

BIRMINGHAM CITY COMMISSION AGENDA
DECEMBER 13, 2021
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Therese Longe, Mayor

II. ROLL CALL

Alexandria Bingham, City Clerk

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

ANNOUNCEMENTS

- COVID-19 cases locally are the highest they have been since the beginning of the pandemic. Michigan and Oakland County continue to be at a high level of community transmission. As a result, the CDC recommends vaccinated and unvaccinated individuals wear a facemask indoors while in public. The City requires masks in City Hall for all employees, board and commission members, and the public. Please visit the CDC's website on how to safely celebrate the holidays and for more COVID-19 information.

IV. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

V. 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.

- Minutes for the December 6, 2021 workshop and regular meeting will be included in the January 10, 2022 meeting consent agenda for approval.
- A. Resolution to approve the warrant list, including Automated Clearing House payments, dated December 8, 2021, in the amount of \$578,072.41.
- B. Resolution to set a public hearing date of January 24, 2022 to consider updates to Birmingham's Corridor Improvement Authority Development and TIF Plan.
- C. Resolution to authorize the City Clerk to complete the Local Government Approval Notice at the request of Sushi Japan, Inc. approving the liquor license request of Sushi Japan, Inc. requesting a Redevelopment Quota Class C and SDM liquor license to be issued pursuant to MCL 436.1521 a(1)(b) with Sunday Sales (AM/PM) located at 176 S Old Woodward, Birmingham, Oakland County, MI 48009.
- D. Resolution to allow the IT department to purchase the renewal of 9 licenses of Adobe Creative Cloud from CDWG for a total purchase price of \$8,443.26 using funds available in the IT computer software account 636-228.000-742.0000.

- E. Resolution to release one grave in section B, row 2-A, for the family in an "at need" situation to purchase another plot adjacent to their existing family plots.

VI. UNFINISHED BUSINESS

- A. Public Hearing – Wall Art – Ordinance Amendment
1. Motion adopting an ordinance to amend Article 7, Section 7.41-7.46 – Processes, Permits, and Fees & Article 9, Section 9.02 Definitions of the Zoning Ordinance to create a wall art definition and review process.
- B. Public Hearing – 203 Pierce Street - Toast – Special Land Use Permit Amendment, Final Site Plan and Design Review
1. Resolution to APPROVE the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 203 Pierce Street – Toast – to amend the hours of operation.

OR

2. Resolution to POSTPONE the Special Land Use Permit Amendment and Final Site Plan application for 203 Pierce Street – Toast – pending receipt of the following:

1. _____
2. _____
3. _____

OR

3. Resolution to DENY the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 203 Pierce Street – Toast.

VII. NEW BUSINESS

- A. Resolution approving the 48th District Court budget for fiscal year 2022 as submitted.
- B. Resolution to accept the Agreement between the City of Birmingham, the Charter Township of Bloomfield and the Charter Township of West Bloomfield to be the three (3) District Court Funding Units for the 48th District Court, and further authorize Thomas M. Markus as the City Manager to sign the Agreement.
- C. Resolution to amend the 2022 Schedule of Fees, Charges, Bonds and Insurance, in the Community Development Department, Department of Public Services, Engineering Department, and Fire Department as stated in this report, and to adopt the revised Public Records Policy.
- D. Resolution to adopt a policy stating that commissioners will not attend various advisory board and committee meetings.
- E. Resolution to direct the City Manager to sign the Settlement Agreement on behalf of the City, which will give the City of Birmingham the opportunity to receive monies from the National Opioid Settlement Agreement.

- F. Resolution to set the Public Hearing of Necessity for the construction of sidewalk and streetscape improvements adjacent to all properties within the project area on Maple Road, between Chester Street and Pierce Street, and between Old Woodward Avenue and Woodward Avenue on Monday, January 24, 2022 at 7:30 P.M. for the purpose of conducting; and

If necessity is determined on January 24, 2022, to meet on Monday, February 14, 2022 at 7:30 P.M. for the purpose of conducting the Public Hearing to Confirm the Assessment Roll for the construction of sidewalk and streetscape improvements adjacent to all properties within project area on Maple Road, between Chester Street and Pierce Street, and between Old Woodward Avenue and Woodward Avenue.

- G. Commission discussion on items from prior meeting

(none)

- H. Commission Items for Future Discussion. A motion is required to bring up the item for future discussion at the next reasonable agenda, no discussion on the topic will happen tonight.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. City Manager's Report
 - 2. Response to Andrew Haig Email
 - 3. Identifying Pending Litigation

INFORMATION ONLY

XI. ADJOURN

Should you wish to participate in this meeting, you are invited to attend the meeting in person or virtually through ZOOM: <https://zoom.us/j/655079760> Meeting ID: 655 079 760

You may also present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

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

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

City of Birmingham
Warrant List Dated 12/08/2021

Meeting of 12/13/2021

Check Number	Early Release	Vendor #	Vendor	Amount
<u>PAPER CHECK</u>				
282913	*	008226	KATHERINE ABELA	873.12
282915	*	MISC	ALL AMERICAN ARENA PRODUCTS	1,577.52
282917	*	MISC	B & B GREASE TRAP & DRAIN CLEANERS	105.00
282919	*	003839	MATTHEW J. BARTALINO	28.61
282920	*	008708	DAVID BARTLEY	349.82
282921		003012	BATTERIES PLUS BULBS	191.10
282922		004931	BIDNET	16.68
282924		003526	BOUND TREE MEDICAL, LLC	125.82
282928	*	008658	BWMS-BLUE WATER MGMT INC	330.00
282930	*	007732	CAPITAL TIRE, INC.	139.01
282932	*	000444	CDW GOVERNMENT INC	3,385.84
282933		MISC	CHARTER TOWNSHIP OF BLOOMFIELD	7,560.00
282934		000605	CINTAS CORPORATION	121.15
282935	*	007615	CINTAS CORPORATION-K11	78.00
282936		001318	CLOVERDALE EQUIPMENT CO	1,495.00
282937	*	008955	COMCAST	387.29
282938		007774	COMCAST BUSINESS	1,251.72
282940		001367	CONTRACTORS CONNECTION INC	110.20
282941	*	007638	MARSHALL CRAWFORD	197.10
282942	*	006852	DAKTRONICS, INC	626.25
282943	*	MISC	DAN K'S INC	250.00
282944		009309	DEALER AUTO PARTS	25.08
282945	*	006999	CHRISTOPHER DEMAN	634.50
282947	*	MISC	DESIGN CABINETS	848.00
282948		009130	DOG WASTE DEPOT	549.45
282949	*	000179	DTE ENERGY	72.06
282950	*	000179	DTE ENERGY	274.70
282951	*	000179	DTE ENERGY	405.48
282952	*	000179	DTE ENERGY	19.24
282955		004671	ELDER FORD	265.02
282956		003186	ENGLISH GARDENS	2,993.20
282957	*	009100	ENZO WATER SERVICE	800.00
282958	*	009345	RAY FAES	54.53
282960		001223	FAST SIGNS	35.25
282963		006384	GEOGRAPHIC INFORMATION SERVICES, IN	472.20
282964	*	008648	HUNTER GILICK	25.00
282965		007335	GLOBAL TECHNOLOGY SYSTEMS, INC.	210.22
282966	*	004604	GORDON FOOD	1,166.92
282967	*	008007	GREAT LAKES WATER AUTHORITY	8,099.52
282968		001531	GUNNERS METER & PARTS INC	1,765.00
282969	*	001377	HAGOPIAN CLEANING SERVICES	1,695.00
282970		001447	HALT FIRE INC	2,653.41

City of Birmingham
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Meeting of 12/13/2021

Check Number	Early Release	Vendor #	Vendor	Amount
282971	*	001956	HOME DEPOT CREDIT SERVICES	296.36
282972		000948	HYDROCORP	1,381.00
282973		001234	IAFC MEMBERSHIP	430.00
282979		001988	LAW ENFORCEMENT SUPPLY INC	360.46
282980		006817	LEXISNEXIS RISK DATA MANAGEMENT INC	127.90
282982		007910	MACALLISTER RENTALS	2,576.00
282983		008611	MCCI	13,084.20
282984		008793	MERGE MOBILE, INC.	73.00
282985		002022	MICHIGAN ASSN. OF FIRE CHIEFS	125.00
282987		008319	MKSK INC	3,851.45
282988		001194	NELSON BROTHERS SEWER	195.00
282988	*	001194	NELSON BROTHERS SEWER	195.00
282990		000919	OAKLAND COUNTY TREASURER	693.18
282991	*	000481	OFFICE DEPOT INC	1,108.23
282992	*	001753	PEPSI COLA	1,227.30
282993		008901	PLANTE & MORAN CRESA, LLC	11,200.00
282994	*	000486	PLANTE & MORAN PLLC	11,075.00
282995	*	008858	PODS ENTERPRISES, LLC	148.00
282996	*	000801	POSTMASTER	2,500.00
282997	*	000218	ROYAL OAK P.D.Q. LLC	68.68
282998		MISC	RUSTIC FIREFIGHTER	330.00
283000	*	006590	SECURE DOOR, LLC	2,458.00
283002	*	004202	SHRED-IT USA	161.50
283003	*	009009	SIGNATURE CLEANING LLC	25,733.88
283005	*	009338	SPECIALIZED STEELWORKS, LLC	2,300.00
283006	*	008396	REBEKAH SPRINGER	172.00
283007		MISC	STELLA PATRA	238.19
283008	*	MISC	SVSU CAREER SERVICES	300.00
283010	*	004379	TURNER SANITATION, INC	117.90
283011	*	000293	VAN DYKE GAS CO.	232.72
283012	*	000158	VERIZON WIRELESS	76.02
283013	*	000158	VERIZON WIRELESS	733.83
283014	*	000158	VERIZON WIRELESS	129.70
283015	*	000158	VERIZON WIRELESS	147.66
283018	*	008391	XEROX CORPORATION	64.58
SUBTOTAL PAPER CHECK				\$126,174.75
<u>ACH TRANSACTION</u>				
4555	*	008847	ABS- AUTOMATED BENEFIT SVCS, INC	60,123.07
4556	*	002284	ABEL ELECTRONICS INC	1,165.00
4557		009126	AMAZON CAPITAL SERVICES INC	390.12
4557	*	009126	AMAZON CAPITAL SERVICES INC	109.11
4558		008667	APOLLO FIRE APPARATUS REPAIR INC	116.00
4560	*	007345	BEVERLY HILLS ACE	75.93

City of Birmingham
Warrant List Dated 12/08/2021

Meeting of 12/13/2021

Check Number	Early Release	Vendor #	Vendor	Amount
4561	*	007624	BIRMINGHAM OIL CHANGE CENTER, LLC	56.97
4562	*	008840	BIRMINGHAM PUBLIC SCHOOLS-TAXES	22,265.32
4563		009183	BOB ADAMS TOWING	475.00
4564	*	007359	DETROIT CHEMICAL & PAPER SUPPLY	334.97
4565	*	000565	DORNBOS SIGN & SAFETY INC	415.68
4566	*	001077	DUNCAN PARKING TECH INC	9,762.75
4567	*	001230	FIRE SYSTEMS OF MICHIGAN LLC	3,004.50
4568	*	007807	G2 CONSULTING GROUP LLC	9,417.25
4569		000331	HUBBELL ROTH & CLARK INC	5,400.00
4570	*	008851	INSIGHT INVESTMENT	6,339.59
4571	*	007870	J.C. EHRLICH CO. INC.	53.00
4572		000261	J.H. HART URBAN FORESTRY	8,713.50
4573		009298	JCR SUPPLY INC	103.56
4574	*	003458	JOE'S AUTO PARTS, INC.	142.62
4575	*	007827	HAILEY R KASPER	222.54
4576	*	005876	KROPF MECHANICAL SERVICE COMPANY	1,696.54
4577	*	005550	LEE & ASSOCIATES CO., INC.	2,008.92
4581		001864	NOWAK & FRAUS ENGINEERS	39,489.00
4582	*	006359	NYE UNIFORM COMPANY	3,578.50
4583	*	008843	OAKLAND COUNTY TREASURER- TAX PYMNT	39,684.58
4584	*	006853	PAUL C SCOTT PLUMBING INC	2,582.00
4585	*	006027	PENCHURA, LLC	231.00
4586	*	003785	SIGNS-N-DESIGNS INC	250.00
4587	*	000254	SOCRRA	79,395.00
4588	*	001097	SOCWA	127,259.28
4589	*	002037	TOTAL ARMORED CAR SERVICE, INC.	758.36
4590		000969	VIGILANTE SECURITY INC	3,278.00
4591	*	005360	WORRY FREE INC	23,000.00
SUBTOTAL ACH TRANSACTION				\$451,897.66
GRAND TOTAL				\$578,072.41

All bills, invoices and other evidences of claim have been audited and approved for payment.



Mark Gerber
Finance Director/ Treasurer

*-Indicates checks released in advance and prior to commission approval in order to avoid penalty or to meet contractual agreement/obligation.

DATE: December 7th, 2021

TO: Thomas Markus, City Manager

FROM: Brooks Cowan, Senior Planner

APPROVED: Nick Dupuis, Planning Director

SUBJECT: Corridor Improvement Authority Development & TIF Plan Update

INTRODUCTION:

The Corridor Improvement Authority has made updates to its Development & TIF (Tax Increment Finance) Plan which was first approved by City Commission on May 11th, 2015. The purpose of the plan is to capture tax revenue to be used for a portion of the construction cost for up to two parking structures in the Triangle District. The City of Birmingham must reach a formal agreement with Oakland County for their share of the tax capture value to be finalized, however the County has recently requested that Birmingham update its Development & TIF Plan given the changes that have occurred since 2015. If the City Commission chooses to approve the updated plan, City staff will once again enter into negotiations with Oakland County in an attempt to capture County tax revenue to be used for the purpose of constructing up to two parking structures in the Triangle District. Oakland County's portion provides the largest tax capture and is crucial to the success of the Development and TIF Plan.

BACKGROUND:

Birmingham established a Corridor Improvement Authority (CIA) in the Triangle District in 2008. A Corridor Improvement Authority is governed under Michigan Public Act 57 of 2018 to prevent deterioration, promote economic growth, and encourage historic preservation in a business district. The CIA district consists of the commercial portion of the Triangle District between Woodward Avenue, E. Maple, and Adams Road. The construction of up to two parking structures in the Triangle District is meant to be a catalyst for commercial development in an area that permits buildings between three to nine stories in height.

Over the course of six years, the CIA met to review existing conditions in the Triangle District and complete a Development and TIF Plan as required by the state in order to enter into a tax capturing agreement with the county. The City coordinated with LSL Planning and Miller Canfield for planning and parking related issues in order to formulate a Development & TIF Plan that aligned with the existing conditions, zoning requirements, and the Triangle District Urban Design Plan. The CIA ensured that the Development & TIF plan satisfied all state requirements of the then Corridor Improvement Authority Act, P.A. 280 of 2005.

The CIA recommended that the City Commission approve the Development & TIF Plan in the spring of 2015 with the anticipation that the area's taxable value would be lowest at this point due to demolitions. Approving the Development & TIF Plan at this time was an ideal base year for capturing increases in taxable value to be used for the construction of up to two parking

structures. The goal was to have captured value from Oakland County account for approximately one third of the total construction costs.

After the City Commission's approval in May of 2015, the City of Birmingham presented the Development & TIF Plan to Oakland County's TIF Review Committee. Ultimately, the Oakland County Board of Commissioners approved Birmingham's proposal with the condition that Corporation Counsel negotiate a contract with the city. Corporation Counsel then added conditions that required Birmingham agree to cap the County's contribution at \$1.6 million and add a clawback provision if Birmingham did not initiate construction of a parking structure by 2026. Birmingham did not agree to such conditions and negotiations stalled for a period of time.

City staff has re-initiated TIF discussions with Oakland County, now operating under the direction of a new County Executive. Birmingham has requested to continue the negotiations where they left off and not have to begin the entire review process with the TIF Review Committee again. Oakland County has requested that the City of Birmingham update its Development & TIF Plan to reflect current 2021 values before continuing discussions.

Birmingham's CIA met on October 5th, 2021 and October 26th, 2021 to review updates made to the Development and TIF Plan. Major changes to the plan included updating parking structure cost projections, using the actual average annual taxable value growth rate in the district of 6% for tax capture projections instead of an inflationary 2.5%, and updating projections that assume 100% of Oakland County's tax capture. The CIA also reviewed all updates to the Corridor Improvement Authority Act as amended to P.A. 57 of 2018, Part 6 in order to ensure that all updated state requirements have been met. **Updates made to the Development and TIF Plan are highlighted in red throughout the document.**

LEGAL REVIEW:

Final comments by the City Attorney will be provided for the public hearing.

FISCAL IMPACT:

The goal of the Corridor Improvement Authority's Development and TIF Plan is to satisfy state requirements for the City to enter into a TIF agreement with Oakland County. If an agreement with Oakland County is accomplished, Birmingham may capture Oakland County's portion of property taxes and direct the revenues towards payments for up to two parking structures in the Triangle District. Without the participation of Oakland County and other taxing jurisdictions, all funding for improvements would come from the city and thus would likely stall.

PUBLIC NOTIFICATION:

Michigan P.A. 57 of 2018 requires that notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the district not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the district not less than 20 days before the hearing.

SUMMARY:

The Planning Division requests that the City Commission consider updates to Birmingham's Corridor Improvement Authority Development & TIF Plan.

ATTACHMENTS:

- Birmingham CIA Development and TIF Plan
- October 5th & 26th, 2021 Meeting Minutes

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to set a public hearing date of January 24th, 2022 to consider updates to Birmingham's Corridor Improvement Authority Development and TIF Plan.

City of Birmingham

Corridor Improvement Authority

FOR THE TRIANGLE DISTRICT

DEVELOPMENT & TAX INCREMENT FINANCING PLAN

October 2021 Draft

(2021 Updates in Red)







Acknowledgements

City Commission

Pierre Boutros, Mayor
Therese Long, Mayor Pro Tem
Clinton Baller
Rackeline Hoff
Brad Host
Mark Nickita
Stuart Sherman

Corridor Improvement Authority

Stuart Sherman
Kip Cantrick
Thomas Guastello
Samuel Oh

City Staff

Thomas Markus, City Manager
Jana Ecker, Assistant City Manager
Nick Dupuis, Planning Director
Brooks Cowan, Senior Planner
Jim Surhigh, Consulting Engineer
Mark Gerber, Finance Director

City Legal Counsel

Mary Kucharek, Beier Howlett
Patrick McGow, Miller Canfield

Consulting Team

LSL Planning Carl
Walker Parking

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2021 CIA Update Summary

In 2021, Birmingham's Corridor Improvement Authority (CIA) made updates to its Development and TIF Plan that was first approved by the City Commission in 2015. The CIA was established in 2008 for the City's Triangle District which encompasses the commercial area between Woodward Avenue, Maple Road, and Adams Road. The intent of Birmingham's CIA is to create a Development and TIF Plan that satisfies all State guidelines and enables Oakland County to work with the City on economic development projects. If the County chooses to opt-in to Birmingham's Development and TIF Plan, the City may capture the County's tax revenue for the purpose of financing a public parking system in the Triangle District. The establishment of a multi-story parking system in the Triangle District is meant to be a catalyst for commercial development and serve as a major benefit to both the City and the County by supporting long-term economic growth.

Birmingham's CIA began meeting in 2009 to create a Development and TIF Plan for a public parking system in the City's Triangle District. The Authority reviewed and recommended potential locations for parking structures as well as estimated costs and tax capture projections. In 2015, Birmingham's City Commission approved the Corridor Improvement Authority's Development and TIF Plan, which was then brought to Oakland County for review.

Oakland County approved Birmingham's Development and TIF Plan in 2015 with the condition that an agreement be reached through contract negotiations. In 2016, Oakland County proposed a condition with a cap on the tax capture amount and a clawback provision if Birmingham did not initiate project construction by 2026. The City and the County were unable to reach amenable terms at that time, however the City has reinstituted discussions with Oakland County once again, and wishes to get back to the final negotiation process.

Oakland County has requested that the City of Birmingham revisit its CIA Development & TIF Plan to make updates in order to reflect changes since 2015 and allow for review and input in public meetings.

Both the County and the CIA have requested that updates to the document be called out by City staff. In Chapter One, such changes include updates to the Land Use Plan, Existing Parking Conditions, and the Projected Parking Demand to reflect new construction and changes in tenants since 2015.

Chapter Two changes were made to the Preliminary Parking Cost Estimates in order to reflect current economic factors. Land in the Triangle District has experienced an average annual increase of 6% since 2015, therefore the projected land cost was updated to reflect this value. The projected cost of a parking structure was also updated, given the dramatic increase in materials and labor since 2015. The City now estimates a 5-story, 450 space parking structure to cost approximately \$40,000 per space. Obtaining land and developing a parking structure through a public-private partnership was also included as a potential means of accomplishing the City's goals in the Triangle District Master Plan. Updates addressing the now P.A. 57 of 2018, Part 6, Section 910 were also made and the City has included a detailed description of how it will satisfy Reporting Requirements.

In Chapter Three, updates were made to the estimated captured taxable value projections. The projected average annual increase in taxable value was updated to 6% to reflect historical trends, as opposed to the inflationary assumption of 2.5% from 2015. The City also assumed a 100% tax capture from Oakland County which results in approximately \$6 million worth of tax capture by 2040 to be used for initiating economic development in the City and County.

Chapter One: Introduction

Introduction

The City of Birmingham is one of the premier suburban communities in metropolitan Detroit. Birmingham's Triangle District is physically located in the center of the city, between Adams Road and Woodward Avenue, south of Maple Road. Although the district has great potential for redevelopment, it is currently underdeveloped in comparison to its surrounding. To the west is the city's vibrant Downtown, filled with shops, restaurants, movie theaters, offices and homes – in proximity to, but disconnected from the Triangle District by Woodward Avenue. Maple Road, which bounds the north end of the District, is lined with both successful businesses and underutilized properties and provides the primary pedestrian and vehicular connection to Downtown Birmingham. East of the Triangle District is a quality single family residential neighborhood that is well-established and planned to remain. The Eton Road mixed-use Rail District hosts loft style urban living with landmark restaurants, live-work units, multi-story apartment buildings, indoor recreation facilities and a wide variety of unique, clustered uses such as home furnishing shops, dance and art studios, and industrial uses.

Development of the Triangle District Urban Design Plan in 2007 marked the beginning of a long-term effort to revitalize the district. Recognizing the potential growth in the district, the city identified the key elements necessary for the successful redevelopment of the district. The primary goal of the Triangle District Urban Design Plan project was to create a unified framework for development that improves the economic, social and pedestrian environments while protecting the central neighborhood that exists within the district. The resulting strategy included a set of development guidelines intended to create an urban, pedestrian-friendly environment similar to those that are so successful in other areas of the city.

The Triangle District is also envisioned as a transit-oriented district that will draw on regional transit plans that include Birmingham as a destination. Doing so requires a more compact, urban building form, which is best achieved through a form-based code, which the city adopted in 2007.





The Triangle District's unique needs lay in the demand for improved circulation and parking. Parking is scattered and unorganized and building placements are, in many places, not conducive to the pedestrian scale and comfort envisioned. A form-based code was developed to encourage building placement and design in the form required to create attractive and inviting public streets and spaces. Over time, buildings developed under the Triangle Plan will line the roadways to create a more urban street scale that is comfortable to pedestrians and suitable for mixed-use development. However, a key element to the successful revitalization of the Triangle District is the need for better organized and more efficient parking facilities.

As evidenced by the success of the city's Downtown parking program, public parking structures that are designed and located appropriately can significantly impact the economic success of local businesses. Since the need for improved parking was identified as a primary concern, the city began to assess the feasibility of such a structure in the Triangle District. New legislation in 2005 enabled the city to use a new tool that allows tax increment financing to revitalize road corridors through the creation of a Corridor Improvement Authority (CIA).

Pursuant to Act 280, Public Acts of Michigan, 2005, now P.A. 57 of 2018, Part 6, the Corridor Improvement Authority Act, the Birmingham Triangle District's CIA was incorporated on November 10, 2008 with the objective of stimulating and encouraging economic development activities within the established District. It was on this date that the Authority District boundaries were established. The CIA is overseen by a board comprised of four members appointed by the Mayor and confirmed by the City Commission. **A development plan or a TIF plan developed by an authority under a statute or section of law repealed by the bill remains in effect with the authority under the corresponding part of the Act.**

The City of Birmingham developed this Development and Tax Increment Finance Plan for the Triangle District to outline the improvements necessary to realize the vision established in the Triangle District Urban Design Plan. It describes proposed improvements needed to achieve the goals for the district and the method of financing proposed to fund them.

Triangle District Background

The city developed an Urban Design Plan for the Triangle District in 2007, which included the following goals:

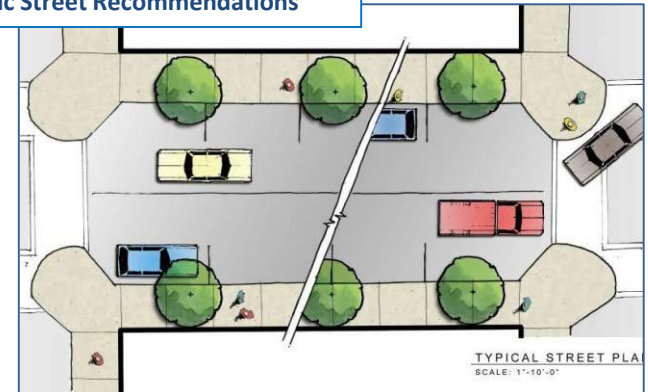
- Improve the visual appearance of the area, its streets, alleys, public spaces, and buildings by establishing guidelines for design and implementation of public and private projects.
- Improve the economic and social vitality by encouraging diversity of use and opportunities for a variety of experiences.
- Better utilize property through more compact, mixed-use development.
- Provide links to Downtown across Woodward's high traffic barrier.
- Improve the comfort, convenience, safety, and enjoyment of the pedestrian environment by create an inviting, walkable, pedestrian neighborhood and setting aside public plazas.
- Encourage sustainable development.
- Protect the integrity of established residential neighborhoods.
- Organize the parking and street system to facilitate efficient access, circulation, and parking to balance vehicular and pedestrian needs.

Since development of the Triangle District Urban Design Plan, the city has established a CIA to carry out the parking recommendations. While the Urban Design Plan recommends a number of changes to the Triangle District that are being implemented by the City, the CIA's focus is to implement the parking aspects of the Urban Design Plan. The Birmingham Triangle District CIA held their first meeting on January 20, 2009, where they began their work by recommending the City Commission begin developing this Development and Tax Increment Financing Plan for the district. Their specific purpose is to facilitate the planning and financing of public parking in the Triangle District.

