

**BIRMINGHAM CITY COMMISSION MINUTES**  
**APRIL 23, 2018**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Harris called the meeting to order at 7:30 p.m.

**II. ROLL CALL**

ROLL CALL: Present,	Mayor Harris Mayor Pro Tem Bordman Commissioner Boutros Commissioner DeWeese Commissioner Hoff Commissioner Nickita Commissioner Sherman
Absent,	None

Administration: City Manager Valentine, City Attorney Currier, Senior Planner Baka, Chief of Police Clemence, Planning Director Ecker, Finance Director Gerber, Assistant to the City Manager Haines, Deputy Treasurer Klobucar, City Clerk Mynsberge, Museum Director Pielak, Assistant Engineer Fletcher, Director of Public Services Wood

**III. PROCLAMATIONS, CONGRATULATORY RESOLUTIONS, AWARDS, APPOINTMENTS, RESIGNATIONS AND CONFIRMATIONS, ADMINISTRATION OF OATHS, INTRODUCTION OF GUESTS AND ANNOUNCEMENTS.**

**04-109-18 INTRODUCTION OF GUESTS**

Mayor Harris welcomed County Commissioner Shelley Goodman Taub, who updated the Commission on current county initiatives.

**04-110-18 ANNOUNCEMENTS**

Mayor Harris announced:

- The City of Birmingham's annual ice show will be held on May 4-6 at the Birmingham Ice Arena. Tickets are available at the Ice Arena which is located at 2300 East Lincoln. Call 248-530-1640 for more information.
- Opening Day for the Birmingham Farmers Market is Sunday, May 6<sup>th</sup>. The market will be open 9:00 a.m. until 2:00 p.m. in Parking Lot #6 on N. Old Woodward between Ravine and Oak.
- The Museum Board invites the public to a reception on Saturday, May 12<sup>th</sup> from 2:00 until 4:00 p.m. for the current museum exhibit, "The People of Birmingham: Celebrating 200 Years of Stories". This is a crowd-sourced exhibit which showcases the stories of Birmingham's citizens.
- The Birmingham Department of Public Services is hosting an Open House on Saturday, May 12<sup>th</sup> from 10:00 AM - 2:00 PM at the DPS building at 851 S. Eton.

**IV. CONSENT AGENDA**

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

**04-111-18 APPROVAL OF CONSENT AGENDA**

The following items were removed from the Consent Agenda:

- Commissioner Hoff: Item I, Parking in the Right-of-Way at 2075 14 Mile Road  
Item M, Landscape Maintenance Services

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner DeWeese:  
To approve the Consent Agenda, with Items I and M removed.

ROLL CALL VOTE:	Yeas,	Mayor Pro Tem Bordman Commissioner Boutros Commissioner DeWeese Mayor Harris Commissioner Hoff Commissioner Nickita Commissioner Sherman
	Nays,	None
	Absent,	None

- A. Resolution approving the City Commission meeting minutes of April 9, 2018.
- B. Resolution approving the warrant list, including Automated Clearing House payments, dated April 11, 2018 in the amount of \$1,237,371.01.
- C. Resolution approving the warrant list, including Automated Clearing House payments, dated April 18, 2018 in the amount of \$518,434.82.
- D. Resolution accepting the resignation of Vionna Adams from the Multi-Modal Transportation Board as a regular member, thanking her for her service, and directing the City Clerk to begin the process of filling the vacancy.
- E. Resolution accepting the resignation of Daniel Share from the Planning Board as an alternate member, thanking him for his service, and directing the City Clerk to begin the process of filling the vacancy.
- F. Resolution setting a public hearing date of May 14, 2018 at 7:30 p.m. to consider the following Zoning Ordinance amendments:
  - 1. To amend Article 3, Section 3.04(C)(10), Specific Standards, Building Use, to amend the regulations for a bistro in the Downtown Overlay District.
  - 2. To amend Article 5, Section 5.06(A), O1 – Office District, Specific Standards, Building Use, to amend the regulations for a bistro in the O1 District.
  - 3. To amend Article 5, Section 5.07(A), O2 – Office Commercial District, Specific Standards, Building Use, to amend the regulations for a bistro in the O2 District.
  - 4. To amend Article 5, Section 5.08(A), P – Parking District, Specific Standards, Building Use, to amend the regulations for a bistro in the P District.
  - 5. To amend Article 5, Section 5.10(B), B2 – General Business District, B2B –

