill Sts. and obtain administrative approval, or obtain a variance from the BZA.</b></p>	<p><b>13</b></p>
<p><b>Motion carried, 7-0.</b></p>	<p><b>13</b></p>
<p><b>2. 344 Hamilton Row (Seven Greens Salad Co.)</b>  <b>Final Design Review for approval of an outdoor dining platform in the street</b></p>	<p><b>13</b></p>
<p><b>Motion by Ms. Whipple-Boyce</b>  <b>Seconded by Mr. Williams to approve the Final Design Review application for 344 Hamilton Row with the following conditions:</b>  <b>1) The applicant must receive a variance from the BZA in order to extend beyond their own storefront, or cut the platform back to be only in front of their storefront for administrative approval;</b>  <b>2) The applicant must provide a trash receptacle in the outdoor dining area; and</b>  <b>3) Address the issues raised by City Departments.</b></p>	<p><b>14</b></p>

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<p><b>Motion carried, 7-0.</b></p>	<p><b>14</b></p>
<p><b>MISCELLANEOUS BUSINESS AND COMMUNICATIONS</b></p>	
<p>a.     <u><b>Communications</b></u></p>	<p><b>15</b></p>
<p>    <b>Motion by Mr. Williams</b>              <b>Seconded by Mr. Jeffares to consider an application for the rezoning of</b>              <b>191 N. Chester on September 13, 2017 and to waive the rules as to study</b>              <b>sessions.</b></p>	<p><b>15</b></p>
<p><b>Motion carried, 7-0.</b></p>	<p><b>15</b></p>
<p> </p>	<p> </p>

APPROVED

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**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, AUGUST 23, 2017  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on August 23, 2017. Chairman Scott Clein convened the meeting at 7:30 p.m.

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

**Absent:** Alternate Board Members Lisa Prasad; Student Representatives Ariana Afrakhteh, Isabella Niskar

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

**08-159-17**

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING  
OF AUGUST 9, 2017**

Ms. Whipple-Boyce made a change:  
Page 9 - Second paragraph, third sentence, replace "to not allow" with "to allow."

**Motion by Ms. Lazar  
Seconded by Mr. Koseck to approve the Minutes of the Regular Planning Board  
Meeting of August 9, 2017 as amended.**

**Motion carried, 7-0.**

**VOICE VOTE**

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

Nays: None

Abstain: None

Absent: None

**08-160-17**

**CHAIRPERSON'S COMMENTS (none)**

**08-161-17**

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

**08-162-17**

**OLD BUSINESS**

**Preliminary Site Plan Review**

**1. 2010 Cole St.**

**New mixed-use building (partially demolished building)**

**Request for Preliminary Site Plan Review to allow the construction of a new three-story mixed-use building** (postponed from July 26, 2017)

Ms. Lazar recused herself due to a familial relationship. Chairman Clein recused himself from this and the next item on the agenda for business reasons. Mr. Share joined the board.

**Motion by Ms. Whipple-Boyce**

**Seconded by Mr. Koseck for Mr. Boyle to take the gavel as acting chairman.**

**Motion carried, 6-0.**

**VOICE VOTE**

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

Nays: None

Absent: Prasad

Ms. Ecker described the subject site as a 0.77 acre parcel. The applicant has demolished a portion of an existing commercial building and is proposing to expand the first story and construct two additional stories above. The proposed first story of the building will consist of retail, fitness, and enclosed private residential parking spaces; the second story will be office space; and the third story will contain two residential units, giving the proposed building a grand total of 25,603 sq. ft.

On April 26, 2017, the applicant appeared before the Planning Board for a CIS and Preliminary Site Plan review. A motion to accept the CIS for 2010 Cole St. was made and passed with seven conditions. At this time the applicant has submitted soil boring information at the specific locations requested by the Planning Division, but none of the other six conditions of approval have been met regarding the CIS.

The board postponed the Preliminary Site Plan based on concerns about vehicle circulation in the parking lots (dead end lots causing cars to reverse back out onto Cole St.) and a request from the Planning Board that the longer side of the building be rotated to run along Cole St. instead of facing the parking lot on the east portion of the property. The site as proposed does not provide adequate parking for a restaurant. The applicant stated that a restaurant will not occupy the first floor of the development.