Open Space Design Recommendations



Public Street Recommendations



Building Design Recommendations



The Triangle District Development and TIF Plans were created according to the Corridor Improvement Authority Act, P.A. 280 of 2005, as amended, now P.A. 57 of 2018, Part 6



Purpose of the Development and TIF Plans

The purpose of a CIA is to plan for, correct and prevent deterioration in business districts, to encourage historic preservation and to promote economic growth within the district.

The City of Birmingham has determined that the development plan and tax increment financing plan constitutes a public purpose, based on the following considerations:

- The proposed method of financing the development is feasible and the authority has the ability to arrange the financing.
- The development is reasonable and necessary to carry out the purposes of the CIA Act.
- The land within the district that is to be acquired is reasonably necessary to carry out the purposes of the plan and of the CIA Act in an efficient and economically satisfactory manner.
- The development plan is in reasonable accord with the City of Birmingham's Master Plan, which includes the Triangle District Subarea Plan.
- Public services, such as fire and police protection and utilities, are adequate to service the project area.
- Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary to facilitate the planned redevelopment of the District.

Chapter Two of this Plan discusses the recommendations for stimulating redevelopment within the Triangle District. A key concern in the Triangle District Design Plan is the need for more organized and efficient parking. The Birmingham Triangle District Corridor Improvement Authority was established to facilitate the construction of new parking facilities that will serve the district. Chapter Three contains the Tax Increment Financing Plan that will be required to finance the development of parking facilities. Both plans have been prepared in consideration of the required legal parameters, economic factors, and realistic projections.

Approval

According to the Corridor Improvement Authority Act, P.A. 280 of 2005, as amended, now P.A. 57 of 2018, Part 6, Development and Tax Increment Financing Plans must be adopted by the City Commission by resolution after holding a public hearing. The City of Birmingham held a public hearing on March 16, 2015 and adopted this Development and Tax Increment Finance Plan on May 11, 2015.

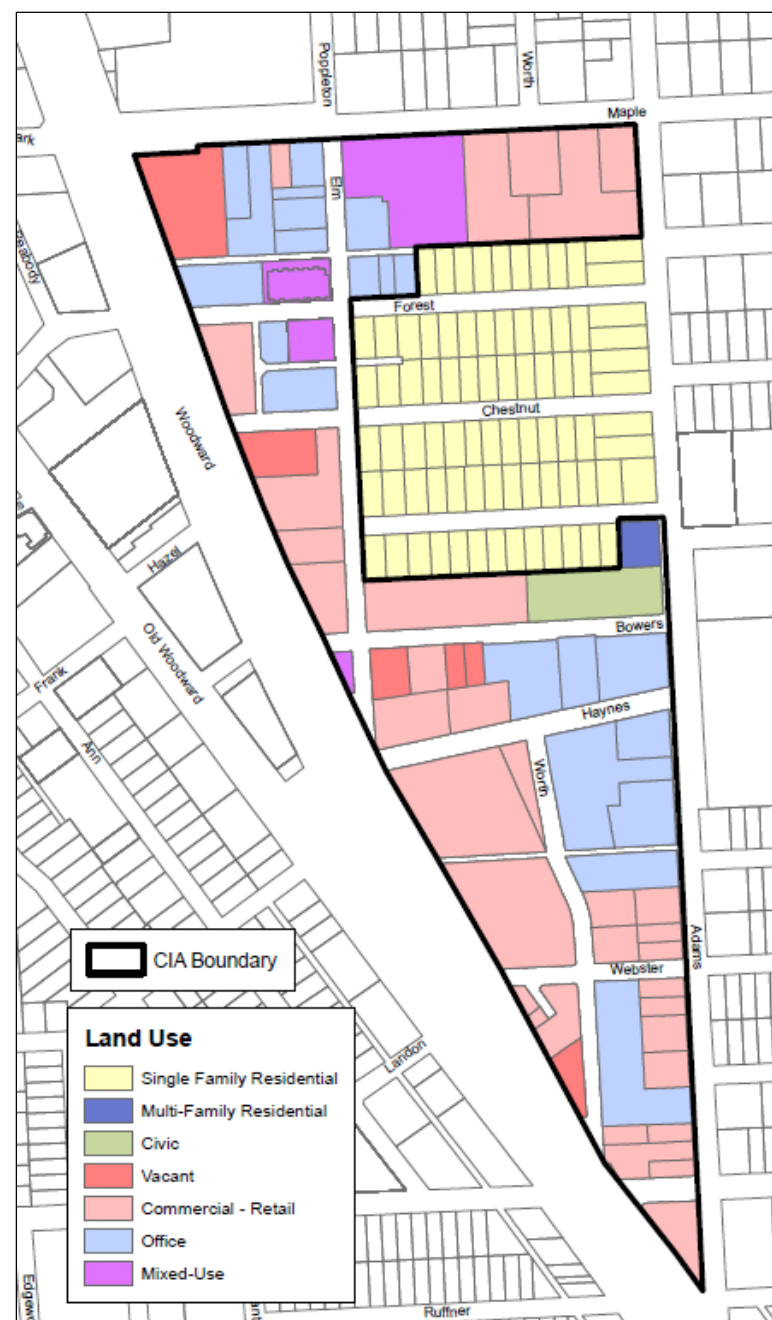
Existing Land Use

Land uses were inventoried throughout the Triangle District (see map). Sites along Woodward Avenue, the district's western boundary, consist of general commercial uses including auto sales agencies, a gas station, a Walgreens, and a grocery store. The area transitions to less intense office and retail uses to the east of Woodward which predominantly consists of expansive surface parking lots, buildings with large blank walls, and offices stilted above exposed ground level parking lots.

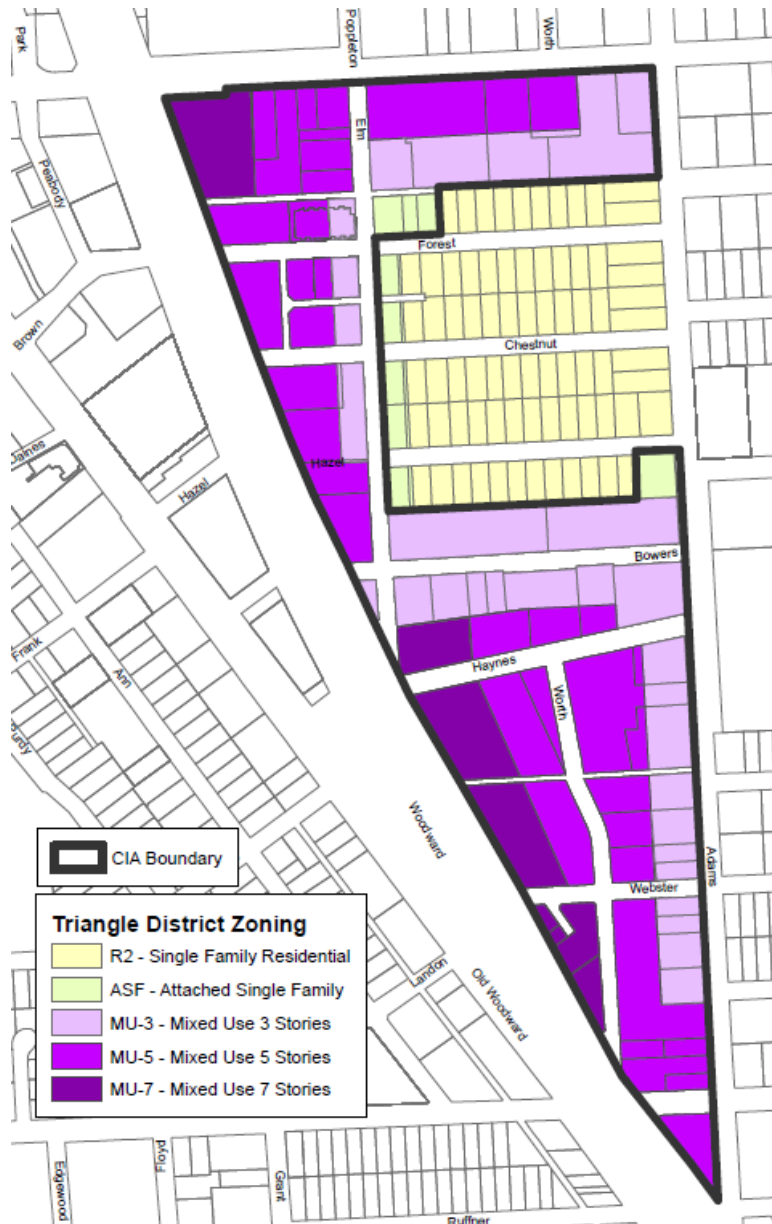
There is a large vacant parcel on the southeast corner of Woodward Ave and E. Maple Rd which was the former site of a hotel and is now a gravel parking lot. Maple Road has a mix of office, live-work units, senior living, and retail along its frontage. Adams Road has the corridor's sole multi-family residential building and is also fronted by a mix of office and retail uses.

Since the adoption of the Triangle District Plan, the area has experienced four new mixed-use developments. The All Seasons Senior Living development successfully developed a large parcel due to reduced parking requirements for senior living. The developments at 735 Forest, 750 Forest, and 34400 Woodward include a mix of retail, office, restaurant, and residential on smaller parcels in the zones permitting three to five stories.

The large parcels south of Bowers have not been developed since the adoption of the Triangle District Plan and Triangle Overlay District. The former Borders Books site was converted to a Walgreens. A number of the buildings and parking lots appear to be degrading in quality and declining into disrepair.



Regulating Plan & Existing Parking and Land Use Conditions



CIA District Usage

Total Commercial Floor Area (SF)	697,462
Total District Land Area (SF)	1,395,162
Floor Area Ratio	50%
Total Parking	
Off-street parking spaces	2,206
On-street parking spaces	354
Total Parking	2,560
Existing Parking Ratio	
Spaces Per 1,000 SF Floor Area	3.67



Existing Parking and Land Use Conditions

A detailed parking inventory was completed December, 2006. The inventory of parking was updated in 2009, and again in 2021. There are 2,206 private parking spaces and 354 on-street public parking spaces, for a total of 2,560 spaces in the CIA District.

Birmingham's Zoning Ordinance requires 1 parking space for every 300 SF of office and retail which equates to 3.33 parking spaces per 1,000 SF of commercial space. At this time, the CIA District exceeds that value by a small amount with approximately 3.67 parking space per 1,000 square feet of commercial use. Meeting the parking requirement on-site in this area has led to expansive surface parking lots, large gaps between buildings, and a lack of pedestrian connectivity. An excess of surface parking is not an efficient use of space in the CIA District where the intent of the Triangle District Plan and the Zoning Ordinance is to encourage a dense walkable environment, a mix of residential and commercial uses, and to limit the use of exposed surface parking.

The CIA District has a total land area of 1,395,162 SF. Meanwhile there is currently a total of 697,462 SF of commercial space. This equates to a floor-area-ratio of 50%, meaning for every 1 SF of land, approximately 0.5 SF of commercial space is being used. Current zoning for this district enables a floor area ratio of 300% in the MU-3 zone, 500%, in the MU-5 zone, and 700% in the MU-7 zone. An additional 100%-200% (1-2 floors) can be obtained in each zone if certain requirements are met. This means for every 1 SF of land, the Triangle District could have between 3 to 9 SF of space for people to live, work, shop, and gather. Multi-story buildings are crucial for districts that desire a dense mixed-use area, however being required to provide all parking on-site presents an extreme difficulty to property owners and developers trying to maximize the use of the space. Multi-story parking structures that serve the parking requirements for surrounding buildings would enable the district to maximize the space for people oriented uses with more density that will activate the area at all times of the day.

While the City has established an extensive public parking program for the Downtown, it does not extend into the Triangle District. This leaves private property owners to provide for their own parking needs, which has lead to inefficiencies in use and wasted land that could otherwise be developed to contribute to the desired vibrancy of the district.

Projected Parking Demand

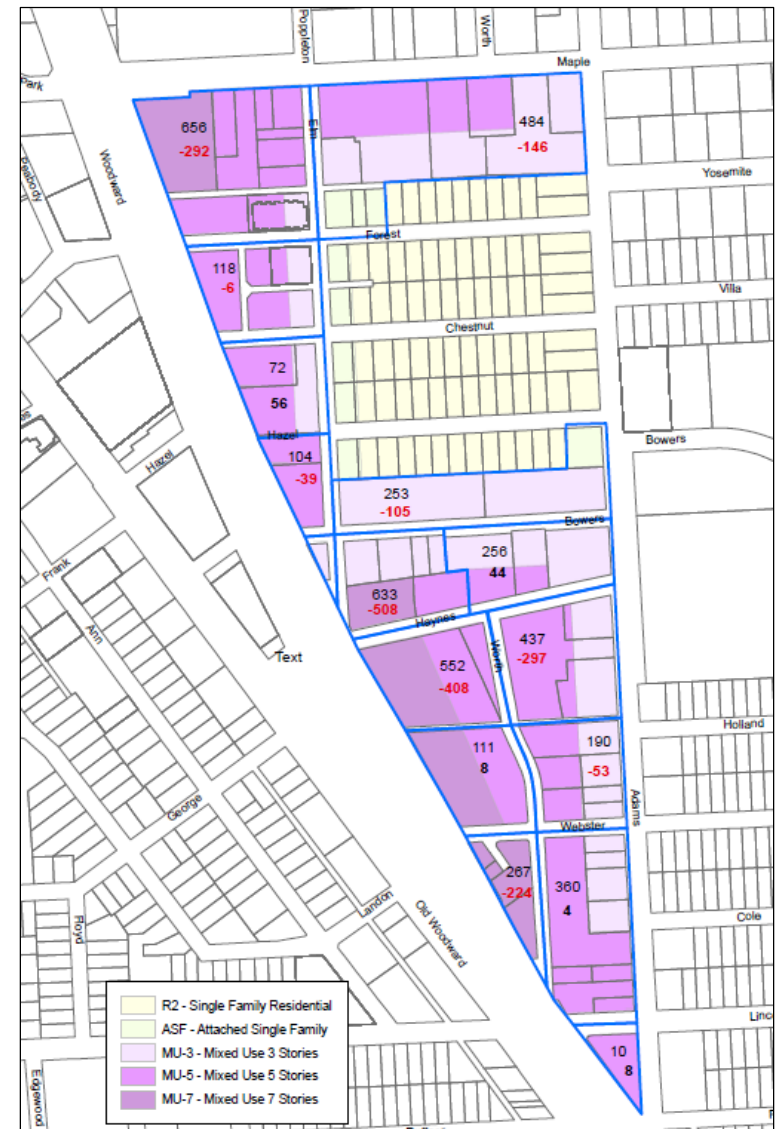
In order to estimate the amount of parking demand in the future that could support a public parking facility, the district was analyzed for future build-out. A full build-out shows the amount of development that could occur based upon the Urban Design Plan and new Triangle District Overlay. However, because it is unlikely that all of the current uses in the district will be removed and redeveloped, assumptions were made on which buildings would likely remain and which areas would likely redevelop. This “partial build-out” included development that is anticipated or likely to occur in the future and gives a more realistic estimate of future parking demands.

Future parking demand was estimated based upon the Institute of Transportation Engineer’s Parking Generation Manual and observed parking demands in the city. The projections assume that new development will be providing some on-site parking, either via private parking structures, underground lots or small surface lots. A summary of the parking analysis is provided below:

Available On-street Parking Spaces	Private Parking Spaces	Projected Parking Demand Based Upon Partial Build-out	Future Parking Deficit
354	2,206	4,513	1,953

The above projected deficit showed the future need for an additional 444 parking spaces in the north end of the Triangle District near Maple Road and an additional 1,566 spaces in the south portion of the District.

The development of public parking structures, in strategic locations that will best serve the maximum number of businesses is recommended. Because the demand for parking will occur incrementally over time as the Triangle District redevelops, it is recommended that the City first acquire land for one or more surface parking lots to be developed with structures as the area redevelops and parking demand increases.





Chapter Two: Development Plan

Introduction

According to the Corridor Improvement Authority Act, P.A. 280 of 2005, as amended, now P.A. 57 of 2018, Part 6, the City of Birmingham's Corridor Improvement Authority must develop a Development Plan for any improvements that are proposed to be funded through Tax Increment Financing. The law prescribes the various elements required in the Development Plan, including reporting requirements pursuant to Part 9 of P.A. 57 of 2018, which are discussed later in this Chapter.

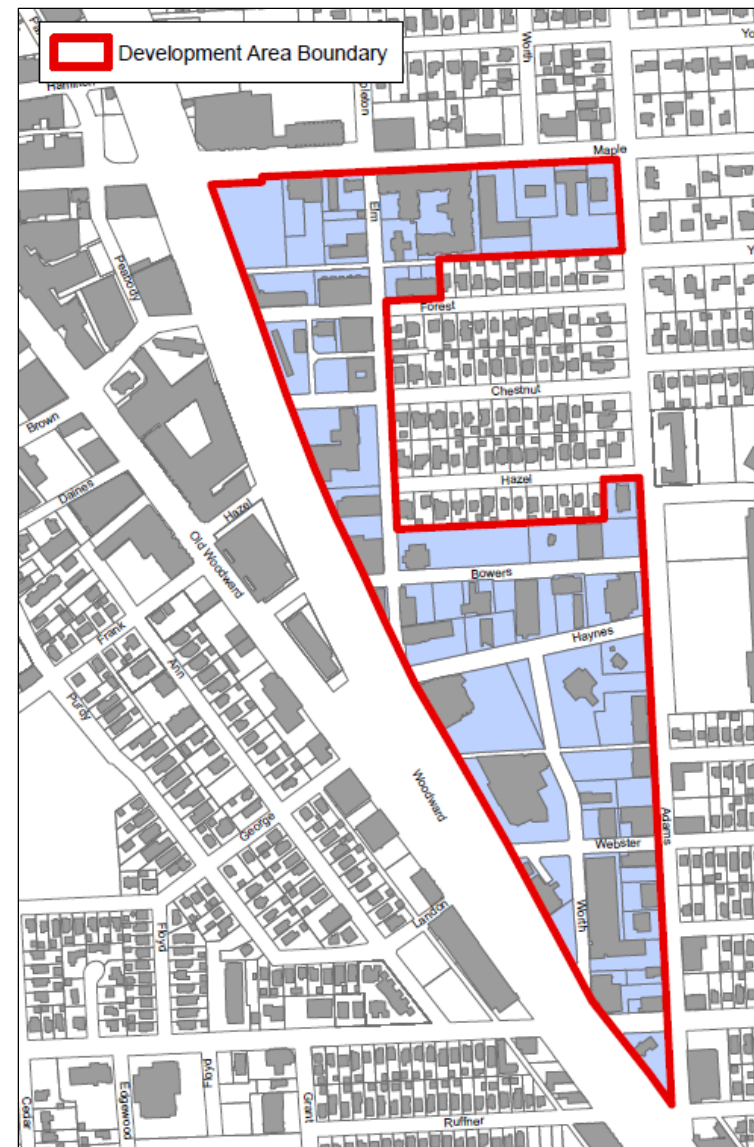
Development Plan

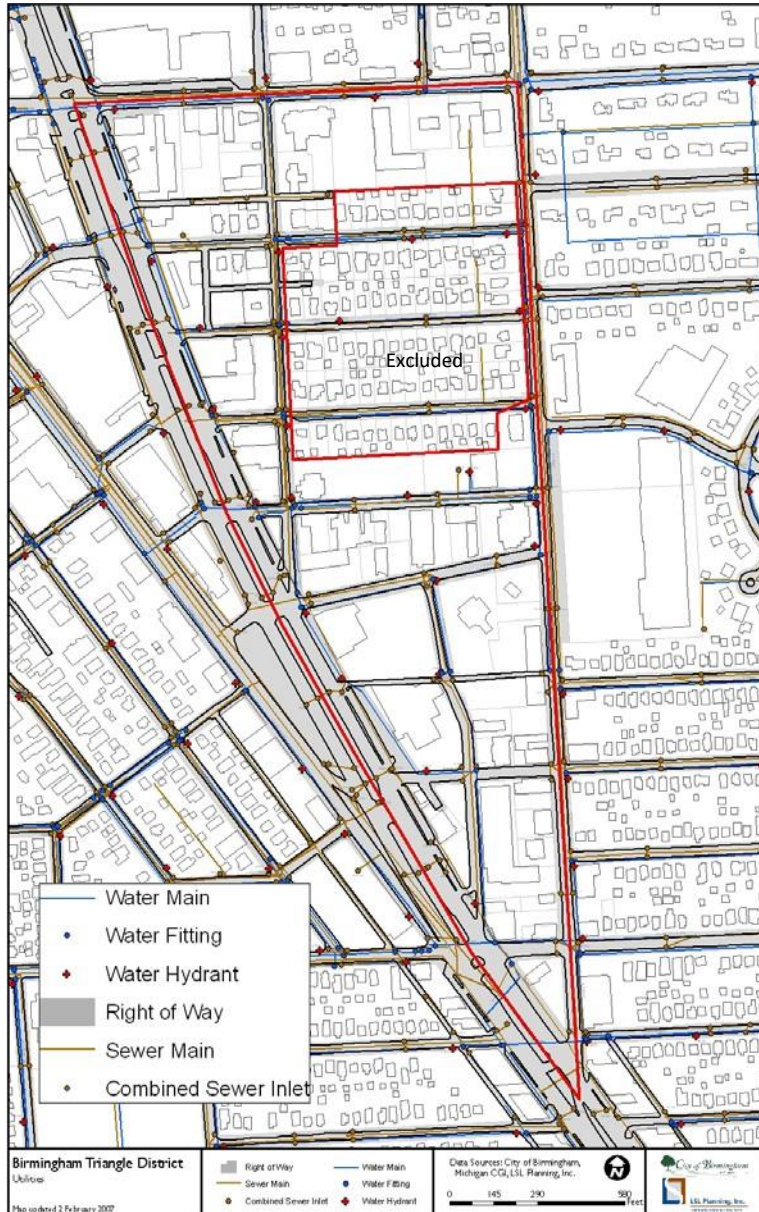
According to Section 6 2 1 of the Corridor Improvement Authority Act, the Development Plan must address the following:

- **Section 621(2) (a) Development Area Boundary:** *The designation of boundaries of the development area in relation to highways, streets, streams, or otherwise.*

The Development Area is generally enclosed by Woodward Avenue on the west, Maple Road on the north and Adams Road on the east, excluding the existing single-family neighborhood along Forest, Chestnut and Hazel Streets east of Elm Street. The Triangle District serves as a transitional growth area between Birmingham's central business district west of Woodward and the residential neighborhoods to the east (See District Map, right).

- **Section 621(2) (b) Existing Streets and Public Facilities:** *The location and extent of existing streets and other public facilities within the development area, designating the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses, and including a legal description of the development area.*





Utility Map

The boundaries of the Development Area in relation to highways, streets, and other rights-of-way are shown on the District Map, as previously presented under item 21(2) (a). The district is also well served by public water and sewer services (See Utility Map, left).

The city maintains a Fire Station at the northwest corner of Adams and Bowers. This is their main station, containing administrative offices and training facilities.

Land uses in the district include a mix of commercial and office uses. The district is adjacent to a single-family neighborhood that is not proposed to be included in the TIF Plan. Most of the higher intensity uses are located along Woodward, with other fine stores and offices found throughout the district.

Woodward Avenue is an eight-lane state trunkline with a center median that runs along the western edge of the district. Maple Road is a four-lane arterial road that runs along the northern edge of the district. Streets within the district are generally two-lane local city streets with sidewalks and on-street parking. Street circulation in the south end of the district could be improved through road realignments, and some of the parking lots and loading areas are unorganized throughout the district, as are several building arrangements. The disjointed arrangement of buildings and parking does not create the physical context for a strong synergy between the various uses in the area. It is a goal of this Development Plan to provide more organized parking that will help improve business vitality in the district.

- **Section 621(2) (c) Existing Improvements:** A description of existing improvements in the development area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

The Birmingham Corridor Improvement Authority plans to redevelop one or two sites within the district into a public parking facility. Immediate plans are to acquire a site(s) for the future parking facilities and construct a surface parking lot until the area redevelops and need for a parking structure increases. Because the site for the parking facilities has yet to be determined, the specific details regarding site demolition or repairs are

unknown. If existing surface lots on the future site can be re-used to provide temporary parking, they will be repaired or retained if in good condition. Otherwise, purchase and demolition of existing commercial buildings is likely needed, as most lots in the district are developed to some extent.

The timing of construction will depend on the redevelopment of the district creating additional parking demand and generating additional tax increment rate of capture to fund construction. The city plans to issue bonds for the land acquisition costs as well as the parking facility construction costs; therefore, the timing of bond issues will be determined when adequate revenues exists to make the expected payments. The City may also choose to pursue a public-private partnership that may involve negotiating a ground lease for the construction of a mixed use building that contains a public parking structure.

- **Section 621(2) (d) Estimated Cost of Improvements:** *The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.*

For each parking structure, preliminary estimates assume a land cost of approximately \$7,500,000. When purchased, the land may be redeveloped immediately into a 90-space surface parking lot that is estimated to cost approximately \$225,000. It is anticipated a 450-space parking structure cost will be approximately \$18,000,000. It is anticipated that a portion of the cost of each structure will be funded through the CIA, and the remainder will be funded through other mechanisms, including a Special Assessment District. Demolition costs will be determined once a site is identified. The actual number and configuration of parking facilities will be determined based upon development in the District and growth in parking demand.