- General Business District, B2C – General Business District, Specific Standards, Building Use, to amend the regulations for a bistro in the B2B District.
6. To amend Article 5, Section 5.11(A), B3 – Office-Residential District, Specific Standards, Building Use, to amend the regulations for a bistro in the B3 District.
  7. To amend Article 5, Section 5.12(B), B4 – Business-Residential District, Specific Standards, Building Use, to amend the regulations for a bistro in the B4 District.
  8. To amend Article 5, Section 5.13, MX(C) – (M) – Mixed Use District, Specific Standards, Building Use, to add regulations for a bistro in the MX District and renumber regulations following (C).
  9. To amend Article 9, Section 9.02, Definitions, to amend the existing definition of bistro.
- G. Resolution approving a request from Temple Beth El to hold Havdalah in the Park in Shain Park, on June 9, 2018 contingent upon compliance with all permit and insurance requirements and payment of all fees, and further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.
- H. Resolution approving the purchase of one (1) new Exmark LZX740EKC526WO Zero Turn Riding Mower from Weingartz Supply for a total expenditure not to exceed \$10,871.00. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.
- J. Resolution directing the Treasurer to transfer unpaid and delinquent special assessments and invoices, including interest and penalty, of subject properties to the 2018 City tax roll and authorizing removal from the list any bills paid or a payment plan agreement signed after City Commission approval.
- K. Resolution directing the Treasurer to transfer unpaid and delinquent water/sewage bills of subject properties to the 2018 City tax roll and authorizing removal from the list any bills paid or a payment plan agreement signed after City Commission approval.
- L. Resolution approving the purchase of WinDSX upgrades to the ReadyKey access control building security systems for the Department of Public Services, City Hall, and Police pistol range from Vigilante Security, Inc. in the amount of \$44,190; further charging the budgeted expenditures to account numbers 401-901.013-977.0000 (DPS - \$18,186) and 401-301.000-971.0100 (City Hall and Police - \$26,004).
- N. Resolution awarding the 2018 Concrete Sidewalk Repair Program, Contract #2-18(SW) to Italia Construction, Inc., in the amount of \$732,129.00, to be charged to the various accounts as detailed in the report; and further approving the appropriations and budget amendments to the 2017-2018 budget.

**04-112-18                      RESOLUTION APPROVING THE USE OF TWO PARKING SPACES  
IN THE RIGHT-OF-WAY ON MANSFIELD DRIVE (ITEM 4I)**

Planning Director Ecker explained these additional two parking spaces are necessary in order for the owner of 2075 14 Mile Road to use the building for offices. Previously the building housed a pet groomer, which required fewer parking spaces.

**MOTION:**     Motion by Commissioner Hoff, seconded by Mayor Pro tem Bordman:

To approve the use of two (2) parking spaces in the right-of-way on Mansfield Drive directly abutting the property located at 2075 14 Mile Road to fulfill a portion of the off-street parking requirements per Article 4, section 4.43 (G)(1) of the Zoning Ordinance.

VOTE:           Yeas,       7  
                  Nays,       0  
                  Absent,    0

**04-113-18                   RESOLUTION AWARDING LANDSCAPE MAINTENANCE SERVICES CONTRACT TO SUPERIOR SCAPE, INC. FOR TWO-YEAR AGREEMENT COMMENCING MAY 1, 2018 AND ENDING NOVEMBER 15, 2019 (ITEM 4M)**

Director of Public Services Wood explained:

- The 2017-2020 lawn maintenance bid was canceled since Birmingham is no longer doing business with that contractor. Lawn mowing services were re-bid without bed maintenance, and the bid for bed maintenance is before the Commission tonight.
- The '17-'18 fiscal year budget includes money for this service, as does the proposed '18-'19 fiscal year budget which will be before the Commission on April 28, 2018.

**MOTION:**    Motion by Commissioner Hoff, seconded by Commissioner Boutros:  
To award the Landscape Maintenance Services contract to Superior Scape, Inc. for a two year agreement commencing May 1, 2018 and ending November 15, 2019 in an amount not to exceed \$66,896.00. Funds for this project are available in the following accounts: Property Maintenance-Other Contractual Services account #101-441.003-811.0000, Major Streets-Contract Maintenance account #202-449-003-937.0400, Local Streets-Contract Maintenance account #203-449.003-937.0400, and Parks-Other Contractual Services account #101-751.000-811.0000. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.

Director of Public Services Wood noted the DPS staff manages the 26 beds not included in this bid.