On June 28, 2017, the applicant appeared before the Planning Board with a revised site plan that provided two turnaround areas for vehicles at the south end of each of the parking lots to address the circulation issues raised by the Planning Board. Board members discussed the proposed changes and several members expressed a desire to have full circulation around the south end of the building to ensure that drivers would not have to back up through the parking lots to get back to Cole St. Also they felt that vehicles would end up parking in the turnaround area. Board members also expressed concern again about the orientation of the building towards the interior of the lot, and not along the street frontage. The board advised that they needed to hear a strong financial justification as to why they should approve the proposed orientation of the building which is not as recommended in the Eton Rd. Corridor Plan. After much discussion, the matter was postponed to August 23, 2017. There have been no revisions to the plan since last time. The owner is present to provide some financial justification as to why the changes, at least as to the orientation of the building, cannot be physically supported.

Mr. Share was concerned that all the parking lot landscaping is on the west side and there is none on the east side.

Mr. Jason Krieger with Krieger Klatt Architects was present along with Mr. Mark Mitchell, the owner and developer of the property. Mr. Krieger noted they tried to design the building in order to minimize any disturbance on the site because of the contaminants. They feel their plan is the best suited design for this site and to make the project financially feasible.

Mr. Mark Mitchell, 102 Pierce, said he bought the site in order to develop it and make Cole St. look a little better. The current building has been sealed from contaminants. Turning the building around would require a substantial environmental cleanup that would cost \$1 million or more. It would be difficult to get a return on that. He also would like to have the parking go around the back of the building but when he takes three stories off the building the economics just don't work. He is happy to take a couple more parking spots out to create a turn around so that cars pulling in don't have to back out.

Mr. Mitchell noted for Mr. Share that all of the contamination is currently encapsulated. They would re-encapsulate it again to make all the levels the same for the proposed structure. Also, they can modify the site plan to include some landscaping on the east side of the parking lot. Mr. Krieger replied to Ms. Whipple-Boyce's inquiry by saying the parking on the east side of the building will likely be for employees or guests. The primary parking for the public will be on the west side.

Mr. Koseck was concerned with the safety aspect of the parking and turnaround. Mr. Mitchell replied that the economic cleanup of taking 8 ft. off the rear wall of the building would cost several hundred thousand dollars. Tenants would already have to pay \$255/sq. ft. as the building currently sits. Then there would be the economics of not having the additional retail space or the office on the first and second floors. Mr. Koseck noted the driveway on the east side is right up against the building and doors exit out from the building directly onto the driveway.

The Acting Chairman called for comments from the audience at 8 p.m.

Mr. Greg Bogart, Sr. Vice-President of Colliers International, stated that if any more economic changes are made, this project will not make any sense. Once people see this building, he thinks it will spur other development in the area.

Mr. Jeffares expressed his thought that although this proposal is not absolutely the panacea of what they are looking for, it seems to make sense for the site.

Ms. Whipple-Boyce said she would love to see this development happen in this part of town; but she is disappointed that the building wasn't moved up to the street. However as a compromise she can accept the placement of the building. Nonetheless, she is struggling with the circulation of the traffic. She genuinely doesn't believe that the hatched lines will work as a place for people to turn around safely and get back out. What she does believe is that people will park in the hatched spots when they can't find anything else and vehicles will have no alternative other than to back out that long distance. What she would really like to see is the back end of the building shaved off so cars can drive behind it. She cannot support the creation of an unsafe condition on the south side.

Mr. Share recognized that with environmentally challenged sites like this, if development is to occur compromises will have to be made.

**Motion by Mr. Share**

**Seconded by Mr. Koseck to approve the Preliminary Site Review for 2010 Cole St. including setting the front setback to match the front setback of the adjacent pre-existing building to the east subject to the following conditions:**

- 1) The applicant provide a floor plan indicating the number of rooms within the two residential units to ensure all density requirements have been met;**
- 2) The applicant verify that the first story floor-to-ceiling finished height is at least 12 ft. or obtain a variance from the Board of Zoning Appeals;**
- 3) The applicant submit rooftop plans and specification sheets for all proposed rooftop mechanical units and screening at Final Site Plan;**
- 4) The applicant submit a detailed landscape plan with the size of all plant material at the time of planting to verify size requirements have been met including landscaping on the east parking lot;**
- 5) The applicant add two street trees and four street lights or obtain a variance from the Board of Zoning Appeals;**
- 6) The applicant submit a photometric plan and specification sheets for all proposed light fixtures at Final Site Plan Review;**
- 7) The applicant provide a full list of building and screen wall materials and specifications sheets, as well as glazing calculations at Final Site Plan Review;**
- 8) The applicant comply with the requirements of all City Departments; and**
- 9) The applicant add bike parking to the site.**

There were no comments from members of the public.