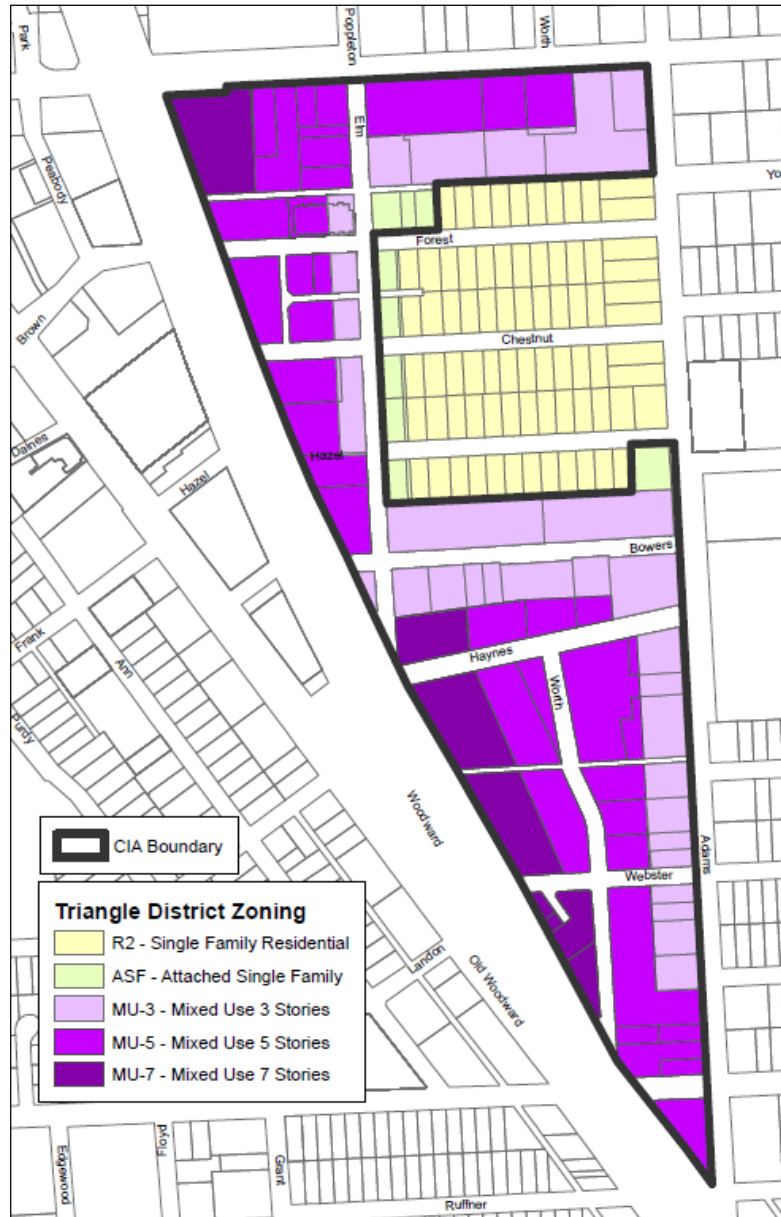
- **Section 621(2) (e) Construction Timeline:** *A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.*

Due to limited resources, the CIA will take a phased approach to developing the parking facilities. If TIF revenues and other available funds exceed those projected, the city may proceed with the site acquisition sooner. Once acquired, the site will be prepared for construction of the facilities.

2021 Preliminary Parking Cost Estimates ⁽¹⁾	
Land Cost	\$7,500,000
Interim Surface Parking Lot Cost	\$225,000
Parking Structure Cost	\$18,000,000
Total	\$25,725,000

(1) Amounts are expressed in 2021 dollar values. Actual costs will need to be adjusted, depending on the actual build year.





Due to the large construction costs related to a parking structure, the CIA may need to wait for additional tax increment revenues to accrue before it can finance construction. Instead, the site(s) may first be developed into a surface parking lot containing approximately 90 parking spaces, to help offset immediate parking needs in the district. The specific construction dates will be determined as redevelopment in the surrounding area demands additional parking. Additional parking facilities may be constructed based upon development in the District and growth in parking demand.

- **Section 621(2) (f) Open Spaces:** *A description of any parts of the development area to be left as open space and the use contemplated for the space.*

No new open spaces are proposed as part of this Development Plan, except for ancillary sidewalks and pedestrian areas associated with development of parking facilities. The Triangle District Master Plan included recommendations for public open space; however these will be implemented by other means and will not be funded through the CIA development plan.

- **Section 621(2) (g) Conveyances Between CIA and City:** *A description of any portions of the development area that the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.*

The CIA does not currently own or control any land in the Triangle District. Once a parking facility is complete, the CIA anticipates it will be conveyed to the City of Birmingham in its entirety. The City may also choose to pursue a public-private partnership which would involve negotiating a ground lease for the construction of a public structure.

- **Section 621(2) (h) Desired Zoning Changes:** *A description of desired zoning changes and changes in streets, street levels, intersections, traffic flow modifications, or utilities.*

No changes in zoning are required to implement the Corridor Improvement Authority's Development Plan. However, the city previously adopted an Overlay District for the area. The overlay was adopted to implement the development contemplated in the Triangle Plan using form-based code requirements (see Triangle District Regulating Plan, at left). The code encourages mixed-use development rather than creating use-specific

districts. It encourages additional building height and high density residential uses that will complement the city's goals to become more transit-oriented.

The Triangle District Urban Design Plan includes other recommendations for the district; however, the CIA has committed only to development of parking facilities at this time.

- **Section 621(2) (i) Financing:** *An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.*

Incremental taxes on real property included in the CIA district boundary will be captured under the Tax Increment Financing Plan to reimburse eligible activity expenses. It is anticipated that the TIF will be used to cover a portion of the acquisition and construction costs, with the other portion coming from a parking special assessment district.

The total taxable value of all property (real and personal) was \$46,110,000 for the 2014 tax year. From 2015 to 2020, there was an annual increase in taxable value ranging from 0.11% to 11.15%, averaging 6% annually. The TIFA Plan assumes an annual increase in taxable value of 2% for 2021 and 6% for the years 2022 and beyond. The City expects this value to increase as developments in the area are completed.

It is anticipated that the term of the TIFA Plan will depend on the actual cost estimates received after final plans are prepared. The estimated captured taxable value and tax increment revenues for the eligible property for each year of the Plan are presented in Chapter 3.

The tax increment and capture year data presented in Chapter 3 are estimates based on currently available information. It is the intent of this plan to provide for capture of all eligible tax increments in whatever amounts and in whatever years they become available until all project costs described in this plan are paid. Cash flow estimates for eligible activities are also presented in Chapter 3.

- **Section 621(2) (j) Designated Beneficiaries:** *Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the authority.*



The projects undertaken by the CIA are intended to benefit all property owners within the district. They are not intended to benefit any one or set of property owners; rather to remedy a district-wide shortage in parking that will hopefully help to attract additional commerce and residential development to the district. The parking facilities will be conveyed to the city once completed.

- **Section 621(2) (k) Conveyance Procedures:** *The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.*

The projects included in this Development Plan are intended to be publicly owned in perpetuity; no conveyances are anticipated. The city may enter into a public-private partnership with a developer to partially fund the structure. This can be achieved through a condominium development that allows partial ownership of the structure by the city. Additional construction cost savings may be realized if other private structures are proposed that could be built simultaneously. Should the city choose in the future to sell the parking facility proposed in this Plan, the procedures in the Birmingham City Charter will be followed.

- **Section 621(2) (l) Population Estimates and Displacement:** *Estimates of the number of persons residing in the development area and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those units in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and*

the estimated capacity of private and public housing available to displaced families and individuals.

There is a single apartment building located in the Corridor Improvement Authority boundary. This building is not proposed to be impacted and no families or individuals will be displaced as result of development of a parking facility. Therefore, a demographic survey and information regarding housing in the community are not applicable and are not needed for this plan.

- **Section 621(2) (m) Relocation Priorities:** *A plan for establishing priority for the relocation of persons displaced by the development in any new housing in the development area.*

No residents will be displaced as a result of this development. Therefore, a plan for relocation of displaced persons is not applicable and is not needed for this plan.

- **Section 621(2) (n) Relocation Costs:** *Provision for the costs of relocating persons displaced by the development and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894.*

No residents will be displaced as result of this development and no relocation costs will be incurred. Therefore, provision for relocation costs is not applicable and is not needed for this plan.

- **Section 621(2) (o) Relocation Assistance Act:** *A plan for compliance with 1972 PA 227, MCL 213.321 to 213.332.*

No residents will be displaced as result of this development. Therefore, no relocation assistance strategy is needed for this plan.

- **Section 621(2) (p) Governing Body Approval of Amendments:** *The requirement that amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection.*

The Tax Increment Finance and Development Plans for the City of Birmingham Corridor Improvement Authority for the Triangle District was approved by the CIA Board on January 22nd, 2015, and approved by the Birmingham City Commission on May 11th, 2015.

- **Section 621(2) (q) Development Plan Evaluation:** *A schedule to periodically evaluate the effectiveness of the development plan.*

The City of Birmingham Corridor Improvement Authority will review the Tax Increment and Development Plan as needed. It is anticipated that they will meet approximately 4 times a year, must hold at least two (2) informational meetings, and will review the plan at least once per year to update key figures and ensure projects and recommendations are still relevant.

- **Section 910 Reporting Requirements:** *A plan to report the activities of the CIA to the public.*

The City of Birmingham plans to utilize the existing website that is operated and regularly maintained to provide access to authority records and documents for the fiscal year beginning on the effective date of this Act, including all of the following:

- Minutes of all board meetings.
- Annual budget.
- Annual audits.
- Currently adopted development plan.
- Currently adopted tax increment finance plan.
- Current authority staff contact information.
- A listing of current contracts with a description of those contracts and other documents related to management of the authority and services provided by the authority.
- Additionally, the municipality must include on the website an annual updated synopsis of activities of the authority, which must include all of the following, if any:
 - For any tax increment revenue described in the annual audit that is not spent within five years of its receipt, a description of the reasons for accumulating those funds, a time frame when the funds will be spent, the uses for which the funds will be spent, and, if any funds have not been spent within 10 years of their receipt, the amount of those funds and a written explanation of why they have not been spent.
 - A list of authority accomplishments, including progress made on development plan and tax increment finance plan goals and objectives for the immediately preceding fiscal year.
 - All other components pursuant to Part 9 of the Act.
- Annually on a form and in the manner prescribed by the Department of Treasury, an authority that is capturing tax increment revenue must submit to the governing body of the municipality, the governing body of a taxing unit levying taxes subject to capture by an authority, and the Department a report on the status of the tax increment financing account. The report must be filed with the Department of Treasury.

Chapter Three: Tax Increment Finance Plan

Introduction

This Tax Increment Finance (TIF) Plan is prepared in connection with the Development Plan described in Chapter Two. It was reviewed and adopted alongside the Development Plan; therefore, the city satisfied its notification and publication requirements when preparing notices for the Development Plan.

TIF Plan

According to Section 18 to 20 of Act 280, Public Acts of Michigan, 2005, now P.A.57 of 2018, Part 6, after establishing a TIF Plan, the city must report annually to the State Tax Commission regarding the status of the financing account. The report must include:

- The amount and source of revenue in the account.
- The amount in any bond reserve account.
- The amount and purpose of expenditures from the account.
- The amount of principal and interest on any outstanding bonded indebtedness.
- The initial assessed value of the project area.
- The captured assessed value retained by the authority.
- The tax increment revenues received.
- The increase in the state equalized valuation as a result of the implementation of the tax increment financing plan.
- The type and cost of capital improvements made in the development area.
- Any additional information the governing body considers necessary.

2014 Base Property Values for All CIA Parcels

Property			Property			Property		
Parcel Number	Class	2014 Taxable	Parcel Number	Class	2014 Taxable	Parcel Number	Class	2014 Taxable
08-19-36-226-002	202	\$1,100,000	08-19-36-232-005	201	\$797,020	08-19-36-281-031	201	\$2,127,270
08-19-36-226-003	201	\$500,230	08-19-36-233-021	402	\$0	08-19-36-282-005	201	\$2,916,760
08-19-36-226-007	201	\$326,710	08-19-36-233-022	201	\$988,360	08-19-36-282-006	201	\$3,301,410
08-19-36-226-009	201	\$301,100	08-19-36-234-002	405	\$760,250	08-19-36-282-007	202	\$0
08-19-36-226-012	201	\$335,330	08-19-36-234-004	405	\$235,950	08-19-36-283-009	201	\$782,730
08-19-36-226-013	201	\$299,370	08-19-36-234-007	405	\$111,200	08-19-36-283-014	201	\$350,000
08-19-36-226-020	201	\$689,550	08-19-36-235-003	405	\$114,300	08-19-36-283-016	201	\$747,080
08-19-36-226-021	201	\$55,550	08-19-36-235-004	405	\$114,300	08-19-36-283-019	201	\$198,420
08-19-36-226-022	201	\$947,240	08-19-36-235-005	405	\$114,300	08-19-36-283-020	201	\$237,980
08-19-36-227-002	201	\$818,680	08-19-36-235-006	405	\$109,220	08-19-36-283-021	201	\$290,020
08-19-36-227-003	201	\$653,940	08-19-36-235-007	405	\$104,140	08-19-36-283-022	201	\$307,740
08-19-36-227-005	201	\$203,200	08-19-36-235-008	405	\$104,140	08-19-36-283-024	201	\$1,315,660
08-19-36-227-006	201	\$278,380	08-19-36-235-009	405	\$104,140	08-19-36-283-025	202	\$268,480
08-19-36-227-007	201	\$164,080	08-19-36-235-010	405	\$104,140	08-19-36-284-001	201	\$105,370
08-19-36-227-008	201	\$237,410	08-19-36-235-011	405	\$81,280	08-19-36-284-002	201	\$107,590
08-19-36-227-023	201	\$407,510	08-19-36-235-012	405	\$0	08-19-36-284-009	201	\$415,490
08-19-36-227-024	201	\$1,325,000	08-19-36-235-013	405	\$220,960	08-19-36-284-010	202	\$191,400
08-19-36-227-027	202	\$183,900	08-19-36-280-002	201	\$258,040	08-19-36-285-001	201	\$4,874,880
08-19-36-227-028	201	\$508,000	08-19-36-281-003	202	\$262,550	08-19-36-285-002	201	\$160,570
08-19-36-228-001	201	\$819,200	08-19-36-281-004	201	\$219,020	08-19-36-285-006	201	\$289,670
08-19-36-228-002	201	\$379,750	08-19-36-281-005	201	\$267,440	08-19-36-285-007	201	\$0
08-19-36-228-003	201	\$231,330	08-19-36-281-017	201	\$494,180	08-19-36-285-008	201	\$254,000
08-19-36-228-004	201	\$300,000	08-19-36-281-022	201	\$175,190	08-19-36-285-009	201	\$234,760
08-19-36-228-005	201	\$751,310	08-19-36-281-028	201	\$294,880	08-19-36-285-010	201	\$103,290
08-19-36-230-003	201	\$877,050	08-19-36-281-029	201	\$1,071,450	08-19-36-285-012	201	\$262,060
08-19-36-230-004	402	\$0	08-19-36-281-030	201	\$454,460	08-19-36-285-013	201	\$563,160
08-19-36-232-001	201	\$1,093,010				08-19-36-427-001	201	\$607,400
Total 2014 Value								\$42,360,930

2014 Personal Property Values

08-99-00-000-106	2,700	08-99-00-007-153	1,220	08-99-00-011-074	-	08-99-00-014-012	10,000
08-99-00-000-174	59,800	08-99-00-007-154	-	08-99-00-011-099	2,670	08-99-00-014-017	557,390
08-99-00-000-176	-	08-99-00-007-194	-	08-99-00-011-101	-	08-99-00-014-018	-
08-99-00-001-015	21,370	08-99-00-007-234	-	08-99-00-011-102	-	08-99-00-014-049	50,000
08-99-00-001-042	790	08-99-00-008-014	520	08-99-00-011-103	-	08-99-00-014-050	-
08-99-00-001-043	-	08-99-00-008-018	-	08-99-00-011-108	-	08-99-00-014-055	500
08-99-00-001-149	-	08-99-00-008-041	15,040	08-99-00-011-137	39,620	08-99-00-014-103	-
08-99-00-001-210	-	08-99-00-008-046	-	08-99-00-011-150	-	08-99-00-014-104	-
08-99-00-002-030	2,440	08-99-00-008-047	-	08-99-00-012-021	-	08-99-00-014-109	2,500
08-99-00-002-072	3,010	08-99-00-008-048	127,840	08-99-00-012-024	520	08-99-00-014-110	-
08-99-00-002-103	421,630	08-99-00-008-054	3,390	08-99-00-012-025	77,450	08-99-00-014-113	2,500
08-99-00-003-176	-	08-99-00-008-103	-	08-99-00-012-028	72,500	08-99-00-014-117	15,000
08-99-00-004-094	-	08-99-00-009-003	214,130	08-99-00-012-030	520	08-99-00-014-135	-
08-99-00-004-098	-	08-99-00-009-046	1,370	08-99-00-012-042	19,520	08-99-00-015-044	-
08-99-00-004-112	-	08-99-00-009-051	3,940	08-99-00-012-043	-	08-99-00-015-046	-
08-99-00-004-114	-	08-99-00-009-054	-	08-99-00-012-045	1,040	08-99-00-015-047	-
08-99-00-004-115	29,950	08-99-00-009-055	-	08-99-00-012-112	-	08-99-00-015-084	-
08-99-00-004-146	-	08-99-00-009-073	-	08-99-00-013-005	-	08-99-00-015-086	-
08-99-00-004-166	2,160	08-99-00-009-074	95,280	08-99-00-013-007	-	08-99-00-015-087	-
08-99-00-004-169	1,870	08-99-00-009-075	1,560	08-99-00-013-008	-	08-99-00-015-088	-
08-99-00-005-082	-	08-99-00-009-103	100,070	08-99-00-013-009	75,840	08-99-00-015-091	-
08-99-00-005-109	5,110	08-99-00-009-104	13,520	08-99-00-013-010	17,110	08-99-00-015-092	-
08-99-00-005-153	-	08-99-00-009-105	305,740	08-99-00-013-012	1,020	08-99-00-015-145	-
08-99-00-006-144	750	08-99-00-009-155	-	08-99-00-013-013	-	08-99-00-015-148	-
08-99-00-006-145	-	08-99-00-010-041	53,960	08-99-00-013-034	2,030	08-99-00-015-149	-
08-99-00-007-069	4,590	08-09-90-010-042	-	08-99-00-013-035	75,000	08-99-01-001-120	128,350
08-99-00-007-075	-	08-99-00-010-043	106,690	08-99-00-013-042	510	08-99-01-001-140	-
08-99-00-007-076	-	08-99-00-010-099	8,210	08-99-00-013-082	1,020	08-99-01-001-470	46,390
08-99-00-007-077	-	08-99-00-010-149	-	08-99-00-013-108	-	08-99-01-001-650	5,780
08-99-00-007-078	3,980	08-99-00-011-004	10,690	08-99-00-013-111	-	08-99-01-001-663	-
08-99-00-007-151	-	08-99-00-011-037	-	08-99-00-013-129	32,010	08-99-01-001-836	110,990
08-99-00-007-152	-	08-99-00-011-067	35,670	08-99-00-013-135	-	08-99-01-001-861	41,460

08-99-01-001-935	-	08-99-01-900-048	-
08-99-01-001-950	40,150	08-99-01-910-037	-
08-99-01-001-958	-	08-99-01-920-010	690
08-99-01-002-392	-	08-99-01-920-179	-
08-99-01-002-397	-	08-99-01-930-027	-
08-99-01-002-450	1,800	08-99-01-930-158	1,280
08-99-01-002-554	-	08-99-01-940-016	2,620
08-99-01-002-780	4,490	08-99-01-940-040	-
08-99-01-002-860	-	08-99-01-950-068	-
08-99-01-003-640	76,260	08-99-01-950-099	-
08-99-01-003-705	69,030	08-99-01-950-111	-
08-99-01-003-719	307,370	08-99-01-960-165	-
08-99-01-003-865	-	08-99-01-960-168	-
08-99-01-004-835	-	08-99-01-970-284	41,630
08-99-01-004-970	-	08-99-01-970-303	1,480
08-99-01-005-065	-	08-99-01-970-318	830
08-99-01-005-697	3,560	08-99-01-970-438	2,650
08-99-01-010-290	-	08-99-01-970-798	-
08-99-01-013-695	2,550	08-99-01-970-803	-
08-99-01-850-089	-	08-99-01-970-888	76,920
08-99-01-860-104	-	08-99-01-980-239	-
08-99-01-860-230	5,600	08-99-01-980-244	-
08-99-01-880-017	15,230	08-99-01-980-373	-
08-99-01-880-196	37,860	08-99-01-980-378	-
08-99-01-890-046	1,440	Personal	
08-99-01-890-054	-	Property Total:	3,749,070
08-99-01-890-056	2,290		
08-99-01-890-057	-		
08-99-01-890-059	5,110		
08-99-01-890-060	-		
08-99-01-890-136	-		
08-99-01-900-024	-		
08-99-01-900-030	-		

When developing the TIF Plan, the city must include the following:

- **A Development Plan:** The Development Plan for this project is described in Chapter Two: Development Plan.
- **A detailed explanation of the tax increment procedure:** Tax Increment Financing is a method of funding public investments in an area slated for (re)development by capturing, for a time, all or a portion of the increased tax revenue that may result from increases in property values, either as a result of (re)development or general market inflation. The concept of tax increment financing is applied only to the Development Area for which a development plan has been prepared by the Authority and adopted by the community's legislative body.

"Captured Assessed Value" can be described as the amount in any year of the Plan in which the current assessed value exceeds the initial assessed value. Current assessed value for this purpose includes the amount of local taxes paid in lieu of property taxes. "Initial Assessed Value" represents the assessed value as equalized for all properties in the Development Area at the time of resolution adoption. (See *2014 Base Property Values for all CIA Parcels*, on page 18). It is relevant to mention that the value of tax-exempt property is represented as a zero value, since no tax increment will be collected for that site, regardless of increases in actual property value. The taxable difference between the initial assessed value (base year total) and any incremental increase in the value can be captured and (re)invested by the CIA. The estimated capture for the Birmingham CIA is shown in the *Estimated Captured Assessed Value* (right).

For this plan, historic trends have been used to project future values for tax increment. Given the average growth rate over the past six years, TIF projections assume a future increase in taxable value of 6% for the years 2022 and beyond. The City expects this value to increase significantly when new developments are completed.

ESTIMATED CAPTURED TAXABLE VALUE

2015-2040

	Tax Year	Taxable Value ⁽¹⁾	% Value Increase	Base Value	Captured Value
Base Year	2014 (A)	\$ 46,110,000		\$ 46,110,000	\$ -
	2015 (A)	48,800,480	5.83%	46,110,000	2,690,480
	2016 (A)	54,239,550	11.15%	46,110,000	8,129,550
	2017 (A)	54,297,220	0.11%	46,110,000	8,187,220
	2018 (A)	59,052,170	8.76%	46,110,000	12,942,170
	2019 (A)	61,431,850	4.03%	46,110,000	15,321,850
	2020 (A)	66,262,290	7.86%	46,110,000	20,152,290
	2021 (A)	67,586,450	2.00%	46,110,000	21,476,450
	2022	71,641,637	6.00%	46,110,000	25,531,637
	2023	75,940,135	6.00%	46,110,000	29,830,135
	2024	80,496,543	6.00%	46,110,000	34,386,543
	2025	85,326,336	6.00%	46,110,000	39,216,336
	2026	90,445,916	6.00%	46,110,000	44,335,916
	2027	95,872,671	6.00%	46,110,000	49,762,671
	2028	101,625,031	6.00%	46,110,000	55,515,031
	2029	107,722,533	6.00%	46,110,000	61,612,533
	2030	114,185,885	6.00%	46,110,000	68,075,885
	2031	121,037,038	6.00%	46,110,000	74,927,038
	2032	128,299,260	6.00%	46,110,000	82,189,260
	2033	135,997,216	6.00%	46,110,000	89,887,216
	2034	144,157,049	6.00%	46,110,000	98,047,049
	2035	152,806,472	6.00%	46,110,000	106,696,472
	2036	161,974,860	6.00%	46,110,000	115,864,860
	2037	171,693,352	6.00%	46,110,000	125,583,352
	2038	181,994,953	6.00%	46,110,000	135,884,953
	2039	192,914,650	6.00%	46,110,000	146,804,650
	2040	204,489,529	6.00%	46,110,000	158,379,529

Notes

(A) - Actual values

⁽¹⁾ 2022 - 2040 assume 6% growth/year.

In order to make use of tax increment financing the CIA must submit to the City governing body a Tax Increment Financing and Development Plan which the city must approve by resolution. Following approval of resolution, municipal and county treasurers must transfer to the CIA the amount of certain taxes paid to them as a result of increased value. The transmitted funds are denominated “tax increment revenues”. Tax increment revenues are additionally limited as explained below:

“Tax increment revenues” means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the Development Area. Tax increment revenues do not include any of the following:

- a. Taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.*
- b. Taxes levied by local or intermediate school districts.*
- c. Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to the ad valorem property taxes.*
- d. Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to the ad valorem property taxes.*
- e. Ad valorem property taxes exempted from capture under section 18(5) or specific local taxes attributable to the ad valorem property taxes.*
- f. Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific taxes attributable to those ad valorem property taxes.*
- g. Ad valorem property taxes levied under 1 or more of the following specific local taxes attributable to those ad valorem property taxes:*
 - i. The zoological authorities act, 2008 PA49, MCL 123.1161 to 123.1183*
 - ii. The art institute authorities act, 2010 PA 296, MCL 123.1201 to 120.1229.*

- **The maximum amount of bonded indebtedness to be incurred:** The maximum amount of bonded indebtedness to be incurred by, or on behalf of, the City of Birmingham CIA is \$83.9 million. This amount was established using 2021 estimates of the land cost (\$7,500,000), surface parking development cost (\$225,000), structure cost (\$18,000,000), and inflating the costs with the assumption that the land acquisition for the first parking structure construction will occur in 2025 at an adjusted cost of \$9,742,066, with the assumption that a structure will be built in 2026 (\$22,973,068) and the assumption that the second structure's property may be acquired in 2031 (\$13,797,859) and built in 2036 (\$37,420,707).

The construction of parking structure(s) will likely be timed to coincide with major new development. New development may necessitate construction of more than one parking structure. Parking structure(s) may also be partially funded through a public-private partnership with new development. The increased tax increment from major new development will likely accelerate repayment of any bonds for a parking structure.