Mayor Pro Tem Bordman also clarified for the public that the planters and hanging baskets throughout Birmingham are paid for by the Birmingham Shopping District, and are not part of the beds included in this contract.

VOTE:           Yeas,       7  
                  Nays,       0  
                  Absent,    0

**V.    UNFINISHED BUSINESS**

None.

**VI.   NEW BUSINESS**

**04-114-18                   PUBLIC HEARING TO CONSIDER A SPECIAL LAND USE PERMIT AMENDMENT AND FINAL SITE PLAN FOR FIRST PRESBYTERIAN CHURCH, 1669 W. MAPLE**

Mayor Harris opened the public hearing at 7:40 p.m.

Planning Director Ecker reviewed:

- Her memo explaining First Presbyterian Church's requested SLUP amendment to allow Canape Cart to rent the Church's kitchen.
- The Planning Board's discussion regarding the proposed SLUP amendment during their March 14, 2018 meeting.
- City Attorney Currier's letter stating that the SLUP amendment would be a permitted usage under the Church's current R-1 zoning.

Mayor Pro Tem Bordman told the Commission she had employed Canape Cart once, over ten years ago. She did not believe this constituted a conflict of interest. The Commission concurred.

Kathleen O'Neill, co-owner of Canape Cart, appeared before the Commission.

Ms. O'Neill said that The Canape Cart had been approached by FAR Therapeutic Arts and Recreation (FAR) with a request to run an internship program in the Church's kitchen for developmentally disabled children and adults. Ms. O'Neill stated that she and Mary Rembelski, co-owner of The Canape Cart, were enthusiastic about the idea.

Commissioner DeWeese clarified that the owners of The Canape Cart had requested a delay in order to have sufficient time to defend the proposed SLUP amendment should it run into any issues before the Commission. Commissioner DeWeese continued that it was his impression that the owners of The Canape Cart would prefer, however, to settle the matter tonight. Ms. O'Neill confirmed.

James Goss, the Business Manager and Treasurer of First Presbyterian Church, appeared before the Commission. Mr. Goss said the Church's goal is to serve the community. The Church believes this would be an opportunity to help two entrepreneurs, and Canape Cart's rent can be used to help the wider community.

Mr. Goss told Mayor Harris that:

- The proposed relationship between Canape Cart and FAR has not yet been fully developed because the Church planned to do so if the SLUP amendment was approved.
- There were other tentative proposals regarding the relationship between the Canape Cart and the Church, for example providing Canape Cart with first right-of-refusal for catering internal Church events.
- FAR is a separate entity, but it is housed at the Church.

Mr. Goss clarified that there would be no discernable traffic increase as a result of Canape Cart renting the kitchen because, while the food would be prepared in the Church's kitchen, non-Church related catering services would be carried out off-site.

Commissioner Hoff said:

- Canape Cart's use of the Church's kitchen for non-Church related events seems to be a strictly commercial enterprise.
- She is all right with an exclusive catering contract between Canape Cart and the Church, but beyond that this proposal is a business one, not a non-profit one.
- She is not comfortable with a commercial business operating out of a Birmingham Church.

Commissioner Sherman stated that this is actually a standard arrangement, and he has seen similar arrangements between synagogues and caterers many times. Commissioner Sherman provided a number of local examples and said he concurs with the City Attorney's conclusion that this use is permitted.

Mr. Goss told Mayor Harris that the Church:

- Will have to fill out an extra form with the IRS in order to properly document the income.
- He has not yet solicited a legal opinion as to how this arrangement would affect the Church's tax-exempt status.

Mayor Harris suggested that the Church look into the implications of this arrangement for the Church's tax status before a lease is finalized.

Mayor Pro Tem Bordman suggested this proposal is no different from the City's proposal to lease church parking lots in order to provide additional parking in Birmingham. Mayor Pro Tem Bordman continued that this use will be practically invisible to the surrounding neighborhood due to the low number of people involved in the business.

City Attorney Currier explained:

- The Church is allowed to rent out rooms according to Birmingham's zoning ordinances. The room in this case is the Church's kitchen. The Canape Cart would be paying taxes on their own income as a result of the catering services. The two issues are separate and distinct.
- Canape Cart's rental of the kitchen would have no bearing on the Church's tax-exempt status.

Ms. O'Neill clarified:

- Canape Cart caters three to four days a week and is not actively looking to acquire new business. At maximum, business hours at the Church would be 9 a.m. – 4 p.m.
- She expects business to shift orientation more towards working with FAR and teaching within the Church since both she and Ms. Rembelski are nearing the end of their catering careers.
- In her experience, many religious institutions are interested in this kind of business arrangement with a caterer.