Mr. Koseck announced he cannot support the motion. There has been significant development in the Rail District and it has complied with the Zoning Ordinance. The

fundamental thing is that the safety issue scares him. The only argument he hears about taking any square footage off the building is financial.

Acting Chairman Boyle noted the board cannot verify the developer's financial statement and they have to take his word. Also, there is the concern that the building as configured may result in a circulation challenge that is certainly not satisfying to board members.

Mr. Mitchell stated he cannot take a slice off the rear to provide circulation that goes one way around the building. He said it would take \$32,400 off the rental income and that doesn't calculate in the increased environmental costs because of disturbing the ground. They are currently dealing with parking without the 8 ft. being taken off the building and there is no way to turn around. There is a utility easement that prevents a driveway easement from looping around the back of the adjacent building to the south.

Mr. Krieger explained the driveway to the west is over 22 ft. and easy to back out of. The spaces would be signed and policed by building management. In order to make a one-way drive, 10 ft. would have to come off the back of the building. The only issue with one-way is they would have to move their dumpsters to the east or the west and that would take out more parking.

**Motion carried, 4-2.**

ROLLCALL VOTE

Yeas: Share, Williams, Boyle, Jeffares

Nays: Koseck, Whipple-Boyce

Recused: Clein, Lazar

Absent: Prasad

Acting Chairman Boyle asked the applicant to spend quite a lot of time looking at the site plan and thinking about how they might use the three extra spaces to reach some of the challenges that Mr. Koseck has correctly raised about the safety and circulation.

**08-163-17**

Vice-Chairperson Lazar rejoined the board and took over the gavel.

**2. 34965 Woodward Ave. (former Peabody's Restaurant)  
Request for approval of the Preliminary Site Plan to allow a new five-story  
mixed-use building to be constructed (postponed from July 26, 2017)**

Mr. Baka explained the petitioner has submitted an application for Preliminary Site Plan Review to construct a five-story building in the B4/D4 Zoning District. The property is located on the west side of Woodward Ave. on Peabody St. at the former location of Peabody's Restaurant and the former Art & Frame Station.

On July 26, 2017 the Planning Board reviewed the CIS & Preliminary Site Plan application for 34965 Woodward Ave. At that time, the board requested that the applicant provide additional information regarding the interfacing of the proposed

building with the two existing buildings on each side and how they will abut. Also, the board requested that the applicant provide additional renderings of the new building in context with the adjacent buildings. In addition, postponement was granted to provide the applicant time to engage with the neighboring property owners in light of the public comments made at the meeting. The applicant has now provided new details and renderings in addition to the previously submitted plans in order to supply additional information for the Planning Board to consider.

#### *Design Review*

The applicant is proposing to utilize the following materials for the construction of the five-story, mixed use building:

- Stone panels along the lower level of all façades;
- Masonry veneer along the upper levels of all façades;
- Stone for the base of the building;
- Steel window and door system; and
- Extensive window glazing on all facades.

The design of the building also includes balcony projections from the third floor on both facades of the building. The issue of projections over the right-of-way was recently discussed at the joint City Commission/Planning Board meeting. Staff intends to consult with the City Attorney prior to Final Site Plan Review to determine if an air rights agreement will be necessary to approve this aspect of the design.

#### **Motion by Mr. Williams**

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

- **E-mail dated August 17 from Christopher Longe with attachments;**
- **E-mail dated August 22 from Richard Rassel;**
- **E-mail dated August 23 from Clinton Baller;**
- **Letter dated August 21 addressed to Patti Owens from Bailey Schmidt. LLC;**
- **Letter dated August 21 addressed to Patti Owens from Aura Pinkster;**
- **Letter dated August 22 from Hobbs & Black Architects;**
- **Letter dated August 22 from Alan M. Greene, Dykema Gossett PLLC;**
- **Letter dated August 23 from Timothy Currier, Beier Howlett.**

**Motion carried, 7-0.**

#### ROLLCALL VOTE

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

Nays: None

Recused: Clein

Absent: Prasad

Mr. Chris Longe, Architect for the redevelopment of the Peabody site, came forward. He showed their building in context with the entire block. Also, he showed how their building would interface with both the north and the south facades of the adjacent buildings. The buildings roughly equate in terms of their overall height and floor height. The earth retention system tiebacks into the Peabody property that were used for construction of the Greenleaf Trust Building were depicted. The intention with their

building is that someone can walk from Woodward Ave. through a leased space all the way to Peabody St. He included a number of pictures showing local conditions where buildings are abutting.