- **The duration of the program:** This Tax Increment Financing Plan is shown to be effective until 2041, based upon a "worst-case" scenario. Depending on actual market activity and rate of increment capture, this duration may be extended or shortened. With major new development in the district, repayment of bonds for parking facilities could be accelerated. Major new development may also make it feasible to implement land acquisition, parking lot construction and construction of parking structure(s) sooner than expected. Principal and interest on all bonded debt will need to be paid, or sufficient funds to repay the full balance set aside in order to terminate this plan.
- **A statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located:** The impact of tax increment financing on the revenues of all taxing jurisdictions is shown on the *Estimated Tax Capture by Taxing Jurisdiction Table* (next page). The CIA is eligible to capture tax increment revenues from the city, Oakland County and regional authorities, such as Huron-Clinton Metropark Authority, SMART and Oakland County Community College. The

Parking Structure Cost Projections		
Structure #1		Land acquisition and surface parking construction
	2021 Estimated Costs	\$7,725,000
	2025 Estimated Costs ⁽¹⁾⁽²⁾	\$9,742,066
		Parking structure #1
Structure #2	2021 Estimated Costs	\$18,000,000
	2026 Estimated Costs ⁽²⁾	\$22,973,068
		Land acquisition and surface parking construction
	2021 Estimated Costs	\$7,725,000
Structure #2	2031 Estimated Costs ⁽¹⁾⁽²⁾	\$13,797,859
		Parking structure #2
	2021 Estimated Costs	\$18,000,000
	2036 Estimated Costs ⁽²⁾	\$37,420,707
Total		\$83,933,700

(1) Assumes 6% annual land value increase

(2) Assumes 5% annual construction value increase

CIA will pay the debt service on the bonds for development of parking facilities from the tax increment revenues captured in the Development Area.

- **The Authority may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the authority shall be clearly stated in the tax increment financing plan:** The CIA anticipates using all of the captured tax increment revenues to pay the costs of the development of parking facilities.

Estimated Tax Capture by Taxing Jurisdiction

Fiscal Year Ending June 30

Fiscal Year	Captured Value ⁽¹⁾	City of Birmingham			Oakland County		Huron-Clinton Metro Park Authority	Oakland Community College	SMART	Total Mills
		Operating Levy 10.8929	Refuse Levy 0.7930	Library Levy 1.3380	Operating Levy 4.0132	Parks & Rec Levy 0.3470	OPT OUT	1.5057	0.9851	19.8749
2015	-									
2016	-	-	-	-	-	-	-	-	-	-
2017	-	-	-	-	-	-	-	-	-	-
2018	-	-	-	-	-	-	-	-	-	-
2019	-	-	-	-	-	-	-	-	-	-
2020	-	-	-	-	-	-	-	-	-	-
2021	-	-	-	-	-	-	-	-	-	-
2022	-	-	-	-	-	-	-	-	-	-
2023	25,531,637	278,114	20,247	34,161	102,464	8,859	-	38,443	25,151	507,439
2024	29,830,135	324,937	23,655	39,913	119,714	10,351	-	44,915	29,386	592,871
2025	34,386,543	374,569	27,269	46,009	138,000	11,932	-	51,776	33,874	683,429
2026	39,216,336	427,180	31,099	52,471	157,383	13,608	-	59,048	38,632	779,421
2027	44,335,916	482,947	35,158	59,321	177,929	15,385	-	66,757	43,675	881,172
2028	49,762,671	542,060	39,462	66,582	199,708	17,268	-	74,928	49,021	989,029
2029	55,515,031	604,720	44,023	74,279	222,793	19,264	-	83,589	54,688	1,103,356
2030	61,612,533	671,139	48,859	82,438	247,263	21,380	-	92,770	60,695	1,224,544
2031	68,075,885	741,544	53,984	91,086	273,202	23,622	-	102,502	67,062	1,353,002
2032	74,927,038	816,173	59,417	100,252	300,697	26,000	-	112,818	73,811	1,489,168
2033	82,189,260	895,279	65,176	109,969	329,842	28,520	-	123,752	80,965	1,633,503
2034	89,887,216	979,132	71,281	120,269	360,735	31,191	-	135,343	88,548	1,786,499
2035	98,047,049	1,068,017	77,751	131,187	393,482	34,022	-	147,629	96,586	1,948,674
2036	106,696,472	1,162,234	84,610	142,760	428,194	37,024	-	160,653	105,107	2,120,582
2037	115,864,860	1,262,104	91,881	155,027	464,989	40,205	-	174,458	114,138	2,302,802
2038	125,583,352	1,367,967	99,588	168,031	503,991	43,577	-	189,091	123,712	2,495,957
2039	135,884,953	1,480,181	107,757	181,814	545,333	47,152	-	204,602	133,860	2,700,699
2040	146,804,650	1,599,128	116,416	196,425	589,156	50,941	-	221,044	144,617	2,917,727
2041	158,379,529	1,725,212	125,595	211,912	635,609	54,958	-	238,472	156,020	3,147,778
Totals		16,802,637	1,223,228	2,063,906	6,190,484	535,259	-	2,322,590	1,519,548	30,657,652

⁽¹⁾ 2022-2041 assume 6% growth/year.



**BIRMINGHAM TRIANGLE DISTRICT
CORRIDOR IMPROVEMENT AUTHORITY
MINUTES OF TUESDAY OCTOBER 5th, 2021**

Municipal Building Commission Room #205
151 Martin, Birmingham, Michigan

1. Call to Order by City Commissioner Stuart Sherman at 3:30 P.M.
2. Roll Call:

Present: Stuart Sherman
 Kip Cantrick, Jr.
 Thomas Guastello
 Samuel Oh

Absent:

Others Present: City Manager Markus, Assistant City Manager Ecker, Finance Director Gerber, Assistant to the City Manager Fairborn, Senior Planner Cowan

3. Approval of Minutes from January 20, 2017

MOTION: Motion by Mr. Cantrick, seconded by Mr. Sherman
To approve the minutes of January 20, 2017 as presented.

VOTE: Yeas, 2
 Nays, None
 Abstained, Cantrick and Oh

Motion carried 2-0.

4. New Business

- a. Review of Development Plan and TIF Plan updates

Senior Planner Cowan gave a summary of what the CIA had reviewed since it began in 2009 to create a Development and TIF Plan. This included decisions regarding the size of the structure, potential locations for parking structures, and then assumptions used in calculating the projections for land cost, parking structure cost, and TIF capture values.

Staff discussed how the CIA's Development and TIF Plan was approved by the City Commission in 2015 and then the City of Birmingham entered into negotiations with Oakland County from 2015 to 2017 to have them opt in for TIF capture. Oakland County proposed a cap on the TIF capture and a timeframe for parking structure initiation with a

10 year clawback provision. An agreement between Birmingham and Oakland County was not reached at that time. Staff indicated to the CIA that Birmingham had begun to renew discussions with Oakland County, and that the County had requested that the City update its Development and TIF plan to reflect changes since 2015 and to have changes reviewed in public meetings.

Staff presented updates that had been made to the Development and TIF Plan that was originally approved in 2015. Chapter one updates included changes in the existing land use map and the existing parking conditions to reflect new buildings and the change in businesses since 2015. Senior Planner Cowan indicated that the floor-area-ratio of commercial space in the Triangle District was added to the Land Use and Parking section to demonstrate the amount of surface parking lots acting as underutilized space. The Projected Parking Demand section was also updated given the changes in buildings and uses since 2015.

Staff then reviewed changes to the Development Plan in Chapter 2. For the Preliminary Parking Cost estimates, a 6% annual increase from original values was used for updating the land costs. This was based on the average annual increase in assessed value the area has experienced since 2015. A 5% annual increase from original values was used for the interim surface parking lot and parking structure cost. This value was based on an Engineering Construction Cost Index. Senior Planner Cowan and the Board discussed how the updated parking structure cost projections appeared low given recent developments in metro Detroit. The CIA concurred that the updated value appeared low, and that the projection should factor in Royal Oak's recent structures and the quote for Birmingham's N. Old Woodward parking deck proposal from 2019. The CIA also felt the current economy for construction materials would make a parking deck more costly as time goes on, therefore they would like to see projections on the higher end of estimates. Staff indicated that information would be incorporated with updates to projections in the next meeting.

Chapter 2 of the Development Plan was also updated to reflect the change in State policy from Act 280, Public Acts of Michigan, 2005 to P.A. 57 of 2018, Part 6. Section 910 Reporting Requirements was also added to the Development Plan. The City indicated they would be holding at least two informational meetings per year.

Senior Planner Cowan indicated that in Chapter 3 for the TIF plan, The City updated the Estimated Captured Taxable Value to have 6% annual increases instead of 2% from the former plan. The 6% value was used based on historical growth rates in the corridor since 2015.

CIA members commented on County values in the Estimated Tax Capture by Taxing Jurisdiction table. The City's table assumed 75% of County capture, however the CIA felt the table should be updated to include 100% County capture in the TIF Plan.

Commissioner Sherman commented that it was important to negotiate for the highest amount of capture possible.

It was summarized that the CIA wished to have the parking structure cost projections updated to higher values reflecting current costs and projected price increases, that the County's portion of the tax capture table be updated to reflect a 100% capture, and that changes to the document be highlighted in red.

The Board discussed available dates for the next meeting with the goal of conducting a public hearing before the end of October. There was general consensus that Tuesday October 26th at 2 pm would work.

A motion was made by Stuart Sherman to schedule a public hearing for October 26th, 2021 at 2 pm. The motion was seconded by Thomas Guastello.

Yeas – 4

Nays – 0

The motion was approved.

5. Comments from the public (no public was present)

6. Adjournment

The meeting adjourned at 4:05 p.m.

**BIRMINGHAM TRIANGLE DISTRICT
CORRIDOR IMPROVEMENT AUTHORITY
MINUTES OF TUESDAY OCTOBER 26th, 2021**

Municipal Building Commission Room #205
151 Martin, Birmingham, Michigan

1. Call to Order by Chairperson Stuart Sherman at 2:00 P.M.

2. Roll Call:

Present: Stuart Sherman
 Kip Cantrick, Jr.
 Thomas Guastello
 Samuel Oh

Absent:

Others Present: Assistant City Manager Ecker, Finance Director Gerber, Assistant to the City Manager Fairbairn, Senior Planner Cowan

3. Approval of Minutes from January 20th, 2017

MOTION: Motion by Mr. Guastello, seconded by Mr. Cantrick
To approve the minutes of January 20, 2017 as presented

VOTE: Yeas, 4
 Nays, None

Motion carried 4-0.

4. Approval of Minutes from October 5th, 2021

MOTION: Motion by Mr. Guastello, seconded by Mr. Cantrick
To approve the minutes of October 5th, 2021 as presented

5. Unfinished Business

a. Review of Development & TIF Plan updates

Senior Planner Cowan went over updates that were requested at the October 5th, 2021 meeting. The projected parking structure cost was updated to \$18 million with assuming \$40 thousand per parking space. Staff indicated they spoke with developers and professionals involved with parking structure development in metro Detroit who estimated costs of around \$35 to \$40 thousand per space, and that Birmingham should choose the

high end of that value. Comparable parking structure costs for Royal Oak and the N. Old Woodward project were discussed in arriving at an approximate construction value.

Staff also indicated that the estimated tax capture from Oakland County was updated from 75% to 100% as requested.

Chairperson Sherman commented that the total estimated tax capture was approximately 30% of the total estimated project cost which was a stated goal of the CIA from the beginning.

Senior Planner Cowan discussed an informal review of the updated plan with Oakland County staff who had questions regarding the 2015 base year and the 6% projected growth rate. Chairperson Sherman mentioned that Oakland County has reaped the benefits of Birmingham development for many years and that Birmingham is a tax donor to Oakland County. It was discussed how the 6% growth rate is based on actual values and that Birmingham's taxable value grows more than a 2.5% inflationary rate.

There was general consensus from the CIA that Birmingham should maintain the projected 6% growth rate and request that Oakland County permit a 100% tax capture for the purpose of economic development. Building parking structures in the Triangle District will spur development and increase the total taxable values for Oakland County.

Mr. Oh commented on the parking structure cost projections and the differences between Royal Oak's structures and what was planned for the N. Old Woodward project. Staff discussed how a number of factors were considered in the estimate including rising construction costs, underground spaces, and accomodating commercial space. The CIA discussed how they did not have exact plans for a structure, and were only looking for approximate values that can be justified at this time for the purpose of creating the Development and TIF Plan.

Overall the CIA was satisfied with the updates made to the Development and TIF Plan.

A motion was made by Kip Cantrick to recommend approval of the updates to the CIA's Development and TIF Plan to the City Commission. The Motion was seconded by Thomas Guastello.

Yeas – 4
Nays – 0

The motion was approved.

5. Comments from the public (no public was present)

6. Adjournment

The meeting adjourned at 2:35 p.m.

DRAFT

**BIRMINGHAM TRIANGLE DISTRICT
CORRIDOR IMPROVEMENT AUTHORITY
MINUTES OF TUESDAY OCTOBER 26th, 2021**

Municipal Building Commission Room #205
151 Martin, Birmingham, Michigan

1. Call to Order by Chairperson Stuart Sherman at 2:00 P.M.

2. Roll Call:

Present: Stuart Sherman
 Kip Cantrick, Jr.
 Thomas Guastello
 Samuel Oh

Absent:

Others Present: Assistant City Manager Ecker, Finance Director Gerber, Assistant to the City Manager Fairbairn, Senior Planner Cowan

3. Approval of Minutes from January 20th, 2017

MOTION: Motion by Mr. Guastello, seconded by Mr. Cantrick
To approve the minutes of January 20, 2017 as presented

VOTE: Yeas, 4
 Nays, None

Motion carried 4-0.

4. Approval of Minutes from October 5th, 2021

MOTION: Motion by Mr. Guastello, seconded by Mr. Cantrick
To approve the minutes of October 5th, 2021 as presented

5. Unfinished Business

a. Review of Development & TIF Plan updates

Senior Planner Cowan went over updates that were requested at the October 5th, 2021 meeting. The projected parking structure cost was updated to \$18 million with assuming \$40 thousand per parking space. Staff indicated they spoke with developers and professionals involved with parking structure development in metro Detroit who estimated costs of around \$35 to \$40 thousand per space, and that Birmingham should choose the

high end of that value. Comparable parking structure costs for Royal Oak and the N. Old Woodward project were discussed in arriving at an approximate construction value.

Staff also indicated that the estimated tax capture from Oakland County was updated from 75% to 100% as requested.

Chairperson Sherman commented that the total estimated tax capture was approximately 30% of the total estimated project cost which was a stated goal of the CIA from the beginning.

Senior Planner Cowan discussed an informal review of the updated plan with Oakland County staff who had questions regarding the 2015 base year and the 6% projected growth rate. Chairperson Sherman mentioned that Oakland County has reaped the benefits of Birmingham development for many years and that Birmingham is a tax donor to Oakland County. It was discussed how the 6% growth rate is based on actual values and that Birmingham's taxable value grows more than a 2.5% inflationary rate.

There was general consensus from the CIA that Birmingham should maintain the projected 6% growth rate and request that Oakland County permit a 100% tax capture for the purpose of economic development. Building parking structures in the Triangle District will spur development and increase the total taxable values for Oakland County.

Mr. Oh commented on the parking structure cost projections and the differences between Royal Oak's structures and what was planned for the N. Old Woodward project. Staff discussed how a number of factors were considered in the estimate including rising construction costs, underground spaces, and accommodating commercial space. The CIA discussed how they did not have exact plans for a structure, and were only looking for approximate values that can be justified at this time for the purpose of creating the Development and TIF Plan.

Overall the CIA was satisfied with the updates made to the Development and TIF Plan.

A motion was made by Kip Cantrick to recommend approval of the updates to the CIA's Development and TIF Plan to the City Commission. The Motion was seconded by Thomas Guastello.

Yeas – 4
Nays – 0

The motion was approved.

5. Comments from the public (no public was present)

6. Adjournment

The meeting adjourned at 2:35 p.m.

DRAFT



MEMORANDUM

Police Department

DATE: December 1, 2021

TO: Thomas M. Markus, City Manager

FROM: Chris Busen, Investigative Commander

APPROVED: Mark H. Clemence, Chief of Police

SUBJECT: Sushi Japan, Inc.'s Request for a Redevelopment Quota Class C and SDM Liquor License with Sunday Sales (AM and PM) Permits to be Located at 176 S Old Woodward, Birmingham, Oakland County, Michigan, to be Issued Pursuant to MCL 436.1521a(1)(b).

INTRODUCTION:

The police department has received a request from the Law Offices of Adkison, Need, Allen, and Rentrop for a Redevelopment Class C and SDM liquor license with Sunday Sales (AM/PM) for Sushi Japan, Inc. ("Sushi Japan") at 176 S Old Woodward, Birmingham, Oakland County, MI 48009. Sushi Japan has paid the initial fee of \$1,500.00 for a business that serves alcoholic beverages for consumption on the premises per section 7.33 of the Birmingham City Code. On July 12, 2021, the City Commission approved a Special Land Use Permit (SLUP) for Sushi Japan to operate with a Bistro License for 176 S Old Woodward, pursuant to Article 7, Section 7.34, Zoning, of the Birmingham City Code (minutes attached). The sole stockholder of Sushi Japan is Ximing Yu.

BACKGROUND:

Sushi Japan is a Chinese, Japanese, and Sushi restaurant serving lunch and dinner. Sushi Japan will be open from 11:00 a.m. to 10:30 p.m. from Monday-Thursday, 11:00 a.m. to 11:00 p.m. on Friday and Saturday and 11:00 a.m. to 9:30 p.m. on Sunday. Sushi Japan is approximately 2,200 square feet and has seating for approximately 56 patrons, which includes five seats at the bar. Sushi Japan has expended \$115,000 in the restoration and rehabilitation of the building. Sushi Japan will pay \$27,000 for the license and the initial alcoholic beverage inventory. This has been paid out of personal funds and secured bank financing. On August 19, 2021, Sushi Japan submitted an application to the Michigan Liquor Control Commission requesting the new Class C liquor license. Sushi Japan has a lease with the property owner Merrillwood Investments, LLC for 10 ½ years at \$7,500.00 per month.

Sushi Members

Percentage of Interest

Ximing Yu

100%

A background check was conducted on Ximing Yu using the Law Enforcement Information Network (LEIN), the Courts and Law Enforcement Management Information System (CLEMIS) and the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network (MAGLOCLIN)

FBI N-DEX national database. Yu has no criminal convictions and no negative law enforcement contacts.

LEGAL REVIEW:

Non-applicable

FISCAL IMPACT:

\$1,500.00 liquor license application fee received.

PUBLIC COMMUNICATIONS:

Non-applicable

SUMMARY:

Sushi Japan has requested approval from the City for a new Class C liquor license issued under MCL 436.1521 a(1)(b) (the "Redevelopment License Law") and the City of Birmingham's bistro ordinance to be located at 176 S Old Woodward, Birmingham. Sushi Japan also requests the following permits: SDM License and Sunday Sales (AM/PM) permit. The applicant, Ximing Yu, has successfully completed the police background check. The City Commission has already approved Sushi Japan, Inc.'s Final Site Plan and SLUP at a previous Commission meeting on July 12, 2021. The police department has not uncovered any information that would give cause to deny the applicant's request.

ATTACHMENTS:

City Commission meeting minutes of July 12, 2021.

SUGGESTED COMMISSION ACTION:

- A. Make a motion adopting a resolution to authorize the City Clerk to complete the Local Approval Notice at the request of Sushi Japan, Inc. approving the liquor license request of Sushi Japan, Inc. requesting a Redevelopment Quota Class C and SDM liquor license to be issued pursuant to MCL 436.1521 a(1)(b) with Sunday Sales (AM/PM) located at 176 S Old Woodward, Birmingham, Oakland County, MI 48009.

Birmingham City Commission Minutes

July 12, 2021

7:30 p.m.

Municipal Building, 151 Martin

Vimeo Link: <https://vimeo.com/event/3470/videos/568732055/>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Pierre Boutros, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

Alexandria Bingham, City Clerk, called the roll.

Present: Mayor Boutros
Mayor Pro Tem Longe
Commissioner Hoff
Commissioner Host
Commissioner Nickita
Commissioner Sherman

Absent: Commissioner Baller

Administration: City Manager Markus, City Clerk Bingham, BSD Operations & Event Manager Brook, City Planner Cowan, City Planner Dupuis, Planning Director Ecker, Operations Commander Grewe, City Attorney Kucharek, Consulting City Engineer Surhigh

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

ANNOUNCEMENTS

The City Commission wishes Mayor Pro Tem Longe a happy birthday!

IV. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

Paul Reagan opined that the Commission agendas tend to focus more on commercial matters than residential matters. He encouraged residents to run for elected office in the City if they would like to see more of a residential focus at the Commission level.

Oakland County Commissioner Chuck Moss shared his contact information and provided brief updates. He said that as a Birmingham resident he was also pleased with the City's emergency services response to the recent storms and thanked them for their work.

V. 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

request of Hospitality Birmingham, LLC that requested a Class C License be transferred under MCL 436.1521 (A)(1)(B) & SDM License with Outdoor Service and an Entertainment Permit located at 115 Willits, Birmingham, Oakland County, MI 48009.

ROLL CALL VOTE: Ayes, Commissioner Sherman
 Commissioner Nickita
 Mayor Boutros
 Commissioner Hoff
 Commissioner Host
 Mayor Pro Tem Longe

Nays, None

**07-183-21 Public Hearing for 176 S. Old Woodward – Sushi Japan –
Special Land Use Permit, Final Site Plan & Design Review**

The Mayor opened the public hearing at 10:42 p.m.

PD Ecker presented the item. She noted that the Engineering Department requested changes to the outdoor dining plan.

John Gardner, architect for the project, was present on behalf of the application. He stated that plans complying with the Engineering Department's requests were submitted to the Planning Department on July 9, 2021. He explained that the four-top table to the north would remain, the two-top table to the south along the street side would be removed, the fence along the south side would be removed, the southernmost planter would be removed, and all outdoor dining items would be moved back an additional 12 inches from the street.

The Mayor closed the public hearing at 11:00 p.m.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Host:
To approve the Special Land Use Permit, Final Site Plan and Design Review application for 176 S. Old Woodward – Sushi Japan conditioned upon the changes that were stated.

In reply to Commissioner Nickita, PD Ecker explained that the Commission did not receive a copy of the updated site plans because the plans were submitted after the Wednesday noon deadline for agenda submissions and because she was out-of-office Monday afternoon when the updated plans were submitted.

CM Markus recommended that the approval be conditioned upon the changes that were identified during the discussion of the item.

ROLL CALL VOTE: Ayes, Commissioner Hoff
 Commissioner Host
 Commissioner Sherman
 Mayor Pro Tem Longe
 Commissioner Nickita
 Mayor Boutros

Nays, None

DATE: 12/08/2021

TO: Thomas M. Markus, City Manager

FROM: Eric Brunk, IT Manager

SUBJECT: Adobe Creative Cloud subscription renewal

INTRODUCTION:

A number of Departments are using a subscription license for Adobe creative cloud for teams. This subscription has a yearly renewal and gives those users the ability to use the entire suite of adobe products and grants them access to the latest version of those products. The current subscription is up for renewal the end of December 2021.

BACKGROUND:

Adobe has 2 avenues for the purchase of its software. A Perpetual license, where you purchase the individual software applications and then purchase the newer versions when they are available and a subscription license where you purchase a yearly subscription to their software and services and automatically receive the latest versions as they become available. Adobe has continually increased its perpetual application license costs to direct consumers to their subscription software avenue. The subscription cost for the entire suite is less that a yearly perpetual license for only a few applications. We have purchased the original subscription license from CDWG and it is time for renewal. The renewal cost for the subscription license is \$938.14 per license. We currently hold 9 licenses so the total cost for the renewal is \$8,443.26. This renewal is being purchased under the Michigan Master Computing – MiDeal Agreement, a government purchasing schedule.

LEGAL REVIEW:

This is a standard subscription license for a software product.

FISCAL IMPACT:

This purchase is a budgeted item.

SUMMARY:

The IT department is requesting the ability to purchase the renewal for 9 subscription licenses of Adobe Creative cloud for teams – All apps from CDWG for a total cost of \$8443.26.

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to allow the IT department to purchase the renewal of 9 licenses of Adobe Creative Cloud from CDWG for a total purchase price of \$8,443.26 using funds available in the IT computer software account 636-228.000-742.0000

QUOTE CONFIRMATION



DEAR ERIC BRUNK,

Thank you for considering CDW•G LLC for your computing needs. The details of your quote are below.
[Click here](#) to convert your quote to an order.

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
MMNX389	12/2/2021	MMNX389	5969901	\$8,443.26

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Adobe Creative Cloud for teams - All Apps - Subscription Renewal - 1 user Mfg. Part#: 65304042BC01A12 Electronic distribution - NO MEDIA Contract: Michigan Master Computing-MiDEAL (071B6600110)	9	5868003	\$938.14	\$8,443.26

PURCHASER BILLING INFO	SUBTOTAL	\$8,443.26
Billing Address: CITY OF BIRMINGHAM ACCOUNTS PAYABLE 151 MARTIN ST PO BOX 3001 BIRMINGHAM, MI 48009-3368 Phone: (248) 530-1850 Payment Terms: Net 30 Days-Govt State/Local	SHIPPING	\$0.00
	SALES TAX	\$0.00
	GRAND TOTAL	\$8,443.26
	Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	
DELIVER TO		
Shipping Address: CITY OF BIRMINGHAM ERIC BRUNK 151 MARTIN ST BIRMINGHAM, MI 48009-3368 Phone: (248) 530-1885 Shipping Method: ELECTRONIC DISTRIBUTION		

Need Assistance? CDW•G LLC SALES CONTACT INFORMATION



Ryan Marron

(877) 219-8208

ryamarr@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at
<http://www.cdwg.com/content/terms-conditions/product-sales.aspx>
For more information, contact a CDW account manager

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DATE: December 9, 2021

TO: Thomas M. Markus, City Manager

FROM: Alexandria Bingham, City Clerk

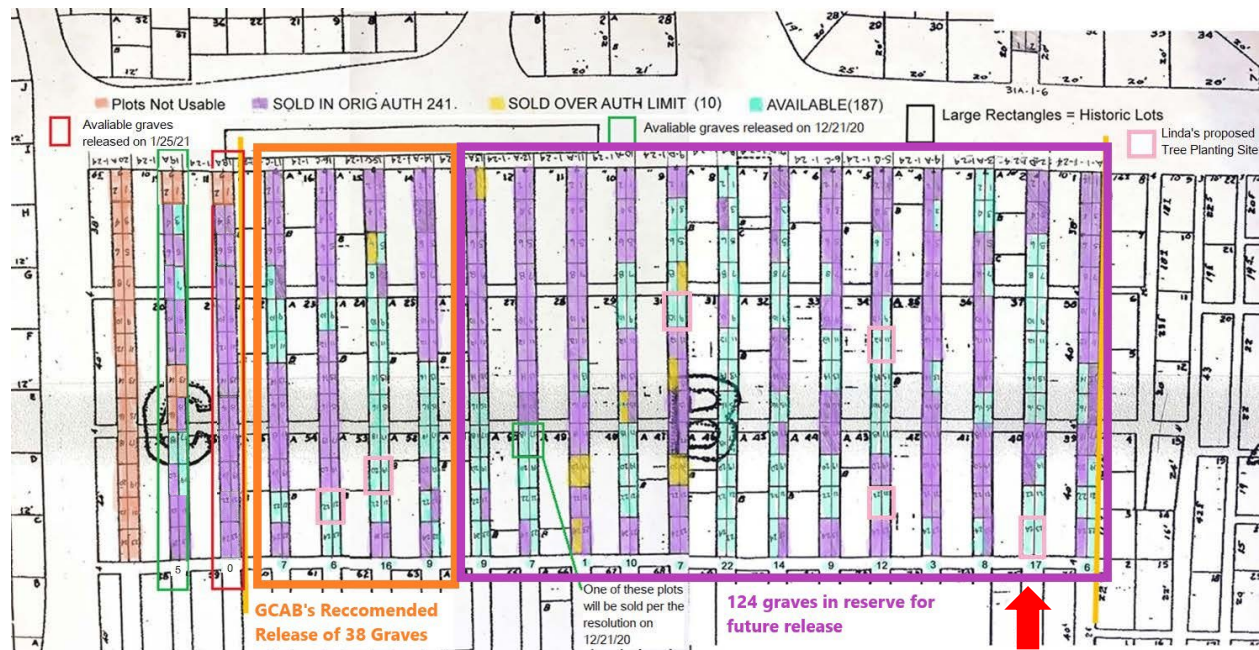
SUBJECT: Grave Release Request

INTRODUCTION:

Cheri Arcome of Creative Collaborations, the city's contracted cemetery services provider, recently brought an issue to the attention of the City Clerk. There is a family with space in the cemetery is currently in an "at need" situation to acquire another space. The family desires to place a recently expired family member adjacent to their existing family plots.