Commissioner Hoff noted:

- There was a letter included in the Commission's packet with the signatures of five residents on Pleasant Street in Birmingham who are against this proposal.
- If SLUP violations are alleged subsequent to the Commission's approval of the SLUP amendment, the Commission can set up a hearing to review the SLUP amendment violations at that time. Some of the concerns of the local residents, however, may not constitute SLUP amendment violations.

David Lattie, a Pleasant Street resident and author of the letter referenced by Commissioner Hoff, shared residents' concerns regarding expanding non-residential uses of churches in a residential neighborhood. Mr. Lattie remarked:

- Churches are already in residential neighborhoods as a zoning exception, and permitting them to rent to businesses expands their existence in the neighborhood in a potentially detrimental way.
- A commercial business is at an advantage when renting from a church since churches are non-profit entities and can provide inexpensive leases as a result. This may present a loophole that would encourage further growth of commercial business in residential districts.
- The Planning Board unanimously recommended against passage of the proposed SLUP amendment.
- This proposal constitutes a commercial lease not an occasional fundraising opportunity such as a bake sale or rummage sale.

Robert Portensky, building manager of Drayton Avenue Presbyterian Church in Ferndale where Canape Cart was formerly located, said that the First Presbyterian Church in Birmingham would be lucky to have Canape Cart as tenants.

David Smith, a Pleasant Street resident, agreed with Mr. Lattie and expressed concern about potential noise from the Canape Cart van. Mr. Smith added that other churches in the neighborhood have changed the character of the area, citing reduction of green space as one such issue, and reported residents are wary of similar changes resulting from this proposal.

Ann Bookmeyer Lattie, a Pleasant Street resident, said she is concerned about commercial use in the neighborhood resulting from this SLUP amendment.

Mr. Goss commented:

- The social hall at First Presbyterian Church can hold up to 200 guests.
- The Church's bylaws prohibit the serving and consumption of alcohol at the Church.

Commissioner Sherman commented that use of the Church for weddings, funerals, and other receptions routinely results in far more activity than the Canape Cart's proposed single additional van. Mr. Goss agreed.

Commissioner Hoff stated that her sole concern is a commercial venture setting up in a Church.

Mr. Portensky indicated that such uses within a Church are common.

Ms. O'Neill said that she has been grateful over the years for the affordable kitchen rental rates churches are able to provide which have been very important to the operation of a small business.

City Attorney Currier explained a church in this neighborhood is a pre-existing non-conforming but legal use, and that whatever uses a church would be permitted pursuant to a SLUP would be applicable in this matter.

City Attorney Currier verified no precedent would be set by the Commission's approval of this proposal because it is a SLUP.

**MOTION:** Motion by Commissioner DeWeese, seconded by Mayor Pro Tem Bordman:

To approve the application for a Special Land Use Permit Amendment and Final Site Plan for First Presbyterian Church at 1669 W. Maple to allow the use of the Church's kitchen by Canape Cart.

Mayor Pro Tem Bordman then noted the resolution's last phrase needs to be amended to read, "allowing the lease of the basement kitchen to the Canape Cart."

**MOTION:** Motion by Commissioner DeWeese, seconded by Commissioner Sherman:  
To amend the motion to read, "To approve the application for a Special Land Use Permit Amendment and Final Site Plan for First Presbyterian Church at 1669 W. Maple allowing the lease of the basement kitchen to the Canape Cart."

Mayor Harris commented:

- This use does not seem incidental to the underlying permitted use for the Church.
- The Planning Board suggested the possibility of the petitioner seeking a variance through the Board of Zoning Appeals to accomplish their goal.

Commissioner Nickita noted:

- Part of the Planning Board's concerns regarded whether this would be a legal use for the Church, and City Attorney Currier has confirmed it is.
- This kind of arrangement is not uncommon, citing daycares which operate in churches as one example. A kitchen rental is an extremely light use, relatively speaking.

Commissioner Boutros agreed with Commissioner Nickita, stating he supports this because it is a SLUP, which means it does not set precedent.