Mr. Longe noted they made efforts to meet with their neighbors as suggested at the last meeting. They have done that to the extent of meeting with the Balmoral folks, but because of scheduling issues there has not been a meeting with the people from the Catalyst building to the north.

Vice Chairperson Lazar called for comments from the public at 8:35 p.m.

Mr. Steve Simona, 32820 Woodward Ave., Suite 240, Royal Oak, was present on behalf of the Balmoral ownership. He observed they built something of the highest quality that they felt the City envisioned and required of them. They want to see the Peabody site developed, but not to their detriment. As currently proposed, the south wall would block fifty windows and light and air to their building. They feel what the applicant is proposing is not compatible with their building nor consistent with what was required of the Balmoral Building, or what the Zoning Ordinance requires. They will not allow trespass onto their property for maintenance.

Mr. Jason Novotny, Tower Pinkster, Architects, spoke on behalf of Catalyst Development and the Greenleaf Trust Building. When they brought the Greenleaf Trust Building to the board in 2008, it was viewed as one of two buildings that would be the crown jewel on the east entry to Downtown, following the principles that were laid out in the Master Plan. Between the two tower buildings the Master Plan calls for a two or three story parking structure. They worked towards developing an attractive, four-sided building. A blank wall would not fly. He is sure the Balmoral had the same discussions with their north elevation. Some of the things he sees that would have a significant impact to either the north or south sites are:

- Lighting;
- Glazing calculations do not play out.

Mr. Tom Phillips, Hobbs & Black Architects, 100 N. State St., Ann Arbor, said the Balmoral Building has much the same story. In designing the building they worked carefully with the City and were encouraged to develop the north side because it was a gateway and a key visual element on the drive south along Woodward Ave. Both of the buildings offer the applicant a unique site in that the occupants are not looking at blank walls. They are looking at two expensive, high quality elevations. By stepping back four or five feet from the property line, the applicant would provide a reasonable amount of light between the buildings as they face each other all the way up. As it exists the applicant's design offers no opportunity to maintain their exterior walls without trespassing.

Mr. Alan Greene, 3955 Woodward Ave., Dykema Gossett, PLLC, represented Woodward Brown Associates, the developer and owner of the Balmoral Building. Mr. Greene noted they have a very valuable building with a facade of 50 windows, made of stone, with balustrades. Tenants look for a space that has windows, but with the proposed building they will look straight into a brick wall. Further, the interior design is built around the windows. The real estate developer for Balmoral has submitted a letter

saying that the proposed building as currently designed and set will greatly diminish the value of the two buildings. The loss of investment on the walls, the impact on the tenants, the ability to rent the spaces, and how much they can be rented for will all contribute to diminished value. These two buildings were not built as if they were going to be blocked by other buildings. He urged the board to either deny the site plan or give guidance to the developer as to what they might like to see so they can come back with something better.

Mr. Clinton Ballard, 388 Greenwood, said the developer wants to maximize his floor area but is constrained by height. As the City has already zoned for seven to nine story buildings right across the street, it would be very interesting to have the infill building go seven to nine stories, provided adequate setbacks are respected. This would leave the developer with an equitable amount of leasable space and room for parking, and all three developers would enjoy access to light and views.

In response to Mr. Share, Mr. Baka explained that if windows are within 5 ft. of the property line they must be fire rated. Mr. Longe verified for Mr. Share that the view of the facade travelling up and down Woodward Ave. would not be materially different if the building was on the lot line or 5 ft. off. He added that it is an odd feature to not have the buildings touch. Mr. Tom Phillips said the 5 ft. setback would double the visual access to light and air - a 10 ft. view shed.

Mr. Novotny pointed out for Mr. Share why he thinks the design of the infill building is incompatible with the adjacent buildings. Their buildings have primarily punched window openings on a masonry facade and the proposed building has glass strip windows across the front.