BACKGROUND:

On April 26, 2021 the City Commission approved a grave release that restricted new sales to only the rows highlighted in the map below in orange:



The family needing space currently has family members in section B, row 2-A. In order to allow the family to have their members together in the cemetery a space must be released in section B, row 2-A.

The family is planning to purchase a lot and hold services later this month.

****Section B, Row 2-A is indicated on the above map with a red arrow.**

LEGAL REVIEW:

N/A

FISCAL IMPACT:

This plot will be sold at the current rate of \$4,000 per space as indicated on the city's fee schedule. All revenue from cemetery plot sales is deposited into the Perpetual Care Fund, account number: 150.000.000-643.0000.

PUBLIC COMMUNICATIONS:

All decisions in regards to releasing graves for sale in Greenwood Cemetery are made by the City Commission, in open public meetings that are noticed allowing for public comment.

SUMMARY:

The City Clerk and Contracted Cemetery Service Provider recommend the release of one grave in section B, row 2-A, in order to allow a family in an "at need" situation to stay together with adjacent plots in the cemetery.

ATTACHMENTS:

- City Commission minutes from April, 26, 2021, see resolution number 04-128-21 regarding the most recent grave release.

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to release one grave in section B, row 2-A, for the family in an "at need" situation to purchase another plot adjacent to their existing family plots.

Birmingham City Commission Minutes

April 26, 2021

7:30 P.M.

Virtual Meeting

Meeting ID: 655 079 760

Vimeo Link: <https://vimeo.com/event/3470/videos/538949933/>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Pierre Boutros, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

Alexandra Bingham, City Clerk, called the roll.

Present: Mayor Boutros (location: Birmingham, MI)
Mayor Pro Tem Longe (location: Birmingham, MI)
Commissioner Baller (location: Birmingham, MI)
Commissioner Hoff (location: Birmingham, MI)
Commissioner Host (location: Birmingham, MI)
Commissioner Nickita (location: Birmingham, MI)
Commissioner Sherman (location: Birmingham, MI)

Absent: None

Administration: City Manager Markus, City Clerk Bingham, Police Chief Clemence, City Planner Dupuis, City Attorney Kucharek, Planning Director Ecker, Finance Director Gerber, Interim HR Director/Assistant City Manager Hock, Building Official Johnson, City Attorney Kucharek, DPS Director Wood

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

PROCLAMATIONS

- Proclamation on Mental Health Awareness
- Proclamation on Gun Violence Awareness

APPOINTMENTS

04-115-21 Appointment of Larry Bertollini to the Architectural Review Committee

The Commission noted that Larry Bertollini was not able to attend the present meeting, but has been a member of the ARC since 2012.

MOTION: Nomination by Commissioner Host:

To appoint Larry Bertollini as a regular member to the Architectural Review Committee to serve a three-year term to expire April 11, 2024.

ROLL CALL VOTE: Ayes, Commissioner Host
Commissioner Sherman
Mayor Pro-Tem Longe
Mayor Boutros
Commissioner Baller
Commissioner Nickita
Commissioner Hoff

Nays, None

04-116-21 Appointment of Pierre Yaldo to the Brownfield Redevelopment Authority

The Commission interviewed Pierre Yaldo for the appointment.

MOTION: Nomination by Commissioner Host:
To concur with the Mayor’s appointment of Pierre Yaldo as a regular member to the Brownfield Redevelopment Authority to serve a three-year term to expire May 23, 2024.

ROLL CALL VOTE: Ayes, Commissioner Host
Commissioner Sherman
Mayor Pro-Tem Longe
Mayor Boutros
Commissioner Baller
Commissioner Nickita
Commissioner Hoff

Nays, None

04-117-21 Appointment of Karson Claussen to the Housing Board of Appeals

The Commission interviewed Karson Claussen for the appointment.

MOTION: Nomination by Commissioner Host:
To appoint Karson Claussen as a regular member to the Housing Board of Appeals to serve a three-year term to expire May 4, 2024.

ROLL CALL VOTE: Ayes, Commissioner Host
Commissioner Sherman
Mayor Pro-Tem Longe
Mayor Boutros
Commissioner Baller
Commissioner Nickita
Commissioner Hoff

Nays, None

04-118-21 Appointment of Phil Vincenti to the Housing Board of Appeals

The Commission interviewed Phil Vincenti for the appointment.

MOTION: Nomination by Commissioner Nickita:
To appoint Phil Vincenti as a regular member to the Housing Board of Appeals to serve a three-year term to expire May 4, 2024

ROLL CALL VOTE: Ayes, Commissioner Nickita
Commissioner Hoff
Commissioner Host
Commissioner Sherman
Mayor Pro-Tem Longe
Mayor Boutros
Commissioner Baller

Nays, None

IV. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

None.

V. 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.

04-119-21 Consent Agenda

The following items were pulled from the Consent Agenda:

- Commissioner Hoff: Item B – City Commission Meeting Minutes of April 12, 2021
- Item E – Michigan Parkinson's Foundation Walk at Seaholm

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:
To approve Consent Agenda with the exclusion of Items B and E.

ROLL CALL VOTE: Ayes, Commissioner Sherman
Commissioner Nickita
Commissioner Hoff
Mayor Boutros
Commissioner Baller
Commissioner Host
Mayor Pro Tem Longe

Nays, None

- A. Resolution to approve the Workshop meeting minutes of April 12, 2021
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 14, 2021, in the amount of \$809,759.86
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 21, 2021, in the amount of \$493,415.90
- F. Resolution directing the Treasurer to transfer the following unpaid and delinquent special assessment and invoices, including interest and penalty, to the 2021 City tax roll and to authorize removal from the list any bills paid after City Commission approval. (Complete resolution in agenda packet)
- G. Resolution directing the Treasurer to transfer the following unpaid and delinquent water/sewage bills of the properties listed in this report to the 2021 city tax roll and to authorize removal from the list any bills paid or a payment plan agreement signed after City Commission approval. (Complete resolution in agenda packet)
- H. Resolution to approve the purchase of holiday lights from Wintergreen Corporation for a total cost not to exceed \$29,910.00. Funds are available from the General Fund-Community Activities-Operating Supplies account #101-441.004-729.0000 and Property Maintenance-Operating Supplies account # 101-441.003-729.0000 for this purchase.
- I. Resolution to set a public hearing date for May 24, 2021 to consider the Special Land Use Permit, Final Site Plan and Design Review application for 720 N. Old Woodward – Vinewood Bistro.
- J. Resolution to set a public hearing for May 24, 2021 to consider a lot split for the property known as 525 W. Brown.
- K. Resolution to set a public hearing for May 24, 2021 for the lot combination application of 385 & 353 Fairfax, Parcel # 19-26-451-018 and Parcel # 19-26-451-019.

04-120-21 (Item B) City Commission Meeting Minutes of April 12, 2021

Commissioner Hoff asked that her early departure from the meeting be noted in the body of the minutes on page 12.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Nickita:
To approve the City Commission meeting minutes of April 12, 2021.

ROLL CALL VOTE: Ayes, Commissioner Hoff
Commissioner Nickita
Mayor Boutros
Commissioner Baller
Commissioner Sherman
Mayor Pro Tem Longe
Commissioner Host

Nays, None

04-121-21 (Item E) Michigan Parkinson's Foundation Walk at Seaholm

In reply to Commissioner Hoff, City Clerk Bingham clarified that both the MPF Walk and Yoga in the Park would be held on Saturday, June 26, 2021.

Commissioner Hoff said she saw no conflict between the two events and that she had just wanted confirmation of the dates.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Baller:
To approve a request from the Michigan Parkinson Foundation to hold the “I gave my sole to Parkinsons” walk at Seaholm High School and on the surrounding streets on June 26, 2021 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further, pursuant to any modifications or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event, due to public health and safety measures.

ROLL CALL VOTE: Ayes, Commissioner Hoff
Commissioner Baller
Commissioner Sherman
Mayor Pro Tem Longe
Commissioner Host
Commissioner Nickita
Mayor Boutros

Nays, None

VI. UNFINISHED BUSINESS

04-122-21 Lot Combination of 34350 Woodward Avenue and 907-911 Haynes Street

CP Cowan reviewed the item.

Commissioner Host thanked CP Cowan for highlighting the new information in blue in the agenda item.

Commissioner Hoff asked that in the future updated drawings and information be provided with the agenda packet when it goes out to the Commissioners on Thursdays, instead of being provided on Fridays.

MOTION: Motion by Commissioner Nickita, seconded by Mayor Pro Tem Longe:
To cancel the public hearing on the proposed lot combination of 34350 Woodward and 907-911 Haynes, parcel #19-36-281-022 and parcel #19-36-281-030 and direct the applicant to first obtain Final Site Plan and SLUP approval for expanding the use of an auto sales and auto showroom use in the MU-5 and MU-7 zones.

Jason Canvasser, attorney for the applicant, asked the Commission to indicate whether they were broadly amenable to the proposed plans while still understanding the plans would need to undergo review by the Planning Board and the Board of Zoning Appeals.

Commissioner Baller said that while he understood Mr. Canvasser’s request the applicant may not get an answer to the question during the present proceedings.

Commissioner Nickita noted that while the prototype building being proposed has strict guidelines imposed by Porsche corporate, it does not obligate the City to accept the building as-planned. He said that even though there may not be flexibility in the building’s parameters on the applicant’s part, the City must still either approve buildings that adhere to ordinance or grant variances from the ordinances.

Public Comment

Mr. Canvasser additionally asked the Commission to indicate when the agreements in the proposal would be re-addressed.

Commissioner Nickita said the Commission’s regular consideration of the item over a number of months indicates its intention to try and work out a mutually beneficial agreement with the applicant.

ROLL CALL VOTE: Ayes, Commissioner Nickita
Mayor Pro Tem Longe
Commissioner Host
Mayor Boutros
Commissioner Hoff
Commissioner Baller

Commissioner Sherman

Nays, None

04-123-21 2021 Initial Screening for Bistro Applicants - Spring

PD Ecker reviewed the item. She noted that Maple & One would be pursuing a SLUP amendment instead of a bistro license.

Commissioner Sherman recommended The French Lady re-apply in Fall 2021 given that there were two other bistro reviews pending and one with a scheduled public hearing.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:
To take no action on the bistro application for The French Lady at this time.

In reply to Commissioner Nickita, PD Ecker concurred it would be useful to give the fall bistro applicants a 90-day time limit for submitting their documentation moving forward so that it was more clear how many bistro licenses might be available for the spring applicants.

ROLL CALL VOTE: Ayes, Commissioner Sherman
Commissioner Hoff
Commissioner Baller
Mayor Pro Tem Longe
Commissioner Host
Commissioner Nickita
Mayor Boutros

Nays, None

04-124-21 Chesterfield Fire Station - Park Designation

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Baller:
To refer this matter to the Parks and Recreation Board for their review, discussion and recommended actions about designating a portion of the Chesterfield Fire Station property as a City Park and provide formal park naming procedures. Further, to consider potential park site amenities and budget implications in order to undertake such endeavor, and to take into consideration the needs of the Chesterfield Fire Station.

Commissioner Hoff said she would send her list of concerns about this proposal to DPS Director Wood for consideration by the Parks and Recreation Board.

Commissioner Nickita recommended that Parks and Recreation Board consider how this proposed park would fit within the City's system of parks overall.

Commissioner Baller expressed interest in Commissioner Hoff's concerns, said he concurred with Commissioner Nickita, and said that this item might be a good opportunity for the City to utilize the Bang the Table tool or other ways to facilitate collaboration on the discussion between the Commission and the Parks and Recreation Board.

ROLL CALL VOTE: Ayes, Commissioner Sherman
Commissioner Baller
Mayor Pro Tem Longe
Commissioner Host
Commissioner Nickita
Mayor Boutros
Commissioner Hoff

Nays, None

VII. NEW BUSINESS

04-125-21 Unimproved Streets Policy Modifications

Consulting City Engineer Surhigh summarized the item. In reply to Commissioner Hoff, he stated that an expression of interest would be solicited from residents once the Engineering Department completes its unimproved streets rankings.

CM Markus added that the City would provide the residents of unimproved streets with an estimate of the approximate costs of improving their street. He said this process moves the City more towards initiating the process of improving streets versus only waiting for resident petitions as was done in the past. He also stated that assessments would occur as part of the process, and that it was unrealistic to imagine the City would be able to fund the entire process.

Commissioner Baller ventured that residents often care more about the condition of the street’s surface than the condition of the water lines or sewers. Consequently, he recommended that the Engineering Department weigh the former criterion more heavily than the latter in its ranking system.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Nickita:
To follow up on the unimproved streets workshop in regards to unimproved street policy modifications.
(Complete resolution in agenda packet)

Mayor Pro Tem Longe said she was in support of the resolution as it would help clarify the likely costs and help inform future City policy on the matter.

Mayor Boutros commended Consulting City Engineer Surhigh for his work on the item.

ROLL CALL VOTE: Ayes, Commissioner Hoff
Commissioner Nickita
Mayor Boutros
Commissioner Sherman
Commissioner Baller
Mayor Pro Tem Longe
Commissioner Host

Nays, None

04-126-21 Ordinance Amendment Fee Schedule Memo

MOTION: Motion by Commissioner Sherman, seconded by Mayor Pro Tem Longe:
To adopt the proposed ordinance:
Sec. 1-16. – Fee Schedule
Fees for application, plan reviews, permits, inspections, licenses, registrations, appeals, and other charges or penalties shall be specified in the schedule of fees, charges, bonds and insurance. All fees are subject to change from time to time as recommended by city staff and as determined by resolution of the City Commission. Ordained on this 26th day of April 2021. Effective upon publication.

In reply to Commissioner Hoff, City Attorney Kucharek stated she was recommending this language be added to the City’s ordinances in order to ensure that fee-related matters were covered as part of the ordinances’ general provisions.

ROLL CALL VOTE: Ayes, Commissioner Sherman
Mayor Pro Tem Longe
Commissioner Host
Commissioner Nickita
Mayor Boutros
Commissioner Hoff
Commissioner Baller

Nays, None

04-127-21 Greenwood Cemetery Fee Schedule Proposed Revisions

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Host:
To amend the City’s schedule of Fees, Charges, Bonds and Insurance under the City Clerk’s Office section in regards to Greenwood Cemetery as proposed in the item’s report.

City Clerk Bingham stated that these fees go to paying the subcontractor that performs the necessary work.

In reply to Commissioner Sherman, City Attorney Kucharek stated that she would review any outstanding purchase agreements to see if the City can require they be returned within a certain timeframe. She said

that at the direction of the City Manager she would also review the purchase agreement template to add any language necessary to protect the City’s interests.

Cheri Arcome of Creative Collaborations stated that City Clerk Bingham can send the City Attorney the purchase agreement template.

In reply to Commissioner Sherman, City Clerk Bingham stated that the currently proposed fee changes would be effective after this ordinance is approved by the Commission and published. She stated that the fee changes approved at the March 22, 2021 Commission meeting were already in effect.

In reply to Commissioner Hoff, City Clerk Bingham stated that the cost to repair damages done to markers or monuments by lawnmowers or natural changes would come out of the perpetual care fund.

Public Comment

Andrew Haig made a recommendation about timing of payments for gravesite purchases.

Commissioner Hoff stated that it was her recollection that the City prohibited payment plans for grave purchases.

Ms. Arcome stated that the Cemetery’s Rules and Regulations currently allow payment plans and outline the process of their creation.

Commissioner Hoff said the matter should be looked into further since she was sure payment plans were prohibited.

City Clerk Bingham said GCAB would be looking into clarifying the payment plans section of the Rules and Regulations at an upcoming meeting.

CM Markus noted that the present conversation was no longer germane to the motion.

Margaret Suter, resident and member of GCAB, said the previous change in payment plans eliminated the variety of options available and replaced them with a single option that would allow a purchaser to pay over the course of two years.

ROLL CALL VOTE: Ayes, Commissioner Sherman
 Commissioner Host
 Commissioner Hoff
 Commissioner Nickita
 Mayor Boutros
 Commissioner Baller
 Mayor Pro Tem Longe

Nays, None

04-128-21 Greenwood Cemetery Grave Release

MOTION: Motion by Commissioner Host, seconded by Commissioner Nickita:
To release 38 graves in section B, rows 17-C, 16-C, 15-C, and 14-A to be available for purchase in Greenwood Cemetery.

Commissioner Hoff reiterated her ongoing stance that any other available graves in the Cemetery should be located via reclamation, ground-penetrating radar, cross-referencing of records, or any other means, and released for sale before further selling graves in historic Sections A and B.

It was noted that the Commission discussed and approved plans for creating and selling gravesites in Sections B and C in 2015. Commissioner Nickita said this proposed grave release was a continuation of that process which has been ongoing for a number of years.

Mayor Boutros echoed Commissioner Nickita.

Mayor Boutros and Commissioners Nickita and Sherman said they were also in favor of utilizing the mechanisms listed by Commissioner Hoff to locate possible additional graves outside of the historical sections.

CM Markus stated that the GCAB, City Clerk Bingham, Ms. Arcome, DPW and himself all were recommending the currently proposed grave release. He noted that nine sites have partial obstructions but those would not preclude the burial of cremated remains.

Commissioner Hoff expressed concern that the turnover in the Clerk’s Office staff in the last few years has lead to difficulties for GCAB because ‘things have slipped through the cracks’. She acknowledged that the reconciliation of Cemetery records is a large undertaking and said more time was required to know what additional graves might be available outside the historical sections.

Commissioner Nickita noted that the aisles in Sections B and C would remain walkable even with the sale of additional graves in those sections.

Public Comment

Fred Lavery said he owned two plots in the Cemetery that are as yet unused, and said the graves’ lack of occupancy did not reflect the graves’ availability for reclamation.

ROLL CALL VOTE: Ayes, Commissioner Host
 Commissioner Nickita
 Commissioner Sherman
 Commissioner Baller
 Mayor Pro Tem Longe
 Mayor Boutros

Nays, Commissioner Hoff

04-129-21 Greenwood Cemetery Contract Service Provider Annual Renewal

City Clerk Bingham presented the item.

MOTION: Motion by Mayor Pro Tem Longe, seconded by Commissioner Host:
To authorize the agreement with Creative Collaborations, LLC, a Cemetery Service Provider firm to act, on behalf of the City, as the service provider to the Historic Greenwood Cemetery for a term of one year with annual renewals until either party exercises the termination provisions as stated in the contract. The annual contract is set for an amount not to exceed \$45,600.00, which will be paid from account #101-215.000-811.0000.

Mayor Pro Tem Longe moved the motion, saying that a number of current factors make the decision to renew the contract with Creative Collaborations at this time the most judicious one.

ROLL CALL VOTE: Ayes, Mayor Pro Tem Longe
 Commissioner Host
 Commissioner Sherman
 Commissioner Hoff
 Commissioner Nickita
 Mayor Boutros
 Commissioner Baller

Nays, None

Commission discussion on items from prior meeting.

- 1. Builder developer street damage. Issues, costs, remedial action and payment proposal.

CM Markus reported that he had met with Mr. Haig, and that many of Mr. Haig’s recommendations are already in place in the City. He stated that Mr. Haig had recommended the City consider requiring that builders obtain a bond while building a new home in order to repair damage to public property that may not be immediately visible. CM Markus stated that he would be looking into possible ways of instituting that requirement and would be returning to the Commission with a proposal. He said that the City generally has the appropriate policies in place to prevent construction damage and needs to spend more energy on enforcement.

Commission Items for Future Discussion. A motion is required to bring up the item for future discussion at the next reasonable agenda, no discussion on the topic will happen tonight.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

A. Short Term Rentals – Haig

Mr. Haig asked the City to look into Ferndale, Michigan’s recently passed provisions regarding short-term rentals to see if they might provide a model for Birmingham’s ordinances.

City Attorney Kucharek stated she would be presenting potential ordinance language to address short-term rentals at the Commission’s upcoming workshop on the topic.

Commissioner Nickita stated that the Michigan Municipal League (MML) has also done work regarding short-term rentals in the past few years and that it would be worthwhile for Staff to see how the MML’s research might inform Birmingham’s policies.

X. REPORTS

- A. Commissioner Reports
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions’ Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. Manager’s Report

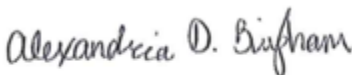
CM Markus reviewed the item. He confirmed, in reply to Commissioner Hoff, that outdoor dining allowances for restaurants would be on an upcoming Commission agenda.

- 2. Indexing of Fees
- 3. Prior Communications with Restoration Hardware

INFORMATION ONLY

XI. ADJOURN

Mayor Boutros adjourned the meeting at 10:25 p.m.



Alexandria Bingham, City Clerk
/le



MEMORANDUM

Planning Department

DATE: November 29th, 2021

TO: Thomas M. Markus, City Manager

FROM: Brooks Cowan, Senior Planner

APPROVED: Nick Dupuis, Planning Director

SUBJECT: Public Hearing – To Amend Article 7, Section 7.41-7.46 – Processes, Permits, and Fees & Article 9, Section 9.02 Definitions of the Zoning Ordinance to Create a Wall Art Definition and Review Process

INTRODUCTION:

Conversations regarding wall art in Birmingham have occurred with the Public Arts Board, Design Review Board, and staff over the years. A number of mural inquiries from property owners and residents have been made, though Birmingham does not currently permit murals on the exterior of buildings.

BACKGROUND:

On August 19th, 2020, the Design Review Board conducted a study session related to murals and art on the exterior of buildings. The issue was brought up by staff when Griffin Claw Brewery requested to have an artist paint a mural on the side of their building. Issues related to the Sign Ordinance preventing murals from being painted on the side of a building were discussed, as well as issues regarding the lack of clarity in the Sign Ordinance and Zoning Ordinance for the application of wall art versus signage and building design features.

The issue with signage refers to the Sign Ordinance section 1.03(D) Painted Signs which states, "*No sign may be painted directly onto any building surface.*" By creating a definition and review process for wall art, there would be a policy and procedure in place to separate wall art from signage.

In regards to supporting ordinance language, section 3.16(A)(3) of the Via Activation Overlay District lists "*art display*" as a permitted use to encourage the activation of vias. Staff recommended a review process for art display to ensure quality control and public input.

On August 24th, 2020, the Public Arts Board submitted a report on strategies to enhance Terminating Vistas to the City Commission with a number of recommendations, one being to allow murals and wall art in the City.

In November of 2020, the Design Review Board (DRB) indicated they were amenable to a process where the Public Arts Board would review wall art applications and make a recommendation to

the DRB, which would conduct the final vote for approval. The DRB was also amenable to wall art on the rear of buildings facing an alley, or on the side and rear of buildings in the Rail District.

The Planning Board then reviewed the proposed ordinance amendments in August, September, and October of 2021. The Planning Board clarified that if a new site plan application was proposed with wall art, the Planning Board would not be required to consider the wall art in the review process. The applicant would be required to go to the Public Arts Board and Design Review Board for approval of the wall art component.

Staff discussed the possibility of wall art as a way to enhance blank, windowless walls in the Downtown Overlay and Triangle District that are built with a 0 foot side setback. The Planning Board was amenable to this proposal, and moved to recommend approval of the proposed Zoning Ordinance changes during a public hearing on October 27th, 2021.

LEGAL REVIEW:

The City Attorney has reviewed the amendment proposal and recommends including review requirements of Article 7, Section 7.41-7.44 in the definition for wall art. Recommended changes are highlighted in red within the proposed ordinance language.

FISCAL IMPACT:

There are no fiscal impacts for this agenda item.

PUBLIC NOTIFICATION:

The Public Arts Board and the Design Review Board have discussed this item in multiple public meetings. A legal ad was placed in a newspaper of local circulation to advertise the nature of the proposed amendment in advance of the October 27th, 2021 Planning Board meeting. Noticing will be provided in a newspaper of local circulation and posted online 15 days prior to the City Commission hearing as well.

SUMMARY:

The Planning Division requests that the City Commission consider amendments to the Zoning Ordinance to permit a review process for the installation of wall art in Birmingham.

ATTACHMENTS:

- Proposed ordinance language
- Wall art memo
- Terminating Vista Report
- Relevant meeting minutes

SUGGESTED COMMISSION ACTION:

Make a motion adopting an ordinance to amend Article 7, Section 7.41-7.46 – Processes, Permits, and Fees & Article 9, Section 9.02 Definitions of the Zoning Ordinance to create a wall art definition and review process.

