

**CITY OF BIRMINGHAM  
PLANNING BOARD ACTION ITEMS  
OF WEDNESDAY, FEBRUARY 27, 2013**

Item	Page
<b>PUBLIC HEARING</b>	<b>2</b>
<p><b>1. TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:</b></p> <p><b>TO AMEND ARTICLE 04 DEVELOPMENT STANDARDS, SECTION 4.83, WN-01 (WINDOW STANDARDS) TO ALLOW DESIGN FLEXIBILITY AS PERMITTED BY THE PLANNING BOARD, DESIGN REVIEW BOARD OR HISTORIC DISTRICT COMMISSION.</b></p> <p><b>Motion by Mr. DeWeese</b>  <b>Seconded by Mr. Clein to recommend approval to the City Commission to amend Article 04, Section 4.83 Wn-01(Window Standards) to encourage flexibility in design. These standards may be waived by a majority vote of the Planning Board or Design Review Board and the Historic District Commission, when required, for architectural design considerations.</b></p> <p><b>Motion carried, 7-0.</b></p>	<p><b>3</b></p> <p><b>3</b></p> <p><b>3</b></p>
<p><b>SPECIAL LAND USE PERMIT (“SLUP”) APPLICATION</b>  <b>34977 Woodward Ave.</b>  <b>The Stand</b>  <b>Request for SLUP Amendment to Economic Development License for former Zazio’s Restaurant</b></p>	<b>3</b>
<p><b>FINAL SITE PLAN REVIEW</b>  <b>34977 Woodward Ave.</b>  <b>The Stand</b>  <b>Request for SLUP Amendment to Economic Development License for former Zazio’s Restaurant</b></p>	<b>6</b>
<p><b>Motion by Mr. DeWeese</b>  <b>Seconded by Mr. Williams that the Planning Board recommends approval to the City Commission of the applicant’s request for Revised Final Site Plan and a SLUP Amendment to permit the use of an Economic Development License for The Stand restaurant at 34977 Woodward Ave. with the following conditions:</b></p> <p><b>1) Applicant either reconfigure canopy signage to meet the requirements of the Downtown Overlay Signage Standards or apply to the BZA for a sign variance with the support of the</b></p>	<b>6</b>

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<b>2) Planning Board; Applicant executes the attached contract with the City of Birmingham outlining the nature of the proposed operation of The Stand and approving the transfer of the existing Economic Development Liquor License.</b>  <b>Motion carried, 7-0.</b>	<b>7</b>

APPROVED

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**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, FEBRUARY 27, 2013  
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 February 27, 2013. Chairman Robin Boyle convened the meeting at 7:30 p.m.

**Present:** Chairman Robin Boyle; Board Members Scott Clein, Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams  
Student Representative Arshon Afrakhtec

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

**02-21-13**

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING HELD  
JANUARY 23, 2013**

Mr. Williams:

Page 12 - Substitute "Clein" for "Williams" in the voice vote.

**Motion by Mr. Whipple-Boyce  
Seconded by Mr. DeWeese to accept the Minutes of the Regular Planning Board  
Meeting of January 23, 2013 as revised.**

**Motion carried, 7-0.**

**VOICE VOTE**

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

Nays: None

Absent: None

**02-22-13**

**CHAIRMAN'S COMMENTS**

The chairman welcomed the new student representative, Arshon Afrakhtec, to the Planning Board.

Secondly, he noted that at Monday's City Commission meeting there were some suggestions made that people felt this board doesn't listen to the public. Chairman Boyle noted for the

record that the board brings the public into their deliberations throughout the evening and takes a great deal of care listening to what is said. Therefore, it is not the case that this board ignores the public.

In response to Mr. Williams' request, Ms. Ecker summarized the results of matters the Planning Board had referred to the City Commission:

- 404 Park – Proposed conditional rezoning request was denied without prejudice. They asked the Planning Board and Planning Staff to study that area and decide on an appropriate zoning. In the long term, they asked the Planning Board and Planning Staff to look at conditional rezoning and whether or not it is something the City wishes to embark on as a policy matter;
- 740 Adams – Lot split with the four lots and the road was approved;
- 555 Woodward Ave, Crush – Economic Development License application was approved.