Mr. Share received clarification from Mr. Novotny that if the building is built to the lot line, it is a problem for all three buildings with regard to maintenance issues. One building will have to flash into the other building so that water will not enter. Mr. Phillips explained these are not abutting buildings in the sense that they can be flashed together. So the applicant's building on a zero lot line would have an exterior wall facing the lot line and open to the weather with no way to maintain it without trespassing onto Balmoral property,

Mr. Novotny explained for Mr. Share that the first floor of both the Balmoral and Greenleaf Trust buildings abut the lot line. Beyond that, both buildings are set back 5 ft. Greenleaf's situation differs from Balmoral's in that the fifth story balconies would abut one another from the Greenleaf Trust Building to the Peabody Building. He does not believe the Balmoral has that same circumstance with outdoor spaces that are side-by-side. Mr. Longe noted there is a demising wall between them. Mr. Novotny added another difference between the Balmoral and Greenleaf buildings is the glass that is currently abutting the lot line for the Greenleaf building is fire rated so that it has the potential to be a zero lot line material.

Mr. Share queried how interior lighting on the north and south elevations is handled on the Peabody Building. Mr. Longe responded that there is natural light that comes in from the glazing on the other two facades.

Mr. Koseck thought that maximizing square footage area creates a little bit of "B" type of space. If they could pull the walls in on the upper floors by creating light wells and windows it would make the building even better in terms of marketability and lease rates. Further, he thought that architectural compatibility is the next step in review and not for this evening. Mr. Longe responded that it is an odd condition to have buildings not meet. The two buildings chose on their own to make their facades that face inwards towards Peabody's something nicer than they had to be. As any architect will tell you, one has to prepare for eventualities.

Mr. Share and Mr. Williams were in agreement that a lot of information came in today and it requires more study. Mr. Williams said he was not prepared to take any action on the proposal tonight.

Mr. Rick Rassel, Williams Williams Rattner & Plunkett, PC, 380 N. Old Woodward Ave., the legal counsel to Alden Development Group, the applicant, spoke about the importance of perspective:

- Mr. Currier and the planning staff are aligned on the questions that have been posed in Mr. Greene's letter;
- The proposal is consistent with the Master Plan and with the Zoning Ordinance;
- They are in a zero lot line infill district;
- The proposed parking and height of the building is consistent with the Zoning Ordinance;
- Mr. Currier has opined that the construction impact and future maintenance issues are not concerns for the Planning Board to be taking into account at this stage of the Preliminary Site Plan approval;
- The question comes down to a couple of things. Mr. Currier has observed in his letter that the zero lot line construction as proposed is consistent with the Zoning Ordinance and has been used in many parts of Downtown Birmingham. The owners of the Balmoral and Catalyst buildings installed fire related glass windows facing the former Peabody's lot in anticipation of potential zero lot line construction;
- Peabody's granted Catalyst an easement to construct sun shades; the sunshades to be taken down in the event of future construction of the Peabody building;
- The argument about incompatibility is really about economic harm as a result of this building being built to the lot lines which Balmoral and Catalyst absolutely knew of and agreed not to contest. Incompatibility is not about design review standards or architecture.

It is important that this process move along this evening.

Mr. Alan Greene stated that there are no fire rated windows on the north elevation of Balmoral. The compatibility is related to the nature of the construction. The things they did on their elevation were encouraged by the City. To not require the same here is where it is incompatible in his view. Additionally, Standard 7.27 (3) states that the location, size, and height of the building shall not diminish the value of neighboring property. They believe that the way it is being done now it will. What the board has before it reflects not a single change as a result of their meetings with Mr. Shifman.

Mr. Williams indicated that he would like information about the City's encouragement of construction on the south and north sides respectively as preserved in the record at both the Preliminary and Final Site Plan Reviews for both buildings. It is important that the board understand that issue. Mr. Boyle added that the board's perspective on development has changed since construction of the Balmoral and Catalyst buildings. He agreed with Mr. Williams that the board needs to see what they actually talked about at that time.

Ms. Whipple-Boyce said she had hoped that the developers would meet and come up with a great plan for all properties. Unfortunately, it doesn't sound like that will happen. She believes that as Staff and the City Attorney have advised, the Peabody proposal satisfies the requirements of the Zoning Ordinance. It will be tricky and complicated getting the building up and maintaining it. There seems to be a lot of good reasons to re-look at what is being proposed.

Mr. Jeffares said he always assumed that another building would be built on this site. To him, by this building being a little different, the other two buildings pop.