ORDINANCE NO. _____

THE CITY OF BIRMINGHAM ORDAINS:

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

**TO AMEND ARTICLE 7, SECTION 7.41-7.46 – PROCESSES, PERMITS, AND FEES
TO CREATE A REVIEW PROCESS FOR WALL ART**

7.41 Zoning Ordinance Compliance Permit: Purpose

~~It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot until the Building Official has issued for such intended use a Zoning Ordinance Compliance Permit or Certificate of Occupancy and use as provided for in Chapter 22 of the Birmingham City Code.~~

7.42 Zoning Ordinance Compliance Permit: Application

~~A. In all cases where a certificate of occupancy and use is not required, application for a Zoning Ordinance Compliance Permit shall be made, except for signs which are regulated by Chapter 86 of the Birmingham City Code. This application shall be made in writing to the Building Official on forms provided for that purpose. A record of all such applications shall be kept on file by the Building Official.~~

~~B. The Building Official shall require every application for a Zoning Ordinance Compliance Permit shall be accompanied by a written statement and plans or plats showing the following in sufficient detail to enable the Building Official to ascertain whether the proposed work or use is in conformance with the Zoning Ordinance:~~

- ~~1. The actual shape, location and dimensions of the lot.~~
- ~~2. The existing and intended use of the lot and of all buildings or structures upon the lot.~~
- ~~3. Such other information which may be essential for determining whether the provisions of the Zoning Ordinance are being observed.~~

~~C. The Building Official may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where a basic clarification is desired ahead of proceeding with further technical work. If such preliminary application is denied in writing by the Building Official, the applicant may appeal such action to the Board of Zoning Appeals. However, the Building Official shall not refuse to issue a permit when the conditions imposed are complied to by the applicant despite violations of contracts, such as covenants or private agreements, which may be obtained upon the granting of such permit.~~

7.41 Wall Art Review: Purpose

The purpose of this section is to enable creative artistic designs on the exterior of buildings, to activate space and create an inviting experience through the use of art, to allow for public input regarding wall art design, and to ensure the location, size and design of wall art is aesthetically appropriate and compatible with the area of the proposed location.

7.42 Wall Art Review: Application Requirements

- A. An application for wall art shall include the following;
 - a. An application form from the Planning Department, indicating property owner's name, mailing address, location of the property, name of the artist, artist contact information, and such other information as deemed necessary by the appropriate reviewing body.
 - b. Two hard copies and one digital copy of the proposed design which includes, but is not limited to, a drawing, rendering or photo of the proposed artwork to be placed on the building, as well as the proposed dimensions of the art work.
 - c. A photo of existing conditions of the wall where the artwork is proposed, along with the dimensions of the wall or walls.
 - d. A timeframe for the art work to be exhibited and whether it is intended to be temporary or permanent.
 - e. Specifications of materials that will be used for the art work.
 - f. A resume of the artist(s) including names, location, and photos of previous work.

7.43 Wall Art Review: Review

All applications for wall art begin with review and recommendation by the Public Arts Board. The application will then be reviewed by the Design Review Board for final consideration. Final approval of wall art is subject to the review requirements for the Design Review Board as stated in Section 7.09 *Design Review: Review*.

7.44 Wall Art Review: Application Fee

An application fee as established by the City Commission and set forth in Appendix A of the City Code shall be payable upon submitting an application for Wall Art Review pursuant to this division.

7.45 Zoning Ordinance Compliance Permit: Purpose

It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot until the Building Official has issued for such intended use a Zoning Ordinance Compliance Permit or Certificate of Occupancy and use as provided for in Chapter 22 of the Birmingham City Code.

7.46 Zoning Ordinance Compliance Permit: Application

A. In all cases where a certificate of occupancy and use is not required, application for a Zoning Ordinance Compliance Permit shall be made, except for signs which are regulated by Chapter 86 of the Birmingham City Code. This application shall be made in writing to the Building Official on forms provided for that purpose. A record of all such applications shall be kept on file by the Building Official.

B. The Building Official shall require every application for a Zoning Ordinance Compliance Permit shall be accompanied by a written statement and plans or plats showing the following in sufficient detail to enable the Building Official to ascertain whether the proposed work or use is in conformance with the Zoning Ordinance:

1. The actual shape, location and dimensions of the lot.
2. The existing and intended use of the lot and of all buildings or structures upon the lot.
3. Such other information which may be essential for determining whether the provisions of the Zoning Ordinance are being observed.

C. The Building Official may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where a basic clarification is desired ahead of proceeding with further technical work. If such preliminary application is denied in writing by the Building Official, the applicant may appeal such action to the Board of Zoning Appeals. However, the Building Official shall not refuse to issue a permit when the conditions imposed are complied to by the applicant despite violations of contracts, such as covenants or private agreements, which may be obtained upon the granting of such permit.

ORDAINED this _____ day of _____, 2021 to become effective 7 days after publication.

Therese Longe, Mayor

Alex Bingham, City Clerk

CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS:

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

TO AMEND ARTICLE 9: TO PROVIDE A DEFINITION FOR WALL ART

Wall Art:— An artistic design applied to the exterior surface of a structure in a permanent or temporary manner. The location of wall art is limited to elevations of structures facing the side or rear lot line within the defined Rail District boundary, side elevations with a 0 foot setback in the Triangle District and Downtown Overlay District, and elevations facing a public or private alley, passage, or via in the Downtown Overlay and the Triangle District as specified in the Via Activation Overlay District. Wall art is only permitted in compliance with Chapter 126, the City of Birmingham Zoning Ordinance at 7.41 – 7. 44. Wall art is not permitted on a building facing an alley, passage or via that any of which abuts a single-family residential zoned property.

ORDAINED this _____ publication day of _____, 2021 to become effective 7 days after publication.

Therese Longe, Mayor

Alexandria D. Bingham, City Clerk

I, Alexandria D. Bingham, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held _____, 2021 and that a summary was published _____, 2021.

Alexandria D. Bingham, City Clerk

DATE: October 22nd, 2021

TO: Planning Board

FROM: Brooks Cowan, City Planner

SUBJECT: Public Hearing: Wall Art

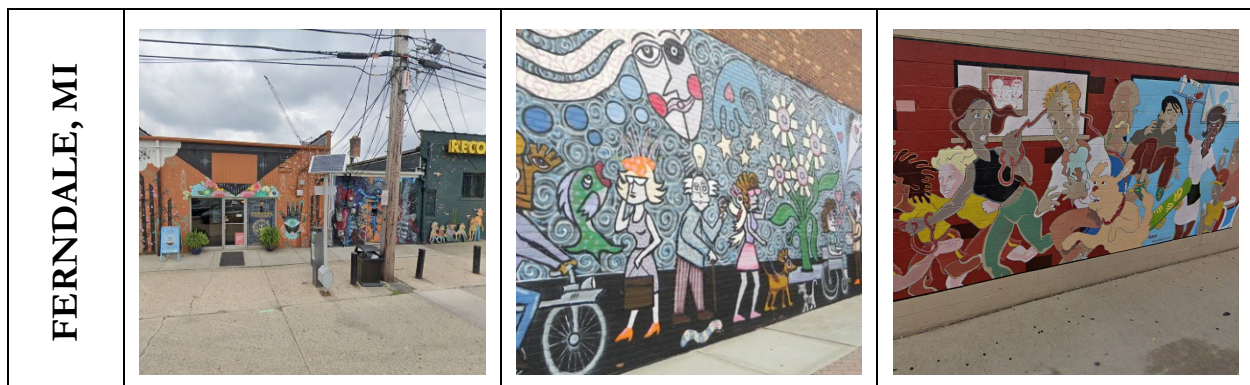
Conversations regarding wall art in Birmingham with the Public Arts Board occurred throughout 2019 and 2020. On August 24th, 2020, the Public Arts Board submitted a report on ways to enhance Terminating Vistas to the City Commission with a number of recommendations, one being to allow murals and wall art in the City.



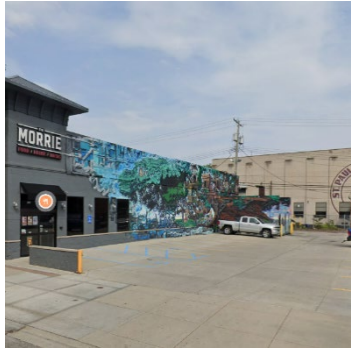

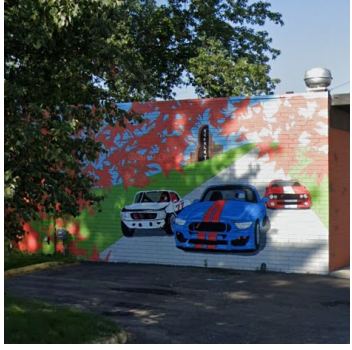
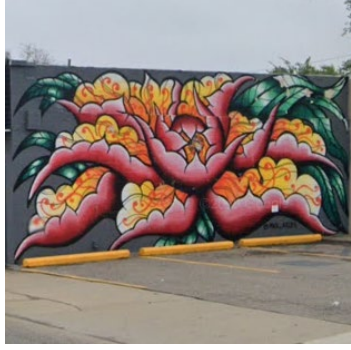
On August 19th, 2020, the Design Review Board conducted a study session related to murals and art on the exterior of buildings. The issue was brought up by staff when Griffin Claw Brewery requested to have an artist paint a mural on the side of their building. Issues related to the Sign Ordinance preventing murals from being painted on the side of a building were discussed, as well as issues regarding the lack of clarity in the Sign Ordinance and Zoning Ordinance for the application of wall art versus signage and building design features. Discussion regarding the location of wall art and how the board may consider limiting such art to certain locations occurred. There was also discussion related to defining art in the Ordinance in order to separate wall art from signage and architectural design features.

The issue with signage not allowed to be painted onto buildings refers to the Sign Ordinance Section 1.03(D) Painted Signs which states, "*No sign may be painted directly onto any building surface.*" By creating a definition and review process for wall art in the Ordinance, there would be a policy and procedure in place to separate wall art from signage.

In regards to supporting ordinance language, Section 3.16(A)(3) of the Via Activation Overlay District lists "*art display*" as a permitted use to encourage the activation of vias. Staff recommends a review process for art display to ensure quality control and public comment.

Examples of wall art from local cities have been provided as follows:



ROYAL OAK, MI			
BERKLEY, MI			

More examples of wall art may be found in in the Terminating Vista Report attached to the memo.

On November 4th, 2020, staff presented the Terminating Vista Report and wall art recommendations to the Design Review Board where staff recommended that the Design Board consider three items related to wall art for discussion:

- 1.) Permitting murals to be painted on the exterior of buildings;
- 2.) Permitting wall art to be applied to the exterior of buildings, including but not limited to:
 - Temporary Canvasses
 - Ceramic Tiling
 - Wall sculptures
- 3.) Creating a review process for wall art that incorporates a review and recommendation from the Public Arts Board first.

In regards to discussion item one, the Design Review Board was amenable to murals being painted directly onto buildings in areas such as alleys, however they expressed concern about this being applied to the front of a building. A member of the DRB was also involved in the Alleys and Passages Plan committee and noted that murals in alleys could be a positive addition to the plan.

In regards to discussion item two, the Design Review Board was also amenable to temporary art, though they had issues related to how the city regulates content. It was discussed that trying to regulate specific content could create legal issues with freedom of speech.

In regards to discussion item three, the Design Review Board was also amenable to a wall art review process that involves an application for wall art, and is reviewed with a recommendation by the Public Arts Board before going to the Design Review Board for final review.

On November 18th, 2020 the Public Arts Board discussed the following items brought up at the Design Review Board and recommended topics from staff:

1. Allowing murals directly on buildings along the alley and passages as indicated in the Alleys and Passages Plan (see map below). The 2040 Draft Master Plan recommends the Rail District as a potential location for this as well. The Board may wish to discuss limiting this to certain areas.
2. Creating a content review process for temporary wall art such as canvasses. For example, will the applicant be required to provide renderings beforehand, or can an artist be commissioned to paint what they wish after review of a portfolio?
3. Creating a review process for wall art that involves comment and recommendation from the Public Arts Board before the DRB/ HDC makes the final approval or denial.

There was general consensus from the Public Arts Board that the locations suggested by the DRB were reasonable. The Public Arts Board also felt that drawings, renderings, or photos of the proposal should be required before approval. The Arts Board was also amenable to a process involving making recommendations to the DRB/HDC prior to going through the final review process.

On January 21st, 2021, the Public Arts Board reviewed ordinance language that defined wall art and created a review process for approval. In regards to wall art being limited to the Rail District and alleys within the Downtown Overlay and Triangle District, the Public Arts Board is currently content with the recommended areas. If the City likes the program and wanted to expand the boundaries in the future, the Public Arts Board mentioned that they would be amenable to doing so.

Concerns about subject matter were discussed at both the Design Review Board and the Public Arts Board throughout the study session process. Given the broad concept of what is considered art, staff recommended to the Public Arts Board that the definition of wall art be kept broad. Attempting to regulate art with a specific list of what is and is not allowed to be considered art would be cumbersome to put into ordinance language. The Public Arts Board felt that the best way to distinguish between art and signage is to require renderings of the proposed artwork prior to approval and allow the content to be vetted by staff, the Public Arts Board, and the Design Review Board.

On March 3rd, 2021, the Design Review Board considered the proposed wall art ordinance. The DRB had concerns about wall art in alleys that faced residential zones, particularly in the alley between Ann Street and S. Old Woodward. The DRB also wanted to verify boundaries of the Via Activation Overlay.

Upon review, Section 3.14 of the Zoning Ordinance specifies the boundary for the Via Activation Overlay District and outlines the areas in pink on the map which is attached. Verbage has been added to the wall art definition that prohibits wall art in an alley facing a single-family residential zone, and the Via Activation Overlay District has been specified as the boundary.

On April 7th, 2021, The Design Review Board verified the boundaries of the Via Activation Overlay District. The Board was amenable to the suggested Ordinance language allowing wall art to abut alleys in the Via Activation Overlay District, as well as the side and rear walls in the Rail District. The Board was also amenable to a review process that begins with a recommendation from the Public Arts Board and is then finalized by the Design Review Board.

On August 11th, 2021, The Planning Board reviewed the proposed amendments and recommended minor changes such as using the word "abutting" instead of facing, to elaborate more on the purpose for wall art review, and to replace the word "content" with something else. Upon review of the word "elevation", "facing", and the definition of "abutting" in the Zoning Ordinance, the Planning Division recommends using the term "facing" to accommodate for any setback. Facing is term used throughout the Ordinance in various sections regarding the wall of a building and its orientation towards the street.

On September 23rd, 2021, staff asked the Planning Board if they are amenable to permitting wall art on side or rear walls in the triangle district and/or downtown that do not abut an alley, via, or passage. In particular, side walls with 0 foot setback that do not have windows. Permanent or temporary art installations could be a way to activate the space until another building is constructed beside it.

Commerical and residential uses in the Triangle District are not permitted to have windows on side elevations with a 0 foot setback that do not face a street, alley, or passage. Buildings in the Downtown Overlay also do not permit windows on 0 foot setback sidewalls for commercial uses, however it does permit residential uses to do so with fire rated glass. Windows on a 0 foot side setback are either banned or considered risky because of the potential for a neighboring property to construct a building with 0 foot side setback, block the window view, and create a fire hazard. This has resulted in large blank sidewalls on multi-story properties beside single-story or vacant properties. The Planning Board felt that permitting wall art on sidewalls with 0 foot setback in the Downtown Overlay and Triangle District could be a way to enhance the space on blank walls until a building is constructed alongside it.

Suggested Action:

To recommend Zoning Ordinance amendments to Aticle 7, Section 7.41-7.44 and Article 9, Section 9.02 to define wall art and require a review process involving the Public Arts Board for recomendation and Design Review Board for final approval.

3.14 Applicability

Via Activation Overlay District Map

Legend

- Parking Structures
- Central Business District
- Triangle District
- Rail District
- Parks
- Via Activation Overlay District

CITY OF BIRMINGHAM AUGUST 2012

DOWNTOWN ALLEYS & PASSAGES CLASSIFICATIONS MAP

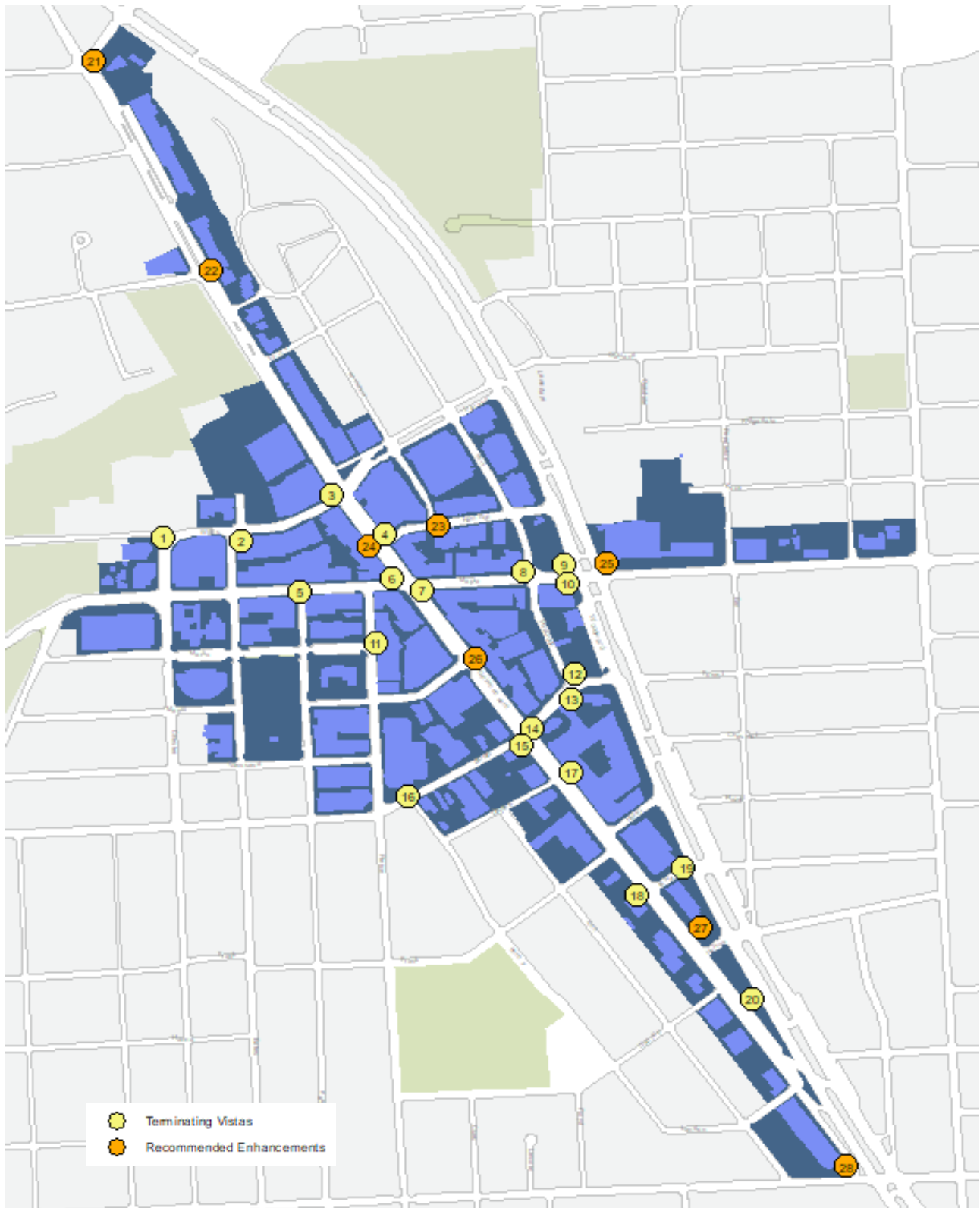


LEGEND

- Active
- Connecting
- Destination
- Parking Structures
- Parks
- Crosswalks
- ⊙ Vistas

Terminating Vistas in Downtown Birmingham

A Report by the Birmingham Public Arts Board



August 24th, 2020

Report Summary

On May 20th, 2019 The Birmingham Public Arts Board was asked by City Commission to evaluate ways to enhance Terminating Vistas in Birmingham's downtown through the use of Public Art.

The concept of Terminating Vistas having enhanced design features was first introduced to the City in the Downtown Birmingham 2016 Plan and the designated locations were approved as a part of the Downtown Overlay District in 1997.

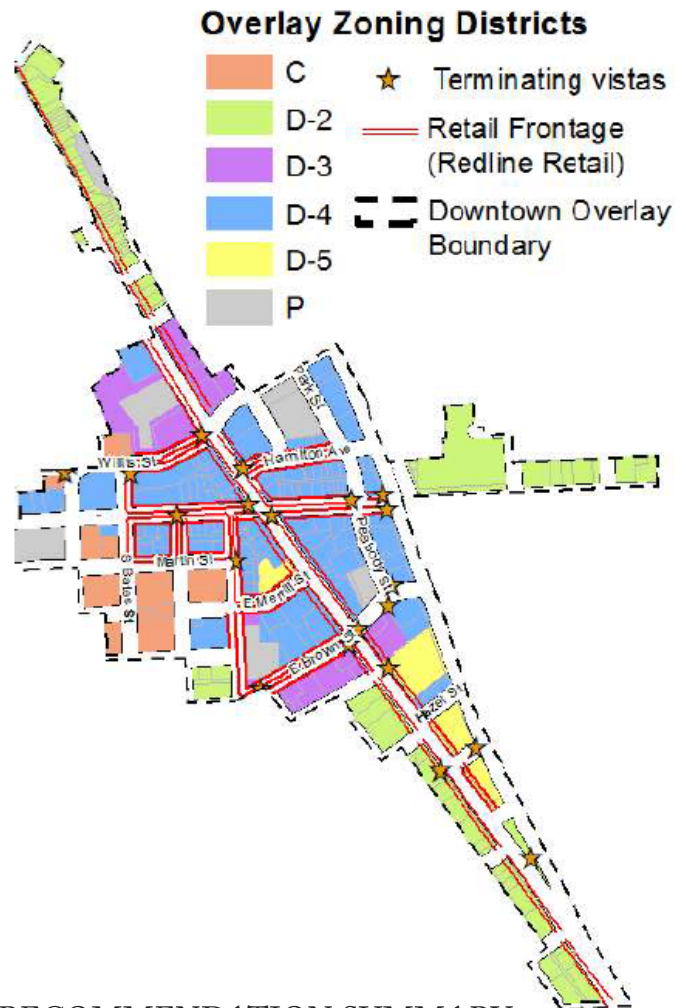
Terminated Vistas are defined in the Zoning Ordinance as *"a building or structure, or a portion thereof, as designated on the Regulating Plan, that terminates a view with architectural features of enhanced character and visibility"* (Section 9.02 Definitions).

Section 3.04(E)(15) of the Downtown Overlay Standards states that *"any building that terminates a view, as designated on the Regulating Plan, shall provide distinct and prominent architectural features of enhanced character and visibility, which reflect the importance of the building's location and create a positive visual landmark."*

The Downtown Overlay Zoning Districts Map has designated 20 locations as Terminating Vistas. The Birmingham Public Arts Board used these locations as a guide to evaluate Terminating Vistas and make recommendations relative to ways in which public art may help enhance the City's Terminating Vistas. Recommendations for prominent intersections that could benefit from enhanced design features were also made.

The Public Arts Board evaluated various types of public art that could be placed in Terminating Vistas such as sculptures, furniture, artistic utilities, landscaping and murals. Current City policy affecting the review process and installation process was also considered and recommendations were made regarding City standard furniture, landscaping, utilities and signage policy.

Lastly, the Public Arts Board evaluated City policy impacting the installation process of public art and has provided policy recommendations to assist in the implementation of the public art recommendations.



RECOMMENDATION SUMMARY

- 1.) Use public art such as sculptures, artistic furniture, artistic utilities, landscaping and wall art to enhance the City's Terminating Vistas.
- 2.) Revise the sculpture installation process to incentivize sculptures on loan and to make the installation process more efficient for artists and City staff.
- 3.) Revise City policy towards City-standard benches, light poles, landscaping and utility boxes to permit an occasional artistic variation.
- 4.) Amend the sign ordinance and create a new design review policy to allow murals to be placed on the exterior of buildings.
- 5.) Create a public notification process for art in public spaces.

Terminating Vista Locations in Birmingham



Terminating Vista Locations in Birmingham



Terminating Vista Locations in Birmingham



Terminating Vista Locations in Birmingham

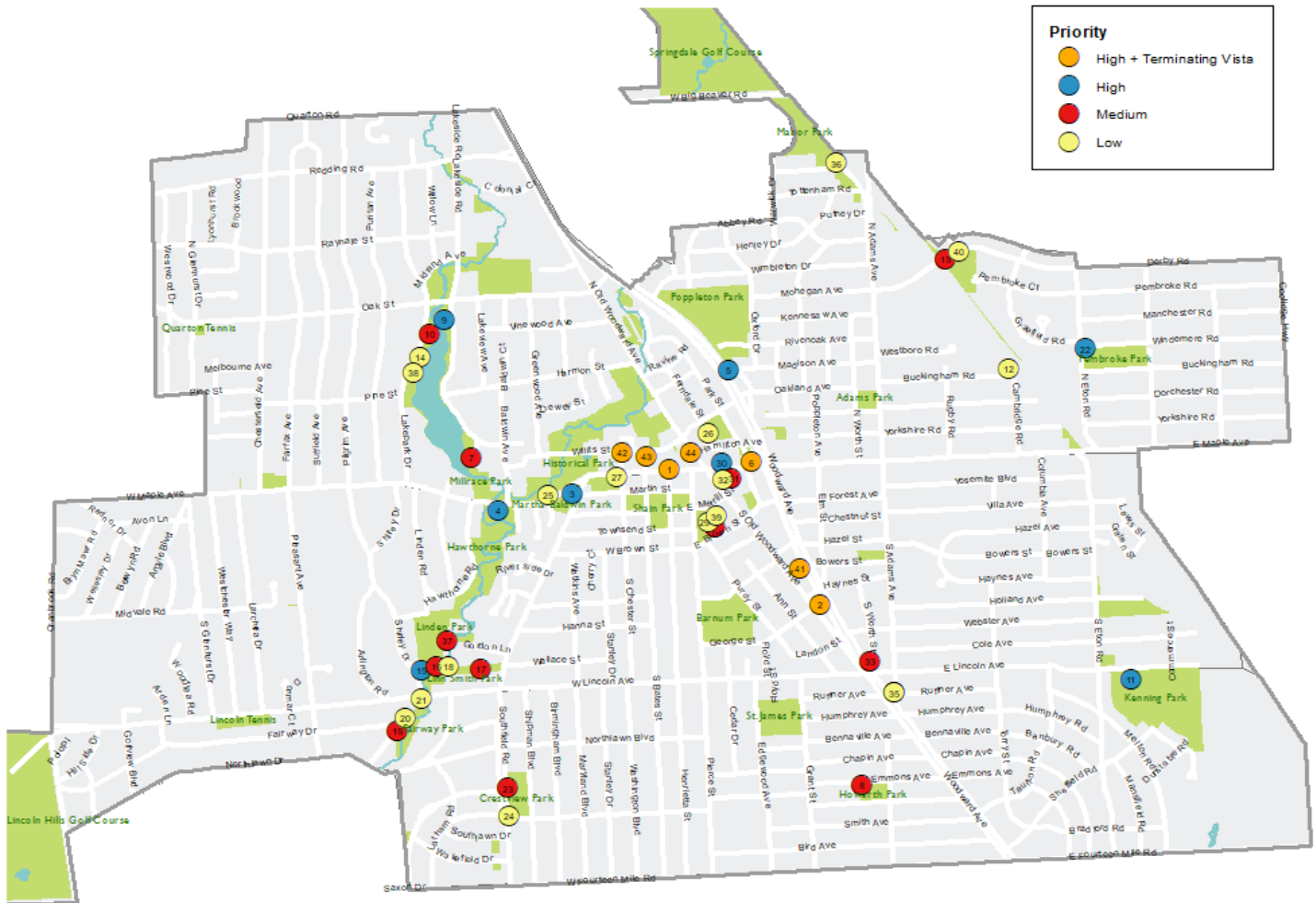


Prioritized Locations for Public Art

The Public Arts Board maintains a map of prioritized locations for public art. It is used as a reference whenever a sculpture for loan or donation is made to the City. Each point is numbered for reference, and the colors indicate areas with higher priority. The priorities are meant to serve as a guideline, though the Public Arts Board has indicated that each sculpture will be evaluated on a case-by-case basis so that it can be contextual with its surroundings.