VOTE ON AMENDMENT TO MOTION:

Yeas,	5
Nays,	2 (Harris, Hoff)
Absent,	0

VOTE ON MOTION AS AMENDED:

To approve the application for a Special Land Use Permit Amendment and Final Site Plan for First Presbyterian Church at 1669 W. Maple allowing the lease of the basement kitchen to the Canape Cart. (*Formal resolution appended to these minutes as Attachment A*)

Yeas,	5
Nays,	2 (Harris, Hoff)
Absent,	0

**04-115-18 PUBLIC HEARING TO CONSIDER THE PROPOSED COMBINATION OF 298 S. OLD WOODWARD & 325 E. BROWN**

Mayor Harris opened the public hearing at 8:44 p.m.

Senior Planner Baka reported the owner of the properties known as 298 S. Old Woodward and 325 E. Brown is seeking approval to combine the two parcels into one lot. The subject properties are located at the northwest corner of S. Old Woodward and E. Brown. The Planning



Board recommended Final Site Plan approval to construct a five (5) story hotel on the two parcels. Senior Planner Baka stated the proposed lot combination meets the applicable standards of the Subdivision Regulation Ordinance (Chapter 102, Section 102-83).

Senior Planner Baka explained:

- Historically there was a Coldwell Banker on the larger parcel and subsequently a doctor's office, with an office building on the smaller parcel.
- Lots 22, 23 and 24 were combined previously.

Rick Rattner, representing the property owner, noted the ordinance was adopted in 2017 when the owners were already in the process of completing the site plan.

There being no further comment, Mayor Harris closed the public hearing at 8:53 p.m.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner Boutros:  
To approve the proposed lot combination of 298 S. Old Woodward, Parcel #1936202016 and 325 E. Brown, Parcel #1936202009 as proposed.

VOTE:           Yeas,       7  
                  Nays,       0  
                  Absent,    0

**04-116-18                   PUBLIC HEARING TO CONSIDER THE PROPOSED LOT COMBINATION OF 34965 WOODWARD & 215 PEABODY**

Mayor Harris opened the public hearing at 8:53 p.m.

Senior Planner Baka reported the owner of the properties known as 215 Peabody and 34965 Woodward seeks to combine the two parcels into one lot. The two subject lots were recently granted site plan approval for a five (5) story mixed use building. In order to be issued a building permit the applicant must combine the lots. S Senior Planner Baka stated the proposed lot combination meets the applicable standards of the Subdivision Regulation Ordinance (Chapter 102, Section 102-83).

Commissioner Nickita temporarily left the commission room.

There were no questions for Rick Rattner, representing the property owner.

There being no further comment, Mayor Harris closed the public hearing at 8:55 p.m.

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Sherman:  
To approve the proposed lot combination of 34965 Woodward, Parcel #1936207008, and 215 Peabody, Parcel #1936207004.

VOTE:           Yeas,       6  
                  Nays,       0  
                  Absent,    1 (Nickita)

Commissioner Nickita returned to the commission room.

**04-117-18**

**PUBLIC HEARING TO CONSIDER ORDINANCE AMENDMENTS TO ZONING ORDINANCE – SITE PLAN AND SPECIAL LAND USE PERMIT REVIEW**

Mayor Harris opened the public hearing at 8:56 p.m.

Planning Director Ecker reported that on February 28, 2018 the Planning Board asked staff to require aerial photos for site plan submittals moving forward. On March 14, 2018, the Planning Board recommended approval of ordinance amendments for site plan submittal requirements to the City Commission. The ordinance amendments under consideration are:

- (a) To amend Article 7, Section 7.26, Application, to amend the site plan review submittal requirements to include adjacent property details; and
- (b) To amend Article 7, Section 7.34, Special Land Use Permit Review, to amend the Special Land Use Permit review process to include adjacent property details.

Planning Director Ecker noted free-of-cost aerial photos can easily be obtained and submitted by applicants, so the requirement is not prohibitive.

Commissioner DeWeese stated this information will be helpful in Commission considerations moving forward.

Commissioner Nickita said:

- The Commission needs information on sidewalks, curb line, curb cuts, and parking spaces as well.
- Aerial photos may prove insufficient sources of information due to age of the photos or potential interference from tree canopies.
- Applications should require submission of a drawing of the surroundings, including the aforementioned features.

Planning Director Ecker:

- Suggested the language in Article 7, Section 7.26, Application may sufficiently cover Commissioner Nickita's concerns.
- Stated the proposed language cannot be made stricter without re-noticing the Public Hearing.

City Manager Valentine explained:

- The Planning Board has been instructed to only submit plans to the Commission which are in their final form and include all elements being considered.
- Directives to City Board and Commissions, which are not ordinances, can be codified elsewhere. For example, the directive to the Planning Board could be included in the Board's Rules of Procedure.