**Motion by Mr. Share**

**Seconded by Mr. Williams to postpone the application for Preliminary Site Plan for 34965 Woodward Ave. to September 13, 2017 and to suspend the rules to hear a site plan at that meeting.**

There were no comments on the motion from members of the public.

**Motion carried, 7-0.**

**ROLLCALL VOTE**

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

Nays: None

Recused: Clein

Absent: Prasad

**08-164-17**

**FINAL SITE PLAN AND DESIGN REVIEW**

Chairman Clein rejoined the board and Mr. Share, the alternate board member, left.

**1. 277 Pierce St. (former Varsity Shop)**

**Request for approval of a five-story mixed-use building with first-floor retail**

Ms. Ecker advised the subject parcel is currently the site of the Varsity Shop, and has a total land area of .111 acres. It is located on the northeast corner of Pierce St. and E. Merrill St.

The applicant is proposing to demolish the existing 8,387 sq. ft. two-story building to construct a 27,000 sq. ft., five-story mixed-use building. The building will provide a lower level recreation area for the residential unit, first floor retail, second floor retail or

commercial, third and fourth floor office use, and fifth floor residential use. Parking for the residential unit will be provided at grade in a two car garage adjacent to the public alley located on the east side of the building.

As the proposed site is located within the Central Business Historic District, the applicant was required to obtain approval from the Historic District Commission (“HDC”) to demolish the existing building, and approval for the construction of the new mixed-use building. Demolition approval was granted in 2016, and approval for construction of the new five-story building was obtained by the HDC at their meeting on July 19, 2017.

### *CIS*

The applicant was also required to prepare a Community Impact Study (“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. On May 24, 2017, the Planning Board reviewed and accepted the CIS with six conditions. All of the information has now been provided except that no information has yet been provided on proposed mitigation strategies for the control of noise or vibration during construction.

### *Site Plan*

On May 24, 2017 after accepting the CIS, the Planning Board reviewed the Preliminary Site Plan for 277 Pierce, and after much discussion, voted to approve the site plan with several conditions.

The applicant has now provided a photometric plan and specification sheets for the proposed lighting; has verified that the rooftop screening is sufficient to screen the proposed rooftop mechanical units; and they have obtained approval from the HDC; and have provided material and color samples for review. The applicant has also provided contextual renderings as requested by the Planning Board.

### *Design Review*

The applicant has submitted design materials for review. The proposed plans for the five-story, mixed-use building indicate the following materials:

- Flash Red Velour Brick on all facades;
- Flashed Manganese Velour accenting brick;
- Buff limestone for the base and caps of the building;
- Leathered Cambrian Black granite below ground floor windows;
- Aluminum building panels for the third floor façade;
- Metal coping along the parapet;
- Aluminum windows and doors;
- Stainless steel cladding entry canopies with laminated and frosted glass; and
- Extensive window glazing (clear glass) on all facades.

A materials board was passed around.

Ms. Ecker advised that the development conforms to the building standards envisioned in the Downtown Birmingham 2016 Plan, as it is designed with high quality materials, is built to the property lines, and has pedestrian scale details including steel and glass canopies, extensive window glazing, stainless steel cladding, and tasteful streetscape landscaping.

In accordance with the Planning Board's comments about the blank wall that was proposed on the north elevation, the wall has now been differentiated by the addition of four recessed panels of different colored brick along with six fire rated glass windows.

Mr. Victor Saroki, Architect, was present along with Ms. Evan Yaldo, Project Architect from his office; Mr. Tony Antone, Vice-President for Kojaian Management; and Mr. Jim Butler, PEA, Civil Engineer. Mr. Saroki indicated they intend to satisfy all of the issues in the report. They are of the opinion that the Building Code allows one stairway as opposed to two for the one residential unit at the top. They intend to demonstrate that to the Building Official in order to get his approval.

With regard to noise and vibration controls, they will work with the owner's construction manager to come up with some strategies for review with staff prior to submitting for a Building Permit. Their intention is to appear before the BZA to request a variance for a residential use as an amenity on the lower level below a commercial use.

**Motion by Mr. Koseck**

**Seconded by Mr. Boyle to approve the Final Site Plan & Design Review for 277 Pierce St. subject to the following conditions:**

- 1) The applicant provide noise and vibration mitigation strategies prior to obtaining a Building Permit;**
- 2) The applicant obtain a variance from the BZA to allow a commercial use above a residential use or eliminate the residential use in the lower level of the building;**
- 3) Comply with the requests of all City Departments; and**
- 4) The applicant reduce the light levels 5 ft. out from the property lines along Pierce and Merrill Sts. and obtain administrative approval, or obtain a variance from the BZA.**

Mr. Koseck observed the use of the lower level is unique and no ordinance could have contemplated that. He thinks the applicant has a case to be made to the BZA.