The Public Arts Board reviewed the various Terminating Vistas and selected seven of the locations to add to their priority map for sculptures. These locations include N. Old Woodward and Hamilton Row, Chester & Willits, Bates & Willits, Maple & Henrietta, Park & Maple, S. Old Woodward & Bowers, and S. Old Woodward & Woodward. The updated Prequalified Public Art Locations Map is pictured below where downtown Terminating Vistas were placed as a high priority.

City of Birmingham Prequalified Public Art Locations



Recommended Locations for Public Space Enhancements

Terminating Vista locations are defined by the Downtown Overlay zoning map, as specified in Section 3.04(E)(15) of the Zoning Ordinance. Upon evaluation, the Public Arts Board finds that there are other intersections throughout downtown Birmingham that merit enhanced architectural and streetscape design features to create a positive visual landmark for that intersection which are included in the orange locations in the adjacent map. If the City wishes to officially deem these locations as Terminating Vistas, the Zoning Ordinance would have to be reviewed by the Planning Board and amended by the City Commission.



Recommended Locations for Public Space Enhancements

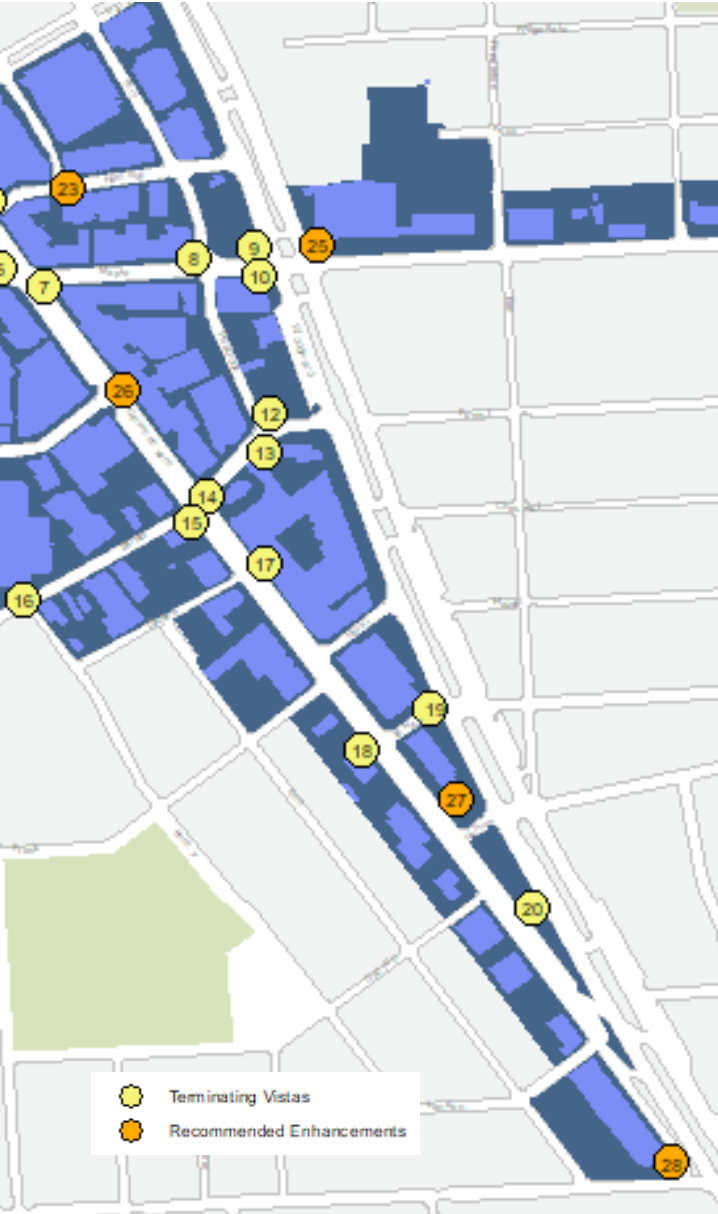
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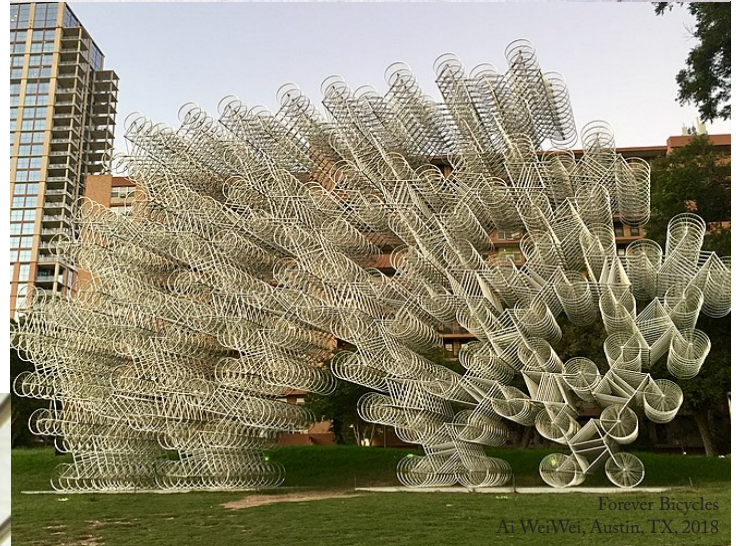
Best Practices in Public Art for Terminating Vistas: Sculptures

Sculptures are one way in which public art can be used to enhance the architectural features of a Terminating Vista. Doing so may effectively draw more attention and bring more prominence to the surrounding buildings. Birmingham currently has fifteen sculptures throughout the City that have either been purchased, donated or placed on loan, though only one is currently in a designated Terminating Vista which is located at the corner of Pierce and Brown Street.

Public sculptures have the ability to compliment the surrounding buildings and invigorate public spaces. The various colors and shapes of sculptures provide the ability for art to interact with the surrounding building and public right-of-way, potentially enhancing the connection between the two. Unique public art may create a stronger sense of place and identity for the building and intersection where it is placed in a Terminating Vista. Such sculptures may capture the eye of a passer-by, bring more attention to the civic environment and contribute to a greater sense of civic vitality.



Tembo, Mother of Elephants
Derrick Hudson, Toronto, ON, 2002



Forever Bicycles
Ai Weiwei, Austin, TX, 2018



I See What You Mean
Lawrence Argent, Denver, 2005



Flamingo
Alexander Calder, Chicago, IL, 1974

Best Practices in Public Art for Terminating Vistas: Artistic Furniture

Artistic furniture is another way public art can be used to enhance the character of a Terminating Vista. Doing so may accent the surrounding buildings while providing a unique public space for socializing or respite.

The City of Birmingham is a walkable city with pedestrian oriented design throughout its downtown and neighborhoods. Unique public furniture may invite a variety of uses that activate a Terminating Vista and promote social interaction. The shape and color of artistic furniture may also have an aesthetic contribution to the right-of-way and surrounding buildings. An artistic bench can be more inviting for a pedestrian to relax and enjoy a section of the City they may have otherwise walked past, and may provide an enhanced civic experience for leisure and appreciation of the surrounding cityscape. Artistic furniture can provide the opportunity to activate Terminating Vistas with people-oriented architectural streetscape design.



The Wave
dSPACE Studio, Chicago, IL, 2014



Circular Bench
Lucile Soufflet, Bruxelles, France 2003



Swirling Bench



Custom Curve Seats
University of Sydney, Australia



Bench of Expectations
Jeppe Hein, Springfield, MA 2018

Best Practices in Public Art for Terminating Vistas: Artistic Utilities

Artistic utilities may also enhance a space and bring more prominence to the surrounding buildings. Many cities, including Birmingham, Michigan have painted electrical boxes with an interesting design to add more character to a utility box placed in the right-of-way. Cities such as Milwaukee, Wisconsin have commissioned artists to paint numerous utility boxes throughout their downtown with a theme to be determined by the artist. There are other examples of cities having sculptors create artistic coverings for electrical boxes that are equipped with hinges and gates for access to interior controls. These coverings provide opportunities for other types of art to be placed on and around them to compliment the surrounding space and improve the aesthetics of public utilities.

Artistic lighting could also be used to enhance the pedestrian experience and illuminate architectural features in a Terminating Vista. Cities such as Portland, Oregon and Seattle, Washington have explored various solar powered lights and sculptures with an artistic design and ambient glow to create unique public spaces. A well placed artistic light can enhance the character of the area and create an interesting talking point while highlighting the surrounding buildings.



Best Practices in Public Art for Terminating Vistas: Wall Art

Outdoor wall art such as murals, mosaics, and ceramic tiling are another example of public art that can enhance a public space and the surrounding architectural features.

Wall art can be temporary or permanent. For local examples, The Park Shelton mural in Detroit, MI has been up since 1978, meanwhile Detroit's Eastern Market cycles through numerous murals every year.

Temporary murals can be done on materials such as plywood or canvas and be applied to the exterior of a building for a length of time and then be removed, thus maintaining the original design and color and the building. Mosaics and ceramic tiles can also be used to provide an interesting texture to the artistic experience.

The various forms of wall art can be especially effective in activating Terminating Vista spaces that have large sections of blank walls.



Tiger
Arlin Graff, Detroit, MI



Park Shelton
John Egner, Detroit, MI, 1974



Aretha
Desiree Kelly, Detroit, MI

Best Practices in Public Art for Terminating Vistas: Landscaping

Integrating artistic landscaping with art and design can be another way to enhance Terminating Vistas. Birmingham has a number of green spaces and planters surrounding buildings at prominent intersections. An example is at Park and Maple where a community garden welcomes people into the downtown. This garden blends well with the Pazzi Building immediate behind it, and provided a natural landscaping to screen the electrical box located within it. Landscaping could be an effective medium to connect buildings, utilities, furniture and sculptures together into one cohesive artistic experience.

As another example, the City of Seattle allows property owners and tenants to garden in the planting strip in front of their property as long as a proper street use permit is obtained. Once obtained, the plantings may include low growing perennials, ornamental grasses, shrubs, herbs, or edible plants. Doing so could encourage more interesting variety in landscape design and create a unique space at prevalent intersections.



Pazzi Community Garden
Park & Maple, Birmingham, MI



Gramercy Park Co-Op
New York City, NY



Personalized Planting Strip
Seattle, WA



18th and F Streets, N.W.,
Washington D.C.

City Policy Related to Public Art in Terminating Vistas

SCULPTURES

Birmingham currently has sculptures on display that were either donated to the City, purchased by the City, or placed on loan to the City for a certain period of time. If the sculpture is donated and placed on public property, the City is responsible for installation and maintenance of the sculpture. If a sculpture is on loan, the loan agreement specifies that the artist is responsible for installation, maintenance and removal.

An issue with the current policy for sculpture installation is that each piece is unique and may require special care for installation. This includes but is not limited to how the sculpture is transported to the installation site, how to safely secure the sculpture to the location, how to create the necessary base and fabricate proper mounts. City staff may not have adequate experience to handle the installation process of various unique sculpture shapes and sizes. Requiring the artist to be responsible for all installation and removal processes may also create issues related to the artist operating machinery on City property.



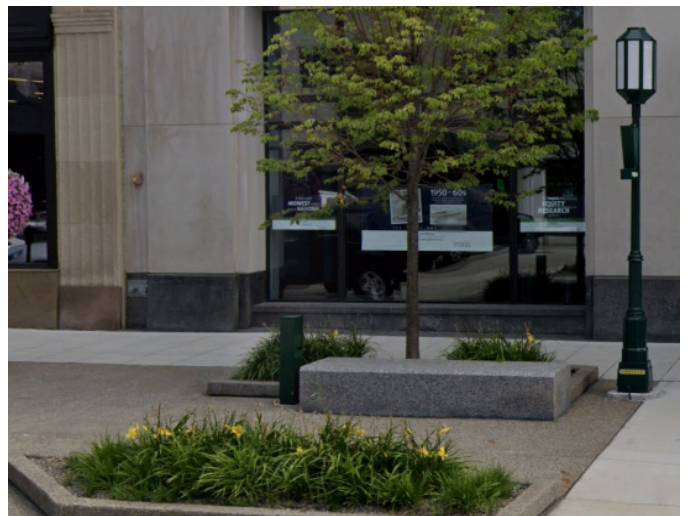
Local art museums such as the Detroit Institute of Arts and Cranbrook Museum have employees who specialize in the installation of sculptures. **The Public Arts Board recommends that the City of Birmingham consult with such specialists for installing sculptures that have been either donated or loaned to the City.** Doing so would enable a more efficient installation process in areas such as Terminating Vistas.



ARTISTIC FURNITURE

Downtown Birmingham has City-standard green metal benches installed along the sidewalks as well as granite benches that were a part of the downtown Old Woodward and Maple Reconstruction projects. This classic design for public furniture fits in with the surrounding streetscape and does not detract from the architectural style of downtown Birmingham.

The Public Arts Board recommends that Birmingham consider allowing more creative and artistic furniture that will contribute a positive design aesthetic to the character of the area. Doing so could enhance the pedestrian space in Terminating Vistas and be used to activate the public space and compliment the surrounding architecture. The City's current approach to streetscape furniture with City-standard benches should remain relatively consistent, but the Public Arts Board recommends that an occasional deviation from City-standard furniture in Terminating Vistas could create a unique pedestrian experience and enhance the character of the area.



City Policy Related to Public Art in Terminating Vistas

PUBLIC UTILITIES

Birmingham's streetscape contains electrical utility boxes and a number of light-poles in the right-of-way in Terminating Vistas. The City-standard light poles and electrical boxes are all painted Birmingham green, with the exception being the recent popcorn box art project at the intersection of Merrill and Old Woodward.

The Public Arts Board has considered a number of different ways to paint and decorate electrical boxes throughout downtown. Various themes were discussed, as well as whether or not the design should be contextual with the surrounding. It was determined that each box should be considered on a case-by-case basis and should not be directly tied to any theme or be required to be related to the surrounding use. **The Public Arts Board recommends the City be open to all types of artistic designs for electrical boxes.**

Sculptural enclosures for such utility boxes have also been considered by the Public Arts Board. **The Public Arts Board recommends that these be considered on a case-by-case situation as well, and not be tied to any theme or surrounding context.** Given the intended function of electrical boxes, any sculpture placed on or around the electrical box should provide easy access to the interior controls and should only be mounted on the ground. **The Public Arts Board does not recommend drilling holes or attaching public art directly to the electrical boxes in order to maintain the integrity of the box.**

The Public Arts Board also recommends that the City consider allowing unique designs in lighting that are in Terminating Vistas. Lighting can be used for either function or form to create a unique aesthetic from the shape of the lantern and the ambient glow of the light. An occasional artistic light pole to replace a city standard lamp in front of a Terminating Vista could enhance the interaction between the streetscape and surrounding buildings. City standard lights should remain relatively consistent, but the Public Arts Board recommends an occasional deviation in this pattern to allow for unique designs.



City Policy Related to Public Art in Terminating Vistas

WALL ART

Artistic paintings such as murals on the front, side or rear of buildings are not currently permitted in Birmingham. Such paintings are considered a sign and section 1.03(D) of the Sign Ordinance states that *“No sign may be painted directly onto any building or surface.”*

The Public Arts Board recommends that the City re-evaluate its policy towards wall art and create a design review process for such art work. There are several Terminating Vistas with large blank walls that the Public Arts Board believes would be ideal for murals, but current policy restricts the building owner from pursuing such design enhancements.

The 2020 Birmingham Plan Draft recommends implementing a mural policy in the Lower Rail District to extend and improve upon the area’s current character, though the Public Arts Board recommends that such a policy be implemented throughout the entire City. A temporary mural program is also recommended where the painting could be placed on some type of material which is then attached to the building.

Murals could be another form of public art used to enhance Terminating Vistas throughout downtown. There are some Terminating Vistas that are more suitable than others and the Public Arts Board recommends that the review process engage the public for input so there is support on a community level.

In order to permit murals and various types of wall art, the Public Arts Board recommends that the City amend the Zoning Ordinance and Sign Ordinance to allow wall art and to define a proper review process by the necessary boards. This would also include creating a public notification process for public art in the municipal code.



City Policy Related to Public Art in Terminating Vistas

LANDSCAPING

The City of Birmingham is an excellent example for maintaining high quality landscaping throughout its streetscape in downtown. Well-maintained flower pots can be found hanging from the lamp posts while an array of plants can be found within the gardens along the sidewalks. The landscaping blends well with the surroundings and provides a complimentary aesthetic to the area.

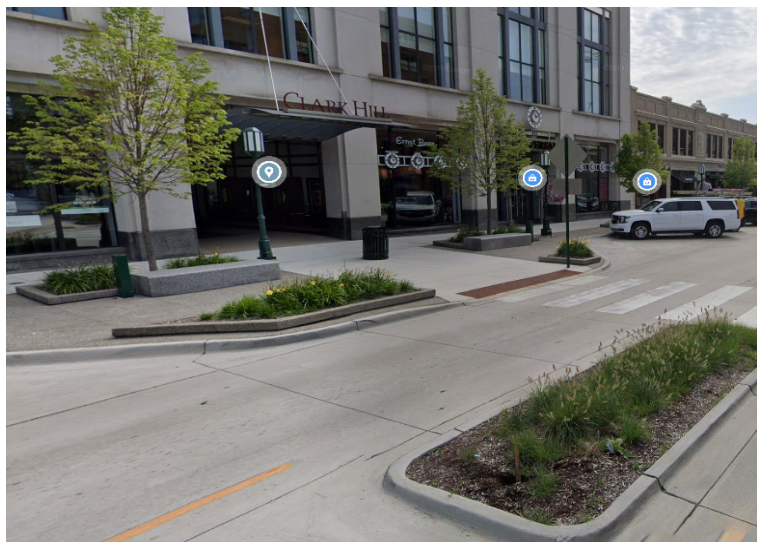
For instances when a public utility is placed within a planter box in a prominent intersection, the Public Arts Board recommends that special consideration for landscaping is made to help screen the utilities from view, especially in cases where no artistic design has been applied to the utility.

When a piece of art is placed within a planter box, the Public Arts Board recommends that special consideration also be made regarding the size and types of plantings surrounding the artwork in order to allow the aesthetics of the art, landscaping and surrounding buildings to work together in a complimentary manner.

The Public Arts Board also recommends the City consider allowing adjacent businesses in downtown design their own planter garden in front of their store. Proper permitting and design process would have to be created and implemented. Doing so could allow some unique designs regarding landscaping and how the plantings interact with the surroundings.

PUBLIC NOTIFICATION

At the moment, there are no formal requirements for public notification regarding proposals for sculptures, artistic furniture and artistic utilities. The item is posted on the Public Arts Board Agenda and City Commission Agenda, but notifications are not required to be sent to surrounding businesses and residents for public art projects. **In order to promote public input at the Public Arts Board and City Commission, the Public Arts Board recommends establishing a public notification policy for public art projects on City property.**



Recommendation and Implementation Priorities

Recommendation 1: Use public art such as sculptures, artistic furniture, artistic utilities, landscaping and wall art to enhance the City's Terminating Vistas

Implementation: Actively seek artists to provide various forms of artwork. Advertise in the art community for the type of art the City is seeking.

Recommendation 2: Revise the sculpture installation process to incentivize sculptures on loan and to make the installation process more efficient for artists and City staff.

Implementation: Establish an agreement with a professional sculpture installation specialist to consult and assist with sculpture installations in Birmingham. Amend the City's art on loan agreement to require approval of sculpture installation from installation consultant.

Recommendation 3: Revise City policy towards city-standard furniture and utilities to allow for an occasional artistic variation.

Implementation: Amend the Zoning Ordinance to allow an occasional deviation from city-standard benches and light poles where such items may be replaced by an artistically designed light or bench.

Recommendation 4: Create a new policy and review process to allow murals and other various forms of wall art to be placed on the exterior of a building.

Implementation: Amend Zoning Ordinance and Sign Ordinance to allow for placement of temporary and permanent murals and other various forms of wall art. The amendment should include review process by all relevant boards.

Recommendation 5: Establish a public notification policy for art projects on public property.

Implementation: Create a provision in the Public Art Section of the Municipal Code to require public notifications to be sent to residents for public art projects proposed within their area.



Terminating Vista Recommendation and Implementation Framework

Priority	Recommendation	Background	Implementation	Costs	Approval Process
1	Use public art such as sculptures, artistic furniture, artistic utilities, landscaping and wall art to enhance the City's Terminating Vistas.	Public Arts Board is responsible for recruiting and recommending public art in various locations throughout the City.	<ol style="list-style-type: none"> Public Arts Board creates call for entry to recruit art donations and loans. This includes a request for an artist stipend fund to assist with installation before sending out. Public Arts Board reviews art pieces submitted and selects artwork for recommendation. 	\$2,000 per piece if approved, no more than \$10,000 total per year.	<ol style="list-style-type: none"> Public Arts Board Parks and Recreation Board (if on greenspace) City Commission
2	Revise the sculpture installation process to incentivize sculptures on loan and to make the installation process more efficient for artists and City staff.	<p>Issues have arisen regarding responsibility for installation and removal.</p> <p>City Employees may not have expertise to install unique pieces of art.</p> <p>Sculpture installation requirements have varied over the years, particularly related to concrete pads.</p>	<ol style="list-style-type: none"> Public Arts Board recommends revisions to art on loan agreement to allow City to assist with installation and removal to ensure quality control and manage liability. Public Arts Board creates RFQ for sculpture installation specialist to assist with mount fabrication and consult on installation process if necessary. Public Arts Board coordinates with Engineering Department's annual sidewalk program to install concrete base pads. 	<p>Up to \$5,000 for art installation specialist per year.</p> <p>Costs associated with concrete base pad installation (Much more cost efficient to incorporate with Engineering sidewalk program).</p>	<ol style="list-style-type: none"> Public Arts Board City Commission <p>* Input from Engineering and DPS strongly recommended</p>
3	Revise City policy towards city-standard furniture and utilities to allow for an occasional artistic variation in Terminating Vistas.	City-standard benches and lightpoles are required in the downtown.	<ol style="list-style-type: none"> Planning Board reviews Terminating Vista report to consider additional Terminating Vista locations as well as possible ordinance changes to permit artistic furniture and utilities. 	No Cost (In house)	<ol style="list-style-type: none"> Planning Board City Commission
4	Create a new policy and review process to allow murals and other various forms of wall art.	The Sign Ordinance currently prevents wall art.	<ol style="list-style-type: none"> Design Review Board considers definition for wall art in Sign Ordinance and Zoning Ordinance to help clarify difference between art and commercial signage. Design Review Board considers review process for wall art that possibly includes Public Arts Board. 	No Cost (In house)	<ol style="list-style-type: none"> Design Review Board Public Arts Board City Commission
5	Establish a public notification policy for art projects on public property.	There is no formal public notification process for art proposals on public property.	<ol style="list-style-type: none"> Public Arts Board reviews public notification options for public art and makes recommendations for notifications process. 	No Cost (In house)	<ol style="list-style-type: none"> Public Arts Board City Commission

Terminating Vista Recommendation and Implementation Framework Suggested Timeline Goals

Recommendation Priorities

- 1 Recruit public art
- 2 Revise installation process
- 3 Allow artistic City furniture and utilities
- 4 Permit wall art such as murals
- 5 Establish public notification policy for artwork proposals

Priority	Implementation	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21
1	1 - Create Call for Entry to recruit new artwork	Public Arts Board		Parks and Rec	City Commission						
	2 - Application for artwork review and recommendation								Public Arts Board	Parks and Rec	City Commission
2	1 - Consider revisions to Art on Loan Agreement			Public Arts Board			City Commission				
	2 - RFQ for sculpture installation specialist			Public Arts Board		City Commission					
	3 - Coordinate basepads with Engineering's Sidewalk Program								Public Arts Board		
3	1 - Planning Board review Terminating Vista report										TBD - Joint Meeting
4	1 - Design Review Board consider permitting wall art		Design Review Board				Public Arts Board	City Commission			
	2 - Design Review Board consider wall art review process		Design Review Board				Public Arts Board	City Commission			
5	1 - Establish Public Notification Process for Public Art					Public Arts Board			City Commission		

	City Commission
	Public Arts Board
	Planning Board
	Design Review Board
	Parks and Recreation Board

DESIGN REVIEW BOARD
MINUTES OF AUGUST 19, 2020

Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the Design Review Board ("DRB") held Wednesday, August 19, 2020. Chairman John Henke called the meeting to order at 7:39 p.m.

1) ROLL CALL

Present: Chairman John Henke; Vice-Chairman Keith Deyer; Board Members Gigi Debbrecht, Natalia Dukas, Joseph Mercurio, Michael Willoughby

Absent: Board Member Patricia Lang; Alternate Board Member Alexander Jerome

Administration: Nicholas Dupuis, City Planner
Laura Eichenhorn, Transcriptionist

Chairman Henke thanked everyone for joining the virtual meeting and reviewed protocol for virtual meetings.

6) Study Session

A. Murals & Art (Private)

City Planner Dupuis reviewed the item.