Commissioner Nickita opined that requiring a submission of a drawing of the surroundings, including sidewalks, curb line, curb cuts, and parking spaces, could be done administratively rather than through an ordinance change.

Commissioner DeWeese said this was a great improvement over previous requirements and indicated the Commission can always adjust it further in the future if need be.

There being no further comment, Mayor Harris closed the public hearing at 9:15 p.m.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner DeWeese:  
To approve the following ordinance amendments to amend the submittal requirements for Site Plan and Special Land Use Permit review:

- (a) Ordinance amending Article 7, Section 7.26, Application, amending the site plan review submittal requirements to include adjacent property details (*Appended to these minutes as Attachment B*); and
- (b) Ordinance amending Article 7, Section 7.34, Special Land Use Permit Review, amending the Special Land Use Permit review process to include adjacent property details. (*Appended to these minutes as Attachment C*)

VOTE:           Yeas,       7  
                  Nays,       0  
                  Absent,   0

**04-118-18                   2018 SPRING SCREENING FOR BISTRO APPLICANTS**

Planning Director Ecker reported that one bistro application was submitted by Taste of Ethiopia at 183 N. Old Woodward, for the former Bangkok Cuisine restaurant space. As outlined in the bistro process for 2018, any new bistro applications that meet the requirements will be reviewed by the Commission, and the applicant will be given a time limit to verbally present their concepts to the City Commission. The City Commission will then determine whether to forward the application to the Planning Board for full site plan and design review and Special Land Use Permit review.

Applicant Meskerem Gebreyohannes provided a brief overview of the proposed restaurant and of her qualifications and experience in the restaurant industry. Ms. Gebreyohannes explained that liquor sales would allow for helpful additional income; no bar is being proposed; she is proposing table service; she has a signed lease, and the business is not a chain. She has had liquor licenses at previous locations.

Commissioner Hoff suggested that the Commission take no action and wait for a more complete application to be submitted in October.

Commissioner DeWeese suggested that the Commission could move forward with a motion for the Planning Board to do due diligence.

Commissioner Sherman agreed with Commissioner DeWeese and said the Commission only seeks to ascertain whether a given restaurant fits the character of Birmingham, and to let the Planning Board carry out other analysis if answered affirmatively.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner DeWeese:  
To direct the bistro application for Taste of Ethiopia be referred to the Planning Board for full site plan and design review and Special Land Use Permit review.

VOTE:           Yeas,       7  
                  Nays,       0  
                  Absent,   0

**04-119-18 INDIVIDUAL NOMINATION FOR ALLEN HOUSE – NATIONAL REGISTER OF HISTORIC PLACES**

Senior Planner Baka reviewed his memo to City Manager Valentine dated April 13, 2018 explaining:

- The history of the Allen House in Birmingham;
- The process of registering the Allen House with the National Register of Historic Places; and,
- The benefits of registering the Allen House with the National Register of Historic Places.

Senior Planner Baka commented:

- There are no drawbacks to the application.
- The Hunter House is already registered with the National Register of Historic Places, and the exterior of a building is what is usually registered, not the interior.

**MOTION:** Motion by Commissioner Boutros, seconded by Mayor Pro Tem Bordman: To authorize staff to submit an application on behalf of the City to the Michigan State Historic Preservation Office and United States Department of the Interior/National Park Service to nominate the Allen House and grounds for listing on the National Register of Historic Places.

VOTE:           Yeas,       7  
                  Nays,       0  
                  Absent,    0

**04-120-18 FINDINGS FROM THE JANUARY 2018 CITY LOGO SURVEY**

Assistant to the City Manager Haines reviewed her April 17, 2018 memo to City Manager Valentine describing the design and survey process for the new Birmingham logo.

Assistant to the City Manager Haines told Commissioner Sherman that individuals were only able to vote once per email address.

Commissioner Nickita told Assistant to the City Manager Haines that he was able to vote numerous times from the same email address, and therefore questions the validity of the survey. Commissioner Nickita continued that the survey is only the starting point for the logo consideration, however, so its validity is not a large concern.

Commissioner Hoff stated the City is back to where it was a year and a half ago because:

- An RFP was issued;
- A committee was unable to come to a conclusion; and
- The survey was not conclusive.

Assistant to the City Manager Haines clarified:

- The aim of the survey was not to pick a logo, but to narrow down the preferred visual elements for the logo.
- The survey provided a lot more data than the City previously had.

Commissioner Hoff commented the data has only further confused the situation, since it contradicts what the committee had suggested.