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: Prasad

**08-165-17**

**2. 344 Hamilton Row (Seven Greens Salad Co.)**

**Final Design Review for approval of an outdoor dining platform in the street**

Mr. Baka advised the building is located on the south side of Hamilton Row between Ferndale Ave. and Park St. The applicant proposes to construct an outdoor dining deck utilizing one existing parallel parking space and a "no parking" space. The applicant was approved for the use of one on-street parking space by the Parking Advisory Committee on April 5, 2017.

The tables and chairs proposed for the outdoor dining platform are synthetic teak outdoor/indoor furniture with black frames. No umbrellas are proposed at this time. The location of the platform allows for the required 5 ft. pedestrian path to be maintained on the sidewalk.

The parallel parking space that the dining platform was approved to use extends in front of the neighboring property at 360 Hamilton Row, which is currently occupied by Luxe Homes. The plans as submitted depict the dining platform extending in front of that storefront as well for the length of the parking space. However, as indicated in Article 4.0, section 4.44, (A), 7 (c), the platform is not permitted to extend in front of the neighboring storefront as it is not vacant. **Accordingly, the applicant will need to receive a variance from the Board of Zoning Appeals to extend in front of the neighboring property.**

#### *Design*

The applicant intends to construct the deck of the platform with six adjoining “TREX” decking platforms. The deck is proposed to be enclosed by a 42 in. high aluminum railing on all four sides with a 5 ft. opening in front of the restaurant. Sample material and color selections were not provided. The applicant must indicate what color the material will be for the decking and railing.

Ms. Kelly Schafer, the restaurant owner, said the railings will be black aluminum and the Trex decking is brownish and matches the chairs.

There was no audience present to comment.

#### **Motion by Ms. Whipple-Boyce**

**Seconded by Mr. Williams to approve the Final Design Review application for 344 Hamilton Row with the following conditions:**

- 1) The applicant must receive a variance from the BZA in order to extend beyond their own storefront, or cut the platform back to be only in front of their storefront for administrative approval;**
- 2) The applicant must provide a trash receptacle in the outdoor dining area; and**
- 3) Address the issues raised by City Departments.**

**Motion carried, 7-0.**

#### VOICE VOTE

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

Nays: None

Absent: Prasad

**08-166-17**

#### **MISCELLANEOUS BUSINESS AND COMMUNICATIONS**

- a. Communications

- Ms. Ecker explained the property owner of 191 N. Chester, The First Church of Christ Scientist has submitted an application for rezoning from TZ-1 to TZ-2. The applicant will be out of the country on September 27 so they ask if it is possible to add them to the study session meeting on September 13 because otherwise they would have to wait until the end of October.

**Motion by Mr. Williams**

**Seconded by Mr. Jeffares to consider an application for the rezoning of 191 N. Chester on September 13, 2017 and to waive the rules as to study sessions.**

**Motion carried, 7-0.**

**VOICE VOTE**

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

Nays: None

Absent: Prasad

b. Administrative Approval Correspondence

- 602 Riverside, Unit #6, Riverside Place Condominium - Revision to the site plan to adjust the location of the rear retaining walls.
- 300 Strathmore, Big Beaver and Adams Replace - Project consists of the installation and operation of antennas and associated equipment cabinet(s) for Verizon Wireless Telecommunications Network. A total of six antennas, 12 remote jack in heads and one Ray cap mounted on an existing monopole and cabinet(s) are proposed at the site.
- 999 Haynes - Moving Dumpster enclosure.

c. Draft Agenda for the Regular Planning Board Meeting on September 13, 2017

- 34965 Woodward Ave., Preliminary Site Plan Review;
- 191 N. Chester, Application for Rezoning from TZ-1 to TZ-2;
- Bistro Requirements study session;
- Economic Development Licenses expansion of boundaries study session;
- DRB and Planning Board Review process study session

d. Other Business (none)

**08-167-17**

**PLANNING DIVISION ACTION ITEMS**

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

**08-168-17**

**ADJOURNMENT**

No further business being evident, the Chairman adjourned the meeting at 10:39 p.m.

Jana Ecker  
Planning Director

APPROVED