**02-23-13**

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

**02-24-13**

**PUBLIC HEARING**

**2. TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:**

**TO AMEND ARTICLE 04 DEVELOPMENT STANDARDS, SECTION 4.83, WN-01 (WINDOW STANDARDS) TO ALLOW DESIGN FLEXIBILITY AS PERMITTED BY THE PLANNING BOARD, DESIGN REVIEW BOARD OR HISTORIC DISTRICT COMMISSION.**

Chairman Boyle opened the public hearing at 7:38 p.m.

Mr. Baka recalled that on October 24, 2012 the Planning Board approved a two-story addition to the office building at 995 S. Eton. However, the applicant was forced to revise the architectural design of the addition in order to meet the window standards established in the Zoning ordinance. At that time, it was discussed whether the Ordinance could be amended to give the reviewing City board the authority to allow architects more creativity and flexibility when composing their designs by allowing variation from the window requirements.

On January 9, 2013 the Planning Board conducted a study session to discuss a draft ordinance amendment aimed at allowing the reviewing board the flexibility to modify the window standards. At that time, there was discussion regarding limiting the amendment to the upper stories of a building. Accordingly, the Planning Board set a public hearing for February 27, 2013 to review the draft ordinance.

Mr. Baka said that consideration of window standards normally would only go to one or two relevant boards. Mr. Koseck thought that requiring an applicant to appear before two boards adds confusion. The board's consensus was that either board could make the call.

No one from the public wished to speak on this matter at 7:45 p.m.

**Motion by Mr. DeWeese**

**Seconded by Mr. Clein to recommend approval to the City Commission to amend Article 04, Section 4.83 Wn-01 (Window Standards) to encourage flexibility in design. These standards may be waived by a majority vote of the Planning Board or Design Review Board and the Historic District Commission, when required, for architectural design considerations.**

**Motion carried, 7-0.**

**VOICE VOTE**

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

Nays: None

Absent: None

The chairman closed the public hearing at 7:48 p.m.

**02-25-13**

**SPECIAL LAND USE PERMIT ("SLUP") APPLICATION**

**34977 Woodward Ave.**

**The Stand**

**Request for SLUP Amendment to Economic Development License for former Zazio's Restaurant**

**FINAL SITE PLAN REVIEW**

**34977 Woodward Ave.**

**The Stand**

**Request for SLUP Amendment to Economic Development License for former Zazio's Restaurant**

*Final Site Plan Review*

Ms. Ecker reported that on May 10, 2010, the City Commission adopted ordinance amendments to Chapter 10, Alcoholic Liquors, and Chapter 126, Zoning, to permit the use of Economic Development Licenses in certain areas within the City.

In 2010, the first application for an Economic Development License was approved for the Greenleaf Hospitality Group, Inc., doing business as Zazio's Restaurant, at the above-captioned address. Zazio's restaurant has now significantly scaled back their operations, and intends to close this spring.

The Greenleaf Hospitality Group, Inc. is now submitting an application to transfer the existing Class C Economic Development license to TB Stand, LLC, doing business as The Stand. The Stand proposes to operate in the former Zazio's space at 34977 Woodward Ave. The parcel is zoned B-4, Business-Residential and D-4 in the Downtown Overlay District. The Stand proposes a complete remodel of the former Zazio's space, and will offer a totally different menu and atmosphere. Accordingly,

the applicant will be required to obtain a recommendation from the Planning Board on the Revised Final Site Plan and Special Land Use Permit, and then obtain approval from the City Commission for the Revised Final Site Plan, Special Land Use Permit Amendment, as well as the transfer of the existing Economic Development License from Greenleaf Hospitality Group, Inc. to TB Stand, LLC, doing business as The Stand.

The applicant is proposing to make some changes to the gardens lining the north and east elevations of the building. They want to go with taller shrubs to enclose the restaurant and break up traffic noise.