Mayor Pro Tem Bordman agreed with Commissioner Hoff and proposed:

- Before anything else, the Commission must decide whether to change the logo.
- If the answer is yes, Mayor Pro Tem Bordman suggested the Commission narrow the criteria for a logo, including font and concepts, before the RFP is sent out.

Mayor Harris asked about the impetus for a new logo search, because he sees a dearth of evidence that there is interest in changing the logo.

City Manager Valentine stated the interest originally came from the Commission two or three years ago.

Commissioner Nickita agreed and explained it was an effort to refresh the City's brand and keep Birmingham updated and relevant. He noted the City makes other updates to keep Birmingham relevant and to abandon the process would be a disservice to the City.

Mayor Harris:

- Asked whether McCann Erickson was retained to create a new logo, or to evaluate whether a new logo was necessary.
- Cited logos that remain the same for decades and are viewed positively.

Assistant to the City Manager Haines reported McCann Erickson worked under the direction of the Ad Hoc Committee, looked at all the input from the stakeholders, and then came back with design ideas. The logo went through five rounds of refinement before it came before the Commission. The goal was to refresh and update the logo.

Commissioner Boutros said the RFP should be very clear before it is issued.

Commissioner Nickita:

- Requested the Commission allow Assistant to the City Manager Haines to put together the framework for an RFP.
- Stated it is the Commission's responsibility to make a decision on this.

The Commission reached consensus to direct staff to draft an outline for an RFP.

**04-121-18                    RESOLUTION TO MEET IN CLOSED SESSION PURSUANT TO SECTION 8(H) OF THE OPEN MEETINGS ACT**

**(A roll call vote is required and the vote must be approved by a 2/3 majority of the commission. The commission will adjourn to closed session after all other business has been addressed in open session and reconvene to open session, after the closed session, for purposes of taking formal action resulting from the closed session and for purposes of adjourning the meeting.)**

**MOTION:**     Motion by Commissioner Sherman, seconded by Commissioner Nickita:  
To meet in closed session pursuant to Section 8(h) of the Open Meetings Act.

ROLL CALL VOTE:     Yeas,                    Mayor Pro Tem Bordman  
   Commissioner Boutros  
   Commissioner DeWeese

Mayor Harris  
Commissioner Hoff  
Commissioner Nickita  
Commissioner Sherman

Nays,           None  
Absent,         None

**VII. REMOVED FROM THE CONSENT AGENDA**

The items removed were discussed earlier in the meeting.

**VIII. COMMUNICATIONS**

A.     Metered parking.

**IX. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA**

None.

**X. REPORTS**

**04-122-18           COMMISSIONER REPORTS**

The City Commission will appoint one regular member to the Multi-Modal Transportation Board on May 14, 2018.

The City Commission will appoint one alternate member to the Planning Board on May 14, 2018.

**XI. ADJOURN**

Mayor Harris adjourned the meeting into closed session at 10:22 p.m., and stated action may be taken following the closed session.

The regular meeting was reconvened at 10:24 p.m.

**04-123-18**

**MOTION:**     Motion by Commissioner Boutros, seconded by Commissioner Sherman:  
To approve the settlement of the DiPonio Contract.

VOTE:           Yeas,        7  
                  Nays,        0  
                  Absent,     0

Mayor Harris adjourned the meeting at 10:24 p.m.