#### *Design Review*

The only exterior design changes proposed for the building are on the Peabody elevation (west elevation). The applicant proposes to replace an existing bay of aluminum storefront windows with a pair of glass and aluminum entry doors flanked by sidelights and a canopy at the top. One ft. by one ft. planters will flank the entrance. That will provide the street presence that Zazio's does not currently have. The floor plan inside will be redone.

The applicant is also proposing new signage for The Stand to be located on the Woodward Ave., Maple Rd. and Peabody elevations in the location of the existing Zazio's signage. Overlay Zoning District Regulations were used to develop the building, and as a result, the signage regulations from the Overlay District Sign Standards were used to review the signage.

The building received Master Sign Plan approval from the Design Review Board ("DRB") in April 2010. The approved Master Sign Plan for the Greenleaf Building states that all of the tenant signs must be mounted on the 18 in. sign band. Each tenant sign may be 14 in. high by a maximum of 3 in. thick. The materials and colors may be distinct to each tenant's branding. The three proposed wall signs measure 8 ft. 6 in. in length by 1.5 ft. for a total of 13 sq. ft. each. They will read "THE STAND". **The signs do not meet the height requirements of the previously approved Master Sign Plan, but do meet the sign requirements of the Overlay District.**

One additional canopy sign is also proposed above the new entrance on Peabody, which will read "STAND". This canopy sign will be mounted at the top of the canopy and is proposed to be a total of 19 sq. ft. in size. That sign is not permitted because it is mounted on top of the canopy rather than on the valance. The total signage proposed is 58 sq. ft. The canopy sign does not meet the requirements of the Downtown Birmingham Overlay District, Signage Standards, or the previously approved Master Sign Plan. ***Therefore, the applicant must either reconfigure signage to meet the requirements of the Master Sign Plan and the Downtown Overlay Signage Standards or apply to the BZA for a sign variance.***

The proposed new restaurant, The Stand, plans to offer a diverse menu with small plate, salad, charcuterie, vegetable and large plate selections. Food choices include seafood, pasta, beef and poultry options. In addition to the full service menu, a smaller menu of appetizers and snacks is also offered in the bar area.

As noted above, Zazio's was approved for a SLUP and for a liquor license in accordance with Chapter 10, Alcoholic Liquors, of the City Code in 2007. ***In addition to the requirement in Chapter 10, Alcoholic Liquors for a SLUP, one of the conditions of the SLUP approved for Zazio's also required operation of the establishment under a contract with the City. In accordance with the terms of the original contract, written approval of the City Commission is required for any transfer of license or assignment of rights for the Economic Development License. This matter will be considered by the City Commission on March 4, 2013.***

Mr. Victor Saroki, the architect for the proposed new restaurant, introduced his team: Mr. Paul Gross, Chef and Owner; Mr. John Kelly, General Manager and Owner; Ms. Patti Owens, representing Greenleaf Trust; Ms. Kelly Allen, Attorney representing the new partnership and the LLC and who will handle the Liquor License transfer; and Mr. John Kelly, Builder.

Mr. Saroki explained changes that will be made to the restaurant which include new lighting, new colors, new floor finishes, and all new décor. The whole demonstration kitchen is gone, but there will be a small chef's counter with nine or ten stools. The bar area has been made much smaller and more intimate. The dining area is smaller, toned down, and much more sophisticated. Booths have been added. A private dining room with wine on three sides has been created. There is another small private dining room up against the glass area. Also, the existing private dining room has been enlarged.

In addition, to add softening they have introduced some landscaping along the corner and other planter areas. Sheers will be hung on the floor to ceiling windows in order to warm the interior. Mr. Williams noted they will give flexibility to be open or closed.

Mr. Saroki hoped the board would support the 18 in. tall sign at the entrance, and passed along a sample of the pinned-off, metal letters that will fit within the sign band. For attraction to the entry, they propose a larger, illuminated, channel letter, black frame with LED lighting and a frosted white acrylic front.

Mr. DeWeese commented this signage at the entrance is the most critical sign for them.

In response to Ms. Lazar, Mr. Saroki noted the fact they have moved the entry south off the corner gives them more of a drop-off area right in front of the door. Ms. Lazar cautioned there may be a conflict with Peabody's and the parking structure with people trying to get past. Mr. Saroki assured that can be addressed with the valet people.

Mr. Saroki passed around the paint color for the planters, Benjamin Moore Wolf Grey.

Ms. Patti Owens specified that by contract all of the tenants in the Greenleaf Trust Building have the maximum amount of signage that they will ever have. The process is underway for them to approve the proposed signage for the restaurant.

Mr. DeWeese made the argument of why an exception should be allowable in this particular case. This tenant is a retail operation on the first floor. This board wants to encourage retail

operations and signage is an important ingredient to facilitate success in a retail environment. All of the other tenants are located on the second floor and above.

Mr. Williams agreed. The first-floor tenant has a more compelling argument as opposed to those on the second or third floor.

Ms. Patti Owen offered her perspective of why Zazio's did not succeed. Birmingham has a very sophisticated demographic when it comes to the diner. Her instinct is that the new restaurant will be a really good fit for the building.

There were no comments from the public at 8:32 p.m.

Chairman Boyle inquired where The Stand name came from. Mr. Kelly explained it developed from the concept that every community should have something to stand up for.

Discussion clarified that the Liquor License will be transferred to T.B. Stand, LLC, dba The Stand. The Economic Development License mandates that it cannot be transferred to another location.

**Motion by Mr. DeWeese**

**Seconded by Mr. Williams that the Planning Board recommends approval to the City Commission of the applicant's request for Revised Final Site Plan and a SLUP Amendment to permit the use of an Economic Development License for The Stand restaurant at 34977 Woodward Ave. with the following conditions:**

- 1) Applicant either reconfigure canopy signage to meet the requirements of the Downtown Overlay Signage Standards or apply to the BZA for a sign variance with the support of the Planning Board;**
- 2) Applicant executes the attached contract with the City of Birmingham outlining the nature of the proposed operation of The Stand and approving the transfer of the existing Economic Development Liquor License.**

Mr. Williams thought this is an improvement in concept and better than what was originally there.

**Motion carried, 7-0.**

**VOICE VOTE**

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

Nays: None

Absent: None

**02-26-13**

**SPECIAL LAND USE PERMIT ("SLUP") APPLICATION**

**184 Pierce**

**Townhouse**

**Request for SLUP Amendment to expand outdoor dining platform for service area.**



Withdrawn by the applicant.

**02-27-13**

**STUDY SESSION  
Planning Board Action List 2013**

The board considered updating of the Action List. Ms. Ecker provided background on parking in the Triangle District, and on undertaking a new comprehensive Master Plan for the City.

Mr. DeWeese suggested that more work can get done if smaller groups address the issue and bring it back to the Board as a whole.

The board's consensus was:

- Add the board review process to the list as item (7);
- Move Looking at Principal Uses Allowed down after Review Fence Standards; and
- Add the items requested by the City Commission:
  - Study the 404 Park area and decide on an appropriate zoning.
  - Planning Board and Planning Staff look at the conditional rezoning and whether or not it is something the City wishes to embark on as a policy matter.

**02-28-13**

**STUDY SESSION  
Conditional Rezoning Ordinance Amendments**

Ms. Ecker provided an overview. Over the past several months, the Planning Board reviewed the City's first rezoning application in which the applicant voluntarily offered to restrict uses on a property as a condition for rezoning the property. On January 9, 2013, the Planning Board voted in favor of recommending approval of the application for conditional rezoning to the City Commission. As discussed at several Planning Board meetings, conditional rezoning has been specifically permitted in Michigan since ordinance amendments were made in July 2006 and The Michigan Zoning Enabling Act, PA 110, took effect.

During the public hearing for the rezoning request for 404 Park Street, several Planning Board members expressed the desire to have a full discussion on conditional rezoning, and to consider ordinance amendments to provide specific and/or separate procedures and regulations for conditional rezoning requests.

Mr. Williams wanted to see what other communities have done with regard to the policy issue as to what should be permitted or prohibited, and how they implement the process. Further, whether there are certain areas of the City where the existing categories should remain. He is uncomfortable with setting a policy on conditional rezoning in transition areas. He thinks the City Commission needs to decide the issue.