J. Cherilynn Mynsberge, City Clerk

**RESOLUTION 04-114-18  
1669 W. MAPLE  
FIRST PRESBYTERIAN CHURCH  
SPECIAL LAND USE PERMIT AMENDMENT  
2018**

- WHEREAS, The First Presbyterian Church originally applied for and received a Special Land Use Permit on September 8, 1987 to allow for the resurfacing, lighting and landscaping of the parking lot at 1669 West Maple Road, such application having been filed pursuant to the former Section 126-477 of the City Code;
- WHEREAS, The land for which the Special Land Use Permit Amendment is sought is located on the south side of West Maple Road between Larchlea and Pleasant Streets;
- WHEREAS, The land is zoned R-1A, Single Family Residential, which permits a church with a Special Land Use Permit;
- WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be reviewed by the Birmingham City Commission at such time that any addition to or change in the building or improvements on the parcel of land is proposed or the use of the property is altered;
- WHEREAS, The applicant submitted an application for a Special Land Use Permit Amendment and Final Site Plan Review to gain approval to lease out the existing Church kitchen to Canape Cart;
- WHEREAS, All conditions of the previously approved 1989, 1990, 1991, 1992, 1994, 1995, 1996, 1997, 2002 and 2017 Special Land Use Permit Amendments be continued as part of this Special Land Use Permit Amendment;
- WHEREAS, The Planning Board on March 14, 2018 reviewed the application for a Special Land Use Permit Amendment and Final Site Plan and recommended denial of the application based on concerns about a commercial use leasing space;
- WHEREAS, The Birmingham City Commission has reviewed the First Presbyterian Church's Special Land Use Permit Amendment application as well as the standards for such review, as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code and has reviewed the letter written by the City Attorney dated March 13, 2018 stating that this is permitted as a use customarily incidental to the permitted principal use of a Church on the site;
- NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met and the First Presbyterian Church's application for a Special Land Use Permit Amendment and Final Site Plan Review allowing the lease between First Presbyterian Church and Canape Cart is hereby approved;

BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect the public health, safety and welfare, this Special Land Use Permit Amendment is granted subject to the following conditions:

1. First Presbyterian Church shall abide by all provisions of the Birmingham City Code; and
2. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest.

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

MAY IT BE FURTHER RESOLVED that the First Presbyterian Church and its heirs, successors and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may subsequently be amended. Failure of the First Presbyterian Church to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

I, J. Cherilynn Mysnberge, City Clerk of the City of Birmingham, Michigan do hereby certify that the foregoing is a true and correct copy of the resolution by the Birmingham City Commission at its regular meeting held on April 23, 2018.

J. Cherilynn Mysnberge, City Clerk



CITY OF BIRMINGHAM  
ORDINANCE NO. 2266

**THE CITY OF BIRMINGHAM ORDAINS:** AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND ARTICLE 7, SECTION 7.26, APPLICATION, TO AMEND THE SITE PLAN REVIEW SUBMITTAL REQUIREMENTS TO INCLUDE ADJACENT PROPERTY DETAILS**

**7.26 Application**

Each Site Plan submitted to the Planning Board in accordance with the requirements of the Zoning Ordinance shall be on such forms and contain such information as the Planning Board shall determine necessary, including but not limited to a site plan, photometric plan, landscape plan, elevation drawings, interior floor plans, **current aerial photos of the subject site and surrounding properties**, specification sheets for all lighting and exterior mechanical equipment, and samples of all exterior building materials. **All site plans submitted for review and approval must show the subject site in its entirety, must include all property lines, buildings and structures, and must show the same details for all adjacent properties within 200 feet of the subject site's property lines.**

ORDAINED this 23 day of April, 2018 to become effective 7 days after publication.

Andrew Harris, Mayor

J. Cherilynn Mynsberge, City Clerk

CITY OF BIRMINGHAM  
ORDINANCE NO. 2267

**THE CITY OF BIRMINGHAM ORDAINS:** AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND ARTICLE 7, SECTION 7.34, SPECIAL LAND USE PERMIT REVIEW, TO AMEND THE SPECIAL LAND USER PERMIT REVIEW PROCESS TO INCLUDE SITE PLAN REVIEW SUBMITTAL REQUIREMENTS TO INCLUDE ADJACENT PROPERTY DETAILS**

**7.34 Review**

Site Plan and Design Review for special land uses shall be considered and acted upon by the City Commission. Prior to its consideration of a special land use application for an initial permit or an amendment to a permit, the City Commission shall refer the Site Plan and the design to the Planning Board for its review and recommendation. **Each Site Plan submitted in accordance with the requirements of the Zoning Ordinance shall be on such forms and contain such information as the Planning Board shall determine necessary, including but not limited to a site plan, photometric plan, landscape plan, elevation drawings, interior floor plans, current aerial photos of the subject site and surrounding properties, specification sheets for all lighting and exterior mechanical equipment, and samples of all exterior building materials. All site plans submitted for review and approval must show the subject site in its entirety, must include all property lines, buildings and structures, and must show the same details for all adjacent properties within 200 feet of the subject site's property lines.** After receiving the recommendation **of the Planning Board**, the City Commission shall review the Site Plan and design of the buildings and uses proposed for the site described in the application of amendment. The City Commission's approval of any special land use application or amendment pursuant to this section shall constitute approval of the Site Plan and Design. ~~Site Plan Review and Design Review in this article shall not be required.~~

ORDAINED this 23 day of April, 2018 to become effective 7 days after publication.

Andrew Harris, Mayor

J. Cherilynn Mynsberge, City Clerk