Mr. Clein echoed that thought. He does not think **it is within this board's purview** this board's job is to set policy.

Mr. DeWeese's response was different. He believes the board should look at the policy options, get the background, and take them to the City Commission for their decision. This board's job is to examine and find out what the policy options are, along with their upsides and downsides.

Ms. Whipple-Boyce wanted information on what happened at the School Board Building. Ms. Ecker replied the City changed the zoning from O-1 or O-2 to R-7. Then the applicant tried to get it back to the original zoning.

Mr. Koseck noted this is probably more applicable to transitional zones. Ms. Whipple-Boyce pointed out that a lot of the time applicants are really trying to do the best thing and perhaps the contract zoning options may be their only choice.

Chairman Boyle observed that conditional rezoning as a point of State legislation still leaves the municipality quite a lot of leeway in terms of imposing their rules. He noted that a zoning ordinance needs to be alive, so that it can change, evolve and develop as times change.

Mr. Williams agreed the State law was intended to give the municipalities some flexibility, particularly in transition areas. To him the policy issue is that whatever is done in transition areas should be consistent. The history is that the City has not been consistent. The traditional zoning classifications don't serve the City's purpose particularly in developed communities where we are looking at redevelopment.

Mr. DeWeese agreed there needs to be a consistency of approach.

The chairman took comments from members of the public at 9:35 p.m.

Mr. Matt Wimble, 452 Park, encouraged the board to look not only within Michigan but at other states that have done conditional rezoning. Mr. Williams thought the Gateway Study group will grapple with most of these issues.

Mr. DeWeese felt it would be best for the Planning Board to address the subject of conditional rezoning in the near future because it may come up again soon. Chairman Boyle agreed and said it needs to be added to the agenda as a standing matter that staff brings forward for deliberation.

Mr. Paul Benjamin, Park St., thought PUDs are a great plus because the cities have more control over what the developer does by saying how they want a development versus the developer telling the city what he will do. He feels the City should control more what ends up on Park St. as far as design, façade, and materials.

Chairman Boyle observed there is no consistency in the transition zones that rub up against high quality residential neighborhoods and the adjacent commercial properties.

Mr. Matt Wimble's view was that conditional zoning explicitly goes against planning by making an exception.

Chairman Boyle noted the consensus has been to keep this moving. He suggested this item be added to the agenda on a regular recurring monthly basis. It is about what areas in our City

might benefit from this form of site specific zoning or a thoughtful organized rezoning of certain parts of our city. All agreed.

**02-29-13**

**MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA** (no one spoke)

**02-30-13**

**MISCELLANEOUS BUSINESS AND COMMUNICATIONS**

- a. Communications (none)
- b. Administrative Approvals
  - 34602 and 34574 Woodward Ave., Hazel St. – Application is for site improvements in connection with administrative approval to allow for the vacation of Hazel St.
  - 167 Townsend, Bella Piatti – Air lock (interior).
  - 34300 S. Woodward Ave., Walgreen's – Approval of plant substitutions as well as relocation of a Paperbark Maple to another parking lot island.
  - 550 W. Merrill St., Birmingham Office Building – Adding new egress stair tower to west elevation.
  - 220 Merrill St. Restaurant –
    - Request to remove concrete and replace with aggregate (every third rectangle);
    - Remove broken aggregate and brick and replace with concrete;
    - Repair/replace broken curb;
    - Work to be completed by July 31, 2013.
- c. Draft Agenda for the Regular Planning Board Meeting on March 13, 2013
  - Hi Way Collision;
  - Visit by the city attorney with respect to the bistro precedent about vinyl siding on outdoor dining;
  - Annual Report
  - Regulated Uses
- d. Other Business (none)

**02-31-13**

**PLANNING DIVISION ACTION ITEMS**

- a. Staff report on previous requests (none)

- b. Additional items from tonight's meeting (none)

**02-32-13**

**ADJOURNMENT**

No further matters being evident, the chairman adjourned the meeting at 10 p.m.

Jana Ecker  
Planning Director

APPROVED