Mr. Deyer said he would want to create parameters regarding permissible locations, sizes, verbiage, types of paint, primers, and ongoing maintenance responsibilities.

Chairman Henke said the Public Works Board has already defined some of those parameters. He also cautioned the DRB against trying to legislate what can be defined as 'art'. He said the DRB could subjectively determine which proposals are appropriate. Chairman Henke ventured that it would be preferred by the City Commission if the DRB incorporates fewer details into the ordinance itself.

Ms. Dukas said she would not be in favor of the proposal as it stood.

Mr. Deyer said he would not be in favor of the proposal without relatively detailed guidelines.

Mr. Willoughby said he was in favor of the proposal with some guidelines provided. He concurred with Chairman Henke that the DRB should not attempt to legislate the definition of 'art'.

DESIGN REVIEW BOARD
MINUTES OF NOVEMBER 4, 2020

Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the Design Review Board ("DRB") held Wednesday, November 4, 2020. Chairman John Henke called the meeting to order at 7:09 p.m.

1) ROLL CALL

Present: Chairman John Henke; Vice-Chairman Keith Deyer; Board Members Gigi Debbrecht, Natalia Dukas, Michael Willoughby

Absent: Board Member Patricia Lang

Administration: Nicholas Dupuis, City Planner
Brooks Cowan, City Planner
Laura Eichenhorn, City Transcriptionist

11-91-20

6) Study Session

A. Wall Art

Chairman Henke resumed facilitation of the meeting.

CP Cowan reviewed the item.

Both Chairman Henke and Mr. Deyer expressed a preference for temporary installations of wall art over permanent ones.

Mr. Deyer said a review process for public art in the City should at least include criteria regarding permissible size, political messages, commercial messages, and permitted number of murals in a given location.

Chairman Henke said that murals considered in a historic area should be reviewed by the HDC.

There was consensus on the part of the DRB that they would be amenable to being part of the review process for public art installations in the City.

Mr. Willoughby said the primary function of the DRB in such a review process should be to evaluate how wall art would affect the building on which it would be installed and how it would affect the environmental context around said building. He said that while he thought the DRB could opine on the content of the wall art, he did not imagine that would be their primary charge. Mr. Willoughby added he would likely be against art on the fronts of buildings, and amenable to wall art installed in alleyways.

CP Cowan said the Public Arts Board may want to pursue installing art on the front of the bridge of the 555 Building, but agreed that the installation of wall art on the fronts of buildings would likely be limited.

Mr. Willoughby said he would like to see a map of alleyways that could offer opportunities for wall art installations.

There was DRB consensus that the rear and side walls of historic buildings in alleyways could be places to install public art. There was also consensus among the DRB, CP Dupuis, and CP Cowan that the process would need to tread very carefully in regards to proposed installations on historic buildings. It was agreed that no wall art should be proposed for historic facades.

The Board members thanked CP Cowan and said they looked forward to further discussions on the topic.

Public Arts Board Minutes

Public Meeting on Zoom – November 18th, 2020

A. Roll Call:

Members Present:	Barbara Heller, Monica Neville, Annie VanGelderren, Jason Eddleston, Linda Wells, Anne Ritchie
Members Absent:	Natalie Bishae
Administration:	Brooks Cowan, City Planner
Members of the Public:	Vahe Tazian, Charlie Neff

D. New Business

A third study session item related to wall art was discussed. Staff presented thoughts and concerns related to wall art that were discussed by the Design Review Board. The DRB had indicated an interest in murals directly on buildings along the Alleys and Passages Plan. The Draft Master Plan suggests murals in the Rail District, therefore staff suggested the first proposal contain language that limits murals to certain areas of the City which could possibly be expanded in the future. The Board was receptive to this idea.

Staff also presented an idea that the DRB discussed and was open to, which is having a wall art application and review process that is first reviewed and recommended by the Public Arts Board and then finalized by the Design Review Board. The Board was amenable to this idea and would review a suggested application process at the next meeting.

Public Arts Board Minutes

Public Meeting on Zoom – January 21st, 2021

B. Roll Call:

Members Present: Barbara Heller, Monica Neville, Annie VanGeldereren, Jason Eddleston, Linda Wells, Anne Ritchie, Natalie Bishae, Peggy Daitch

Members Absent:

Administration: Brooks Cowan, City Planner

C. Unfinished Business

The first item of unfinished business was the discussion for proposed ordinance updates to allow wall art and require a wall art review process. The Board agreed that having the application requirements include renderings and size was appropriate, and that making recommendations to the Design Review Board for them to finalize the application was an acceptable process. The Board was read approval requirements for any items that go to the DRB and the Public Arts Board felt those were acceptable standards of final approval.

Motion to approve suggested ordinance updates to allow wall art and a wall art review process was made by Monica Neville, seconded by Annie VanGeldereren.

Yeas: 7 Nays: 0

The motion carried.

Design Review Board
Minutes Of March 3, 2021

Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the Design Review Board ("DRB") held Wednesday, March 3, 2021. Chair John Henke called the meeting to order at 7:48 p.m.

1) ROLL CALL

Present: Chair John Henke; Board Members Keith Deyer, Natalia Dukas, Gigi Debbrecht, Dustin Kolo, Patricia Lang, Michael Willoughby; Alternate Board Member Samantha Cappello; Student Representatives Charles Cusimano, Elizabeth Wiegand (all located in Birmingham, MI except Dustin Kolo, who was in Gaylord, MI.)

Absent: Alternate Board Member Kathleen Kriel

Administration: Nicholas Dupuis, City Planner
Laura Eichenhorn, City Transcriptionist
Brooks Cowan, City Planner

03-026-21

6) Study Session

A. Wall Art

CP Cowan reviewed the item.

The Board recommended the allowable locations for public art be limited to the activation areas of the overlays. They also recommended there be some consideration of limiting residential-facing public art where it directly abuts residential buildings. They were fine with allowing public art in the other non-overlay locations recommended by the Public Arts Board.

Mr. Willoughby and Chair Henke were in favor of leaving the ordinance language as unrestricted as possible since all public art projects would go through review by two Boards.

CP Cowan advised the Board that if a person or group installed or put up a public art piece contrary to the ordinance, the City could require them take it down. He advised the DRB that the Public Arts Board recommended to the City Commission a public arts notification process be created in order to encourage public review and involvement.

The DRB requested the item be brought back once more for their review once updated.

Design Review Board
Minutes Of April 7, 2021

Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the Design Review Board ("DRB") held Wednesday, April 7, 2021. Vice-Chair Keith Deyer called the meeting to order at 7:45 p.m.

1) ROLL CALL

Present: Vice-Chair Keith Deyer; Board Members Gigi Debbrecht, Natalia Dukas, Dustin Kolo, Michael Willoughby; Alternate Board Members Samantha Cappello, Kathleen Kriel; Student Representatives Charles Cusimano, Elizabeth Wiegand (all located in Birmingham, MI except Dustin Kolo, who was in Waterford, MI, Keith Deyer who was in Harbor Springs, MI, and Elizabeth Wiegand who was en route to Grosse Pointe, MI.)

Absent: Chair John Henke; Board Member Patricia Lang

Administration: Nicholas Dupuis, City Planner
Brooks Cowan, City Planner
Laura Eichenhorn, City Transcriptionist

04-040-21

6) Study Session

A. Wall Art

CP Cowan reviewed the item.

Mr. Willoughby commended CP Cowan for his work on the item.

Motion by Mr. Willoughby

Seconded by Ms. Debbrecht to recommend Zoning Ordinance amendments to Article 7, Section 7.41-7.44 and Article 9, Section 9.02 to define wall art and require a review process involving the Public Arts Board for recommendation and Design Review Board for final approval.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Willoughby, Debbrecht, Kolo, Kriel, Cappello, Deyer, Dukas

Nays: None

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, August 11, 2021
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on August 11, 2021. Chair Clein convened the meeting at 7:33 p.m.

A. Roll Call

Present: Chair Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin; Student Representative Daniel Murphy

Absent: Student Representative Jane Wineman

Administration: Jana Ecker, Assistant City Manager ("ACM")
Brooks Cowan, City Planner ("CP")
Laura Eichenhorn, City Transcriptionist

2. Wall Art

CP Cowan presented the item.

It was clarified that:

- Maintenance issues with wall art would be a code issue;
- 'Content' is not something that can be regulated, but 'non-commercial', 'aesthetically appropriate' or 'compatible with the area' could work;
- It would be useful to have a brief statement in Article 7, Section 7.41 about the benefit and value of wall art;
- The intent of the word 'facing' should be made more clear in the proposed amendment to Article 9 - Definitions To Define Wall Art And Determine Permitted Locations For Wall Art;
- Wall art approval would be a standalone process and not subject to site plan approval, though site plan approval would be granted at the Planning Board contingent on the wall art's approval by the appropriate boards; and,
- This ordinance amendment does not intend to allow a new building to create a blank wall in excess of 20 feet with the intent of installing wall art; it intends to allow already-existing blank walls that qualify according to the ordinance amendments to consider installing wall art.

Mr. Share noted that often wall art in other cities is not painted directly on buildings, but on canvas-type features.

Staff said they would make the recommended revisions and return with the item.

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, September 23, 2021
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on September 23, 2021. Vice-Chair Williams convened the meeting at 7:30 p.m.

A. Roll Call

Present: Vice-Chair Bryan Williams; Board Members Robin Boyle Stuart Jeffares, Daniel Share, Janelle Whipple-Boyce; Alternate Board Member Jason Emerine

Absent: Chair Scott Clein; Board Member Bert Koseck; Alternate Board Member Nasseem Ramin; Student Representatives Daniel Murphy, Jane Wineman

Administration: Jana Ecker, Assistant City Manager ("ACM")
Nick Dupuis, Planning Director ("PD")
Brooks Cowan, Senior Planner ("SP")
Laura Eichenhorn, City Transcriptionist

F&V: Julie Kroll

09-147-21

I. Study sessions

1. Wall Art

SP Cowan presented the item.

Ms. Whipple-Boyce and ACM Ecker recommended that 'of the proposed location' be struck from the last line of 7.41 Wall Art Review: Purpose.

SP Cowan and ACM Ecker confirmed for Mr. Share that wall art would not be permitted on rear walls facing single family residential areas.

SP Cowan reviewed the different proposed review processes for a development with wall art, just wall art with a proposed location, and just wall art without a proposed location.

Motion by Mr. Share

Seconded by Ms. Whipple-Boyce to set a public hearing to consider amendments to Article 7, Section 7.41 to 7.46 and companion sections of Article 9 of the Zoning Ordinance on October 27, 2021.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

City of Birmingham
Regular Meeting of the Planning Board
Wednesday, October 27, 2021
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on October 27, 2021. Chair Clein convened the meeting at 7:30 p.m.

A. Roll Call

Present: Chair Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin; Student Representative Jane Wineman

Absent: Student Representative Daniel Murphy

Administration:

Nick Dupuis, Planning Director
Brooks Cowan, Senior Planner
Laura Eichenhorn, City Transcriptionist
Paul Wells, Fire Chief

10-171-21

J. Study Session

1. Wall Art

SP Cowan presented the item.

PD Dupuis confirmed for Chair Clein that small edits could be made without needing to hold an additional public hearing.

Under 'TO AMEND ARTICLE 9 – DEFINITIONS TO DEFINE WALL ART AND DETERMINE PERMITTED LOCATIONS FOR WALL ART', Mr. Share recommended that 'Wall art is not permitted in an alley' be changed to 'Wall art is not permitted facing an alley'.

From the same section, Messrs. Boyle and Share recommended that the last line be changed from 'an alley, passage or via that abuts' to 'an alley, passage, or via, any of which abuts'.

Motion by Mr. Share

Seconded by Mr. Williams to recommend Zoning Ordinance amendments to Article 7, Section 7.41-7.44 and Article 9, Section 9.02, as contained on pages 71 through 74 of the Planning Board's October 27, 2021 agenda packet and as revised during the present meeting, to define wall art and require a review process involving the Public Arts Board for recommendation and Design Review Board for final approval.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

APPROVED



MEMORANDUM

Planning Department

DATE: November 29th, 2021

TO: Thomas M. Markus, City Manager

FROM: Brooks Cowan, Senior Planner

APPROVED: Nick Dupuis, Planning Director

SUBJECT: Public Hearing – 203 Pierce Street - Toast – Special Land Use Permit Amendment, Final Site Plan and Design Review

INTRODUCTION:

Toast has operated as a bistro at 203 Pierce Street since 2008. A condition of Toast's original approval is that it be open for dinner hours in order to bring activity to the area and provide dining opportunities during evening hours. Toast's menu specializes in breakfast and lunch offerings and the applicant has cited difficulties in attracting patrons for dinner hours, therefore the applicant is requesting to amend their hours of operation.

BACKGROUND:

Toast's original approval from 2008 indicated they would be open until 5 pm on Sunday, 9pm Monday-Wednesday, and 12am Thursday-Saturday. In 2018, City staff was made aware that Toast was closing prior to the hours documented in their 2008 SLUP agreement. Article 7, Section 7.34 of the Zoning Ordinance states that once a permit for a Special Land Use has been granted as to any parcel of land, no change in that use may be made nor may any addition to or change in the building or improvements on the parcel of land take place until a new request for approval has been filed with the City Commission and the City Commission has approved the request for change.

On January 9th, 2019, the applicant went before the Planning Board for a pre-application discussion regarding a proposal to change their hours of operation to eliminate dinner hours and host special events in the evenings instead, such as cooking classes and private parties. Toast wished to close at 3 p.m. Monday through Friday and 4 p.m. on Saturday and Sunday. During the meeting, Board members expressed positive responses to the proposals, as Toast is the only restaurant on Pierce open for breakfast, serves two meals (breakfast and lunch), and activates the street during the morning and afternoon hours.

On February 25th, 2019, the restaurant went before the City Commission for a hearing regarding the 2018-2019 renewal of their Liquor License. During the meeting, the change in hours was discussed as a violation of their SLUP. Toast had proposed to close between 3 pm to 4 pm every day, however the City Commission had indicated during the liquor license review that they were not in support of the proposal.

On April 24th, 2019, the applicant appeared before the Planning Board to request a Special Land Use Permit Amendment to change the hours of operation from those approved in the Special Land Use Permit obtained in 2008. As a compromise to the City Commission's comments on hours of operation during liquor license review, Toast proposed to stay open into evening hours closer to the weekend on Wednesday through Saturday with proposed hours of operation as follows:

Sunday.....	8 am – 4 pm
Monday-Tuesday.....	7 am – 3 pm
Wednesday.....	7 am – 8 pm
Thursday-Friday.....	7 am – 8 pm
Saturday.....	8 am – 9 pm

The Planning Board was amenable to the proposed changes and felt that the applicant satisfied the intent of the Bistro Ordinance. The Board then moved to recommend the proposed changes, citing that the applicant satisfied the Bistro Ordinance requirements, and that multiple restaurants had opened on or near Pierce Street and do not have as strict of hours of operation requirements as Toast.

On June 3rd, 2019, the applicant appeared before the City Commission to amend their hours of operation for an earlier closing time. The City Commission discussed how the goal of the Bistro Ordinance was to enliven the streets and encourage traffic downtown and being closed for dinner is not what they envisioned. The City Commission encouraged the applicant to stay open later for dinner, however the applicant indicated difficulties attracting such business when Toast's brand is identified as a breakfast and lunch restaurant. The City Commission approved the proposed changes in hours with the condition that the agreement include "minimum" hours of operation, meaning the applicant may stay open later than indicated, but not close earlier.

On August 4th, 2021, Toast was issued a violation notice for not being in compliance with their SLUP agreement in regards to hours of operation. The subject bistro has been closing at 3pm Monday-Friday and 4pm Saturdays and Sundays, which is 5 hours earlier than the hours indicated in the 2019 SLUP agreement.

At this time, the applicant is proposing to eliminate dinner hours and proposes the following hours of operation:

Monday-Friday.....	8 AM – 3 PM
Saturday-Sunday.....	8 AM – 4 PM

On October 27th, 2021, the Planning Board reviewed the SLUP Amendment and moved to recommend approval to the City Commission, stating that Toast activates the area during breakfast and lunch hours, other bistros have opened in the surrounding area since 2008 which activate the area during the dinner hours, and that the Zoning Ordinance does not specifically require that bistros remain open during dinner hours. The phrase "minimum hours of operation" was included in the motion to enable the applicant to stay open for dinner hours if they so choose.

LEGAL REVIEW:

The City Attorney has reviewed this application and has no objections as to form and content.

FISCAL IMPACT:

There are no fiscal impacts for this agenda item.

PUBLIC NOTIFICATION:

As required for Special Land Use Permit and Final Site Plan Reviews, a legal ad was placed in a newspaper of local circulation to advertise the nature of the request in advance of the October 27th, 2021 Planning Board meeting, and notices were sent out to all property owners and tenants within 300 ft. of the property. In addition, a second legal ad will be placed in a newspaper of local circulation and notices will be sent to all property owners and tenants within 300 ft. of the property to advertise the public hearing at the City Commission on December 6th, 2021.

SUMMARY:

The Planning Division requests that the City Commission consider the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 203 Pierce Street – Toast.

ATTACHMENTS:

- Special Land Use Permit Resolution
- Application & Supporting Documents
- Site/Design Plans
- Planning Division Reports
- Meeting Minutes

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to APPROVE the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 203 Pierce Street – Toast – to amend the hours of operation.

OR

Make a motion to POSTPONE the Special Land Use Permit Amendment and Final Site Plan application for 203 Pierce Street – Toast – pending receipt of the following:

1. _____
2. _____
3. _____

OR

Make a motion adopting a resolution to DENY the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 203 Pierce Street – Toast.

**TOAST RESTAURANT
203 PIERCE
SPECIAL LAND USE PERMIT AMENDMENT
2021**

WHEREAS, Toast Restaurant filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to request a change in the hours of operation of the bistro;

WHEREAS, The land for which the Special Land Use Permit Amendment is sought is located on the east side of Pierce Street between W. Maple and Merrill;

WHEREAS, The land is zoned B-4, Business Residential, and is located within the Downtown Birmingham Overlay District, which permits bistros with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;

WHEREAS, The Planning Board on October 27, 2021 reviewed the application for a Special Land Use Permit Amendment to request a change in the hours of operation, and recommended approval of the amended SLUP for 203 Pierce - Toast, incorporating the hours in the letter of September 10th, 2021 (as noted below);

WHEREAS, The Final Site Plan for 203 Pierce – Toast reviewed by the Planning Board on October 27th, 2021 included the original approved seating plan with no changes to the number or placement of indoor or outdoor seats;

WHEREAS, The Birmingham City Commission has reviewed the Toast Restaurant Special Land Use Permit Amendment application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that Toast Restaurant's application for a Special Land Use Permit Amendment authorizing the operation of a bistro at 203 Pierce in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;

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

- 1) The applicant maintain minimum hours of operation as presented this evening:
Monday through Friday 8 a.m. – 3 p.m.
Saturday and Sunday 8 a.m. – 4 p.m.

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

BE IT FURTHER RESOLVED, Except as herein specifically provided, Toast Restaurant 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 be subsequently amended. Failure of Toast Restaurant to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

I, Alexandria Bingham, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on December 6th, 2021.

Alexandria Bingham, City Clerk



LAW OFFICES

ADKISON, NEED, ALLEN, & RENTROP

PROFESSIONAL LIMITED LIABILITY COMPANY

KELLY A. ALLEN
JESSICA A. HALLMARK
JOHN W. KUMMER
GREGORY K. NEED
G. HANS RENTROP

39572 Woodward, Suite 222
Bloomfield Hills, Michigan 48304
Telephone (248) 540-7400
Facsimile (248) 540-7401
www.ANAfirm.com

OF COUNSEL:

PHILLIP G. ADKISON
KEVIN M. CHUDLER
KATHERINE A. TOMASIK

September 10, 2021

Via Electronic Mail

Jana Ecker, Planning Director
Nicholas Dupuis, City Planner
Brooks Cowan, City Planner
City of Birmingham
151 Martin Street
Birmingham, MI 48012

**Re: Toast Birmingham, LLC
Special Land Use Amendment**

Dear Ms. Ecker, Mr. Dupuis, and Mr. Cowan:

As you know, Toast was issued a Violation Notice for changing its hours of operation from the approved Special Land Use Permit ("SLUP"). The approved SLUP is dated June 3, 2019. The purpose of this letter is to explain the circumstances regarding the change of hours and to request that the SLUP be amended to change the hours of operation. Specifically, Toast is requesting that the SLUP be amended to NOT require Toast to be open for or serve dinner.

Attached to this letter is a SLUP application form stating the reason for the current SLUP amendment and various documents as described below. The application fee in the amount of \$2,800 is being hand delivered to the Planning Department today.

VIOLATION NOTICE

Toast was issued a violation notice for not being open during the dinner hours as set forth in the approved SLUP from June 3, 2019.

Toast operated in compliance with the approved SLUP until the Covid-19 shutdown. Upon reopening for indoor dining in the summer of 2020, Toast no longer served dinner. During this time period, restaurants were allowed to open at a reduced capacity. During this time, there was constant uncertainty as to the ability to reopen at 100% capacity, by virtue of the ever-changing orders from the Governor and MDHHS.

Most of Toast's employees were receiving unemployment benefits from the State of Michigan for an extended period during this time frame and did not come back to work because the benefits they were receiving often outweighed their ability to earn in a post-shutdown time.

The State-ordered shutdowns created a hardship on all restaurants. Toast understood that when they reopened, they were not required to operate during the hours required under the approved SLUP.

If this is incorrect, it was not an intentional violation of the approved SLUP. It was a misunderstanding. However, it was virtually impossible for Toast to operate during the dinner hours. There was then and is now a national labor shortage. The statistics in Michigan are staggering when related to the restaurant industry. Upon reopening, Toast, struggled to be open for breakfast and lunch. Their current employees, who remained faithful to the owners, were and are working many hours and overtime.

Having been issued the Violation Notice, Toast considered trying to come into compliance with the approved SLUP, but has been unable to do so. Therefore, Toast is submitting this request for a further amendment to its SLUP.

REQUEST FOR SLUP AMENDMENT

Toast requests an amendment to its approved SLUP for the sole purpose of changing the approved hours to eliminate dinner hours.

Toast first opened in Birmingham in 2008. In 2008, the City Commission approved a SLUP with specific hours which required Toast to maintain "nighttime hours", as follows:

*"The applicant must maintain nighttime hours, Monday-Wednesday 7am-9pm;
Thursday-Saturday & Sunday 7am-midnight; Sunday 7am-5pm."*

When Toast opened, the City Commission had concerns about activating Pierce Street, which is one of the purposes of granting a Bistro License. Since that time there are now four Bistros on Pierce Street, including, Elie's, Streetside, and Townhouse. All of these Bistros are open for dinner but do not open for breakfast.

Subsequently, the SLUP was amended in June of 2019, requiring the hours set forth below as "Approved Hours." The Proposed Hours are on the right, below, and are the basis for this amended SLUP request.

Approved Hours.....	Proposed Hours
Sunday: 8 a.m. – 4 p.m.	8 a.m. – 4 p.m. (No change)
Monday-Tuesday: 7 a.m. – 3p.m.	8 a.m. – 3 p.m.
Wednesday: 7 a.m. – 8 p.m.	8 a.m. – 3 p.m.

Thursday-Friday: 7 a.m. – 8p.m.....8 a.m. – 3 p.m.
Saturday: 8 a.m. –9p.m.8 a.m. – 4 p.m.

DOCUMENTS REQUIRED FOR SLUP AMENDMENT

The SLUP amendment application submitted in February of 2019 is attached with the documents which have not changed since that time, including:

I(i). A detailed Existing Conditions Plan including the subject site in its entirety, including all property lines, buildings, structures, curb cuts, sidewalks, drives, ramps and all parking on site and on the street(s) adjacent to the site, and must show the same detail for all adjacent properties within 200 ft. of the subject sites property lines.

I(ii). A detailed and scaled Site Plan depicting accurately and in detail the proposed construction, alteration or repair.

I(iii). A Certified Land Survey.

I(iv). Interior floor plans.

I(v). A Landscape Plan.

I(vii). Colored elevation drawings for each building elevation.

IV. Photographs of existing conditions on the site including all structures, parking areas, landscaping and adjacent structures.

V. Current aerial photographs of the site and surrounding properties.

VI. Warranty Deed, or Consent of Property Owner if the applicant is not the owner.

NOTE: The landlord entity is Maple Pierce, LLC. The manager of the Landlord entity is Kevin Denha. Please note that the warranty deed is in the name of 50935 Van Dyke, LLC. After the closing on the building this entity' name was changed to Maple Pierce, LLC. A copy of the warranty deed and the name change are attached.

ADDITIONAL DOCUMENTS

In addition to the above, the following should be noted:

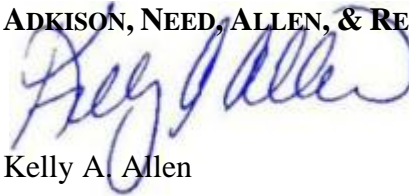
Toast added an awning to the cover the patio. The awning was approved by the Building Department.

Current photos of the patio are attached which show the umbrellas and the planters.

Please let us know if you require anything further. Thank you for your professional assistance in this matter.

Very truly yours,

ADKISON, NEED, ALLEN, & RENTROP, PLLC



Kelly A. Allen

KAA/kjp
Enclosures



Special Land Use Permit Application – Bistro Planning Division

Form will not be processed until it is completely filled out.

1. Applicant

Name: Toast Birmingham, LLC
 Address: 203 Pierce

 Phone Number: _____
 Fax Number: _____
 Email address: _____

3. Applicant's Attorney/Contact Person

Name: Kelly A. Allen, Esq.
 Address: 39572 Woodward, Suite 222, Bloomfield Hills, MI 48304

 Phone Number: 248-540-7400
 Fax Number: 248-540-7401
 Email address: kallen@anafirm.com

2. Property Owner

Name: Maple Pierce Properties, LLC
 Address: 40700 Woodward, Suite 125, Bloomfield Hills, MI

 Phone Number: _____
 Fax Number: _____
 Email address: _____

4. Project Designer/Developer

Name: _____
 Address: _____

 Phone Number: _____
 Fax Number: _____
 Email address: _____

5. Required Attachments

- I. Two (2) paper copies and one (1) digital copy of all project plans including:
 - i. A detailed Existing Conditions Plan including the subject site in its entirety, including all property lines, buildings, structures, curb cuts, sidewalks, drives, ramps and all parking on site and on the street(s) adjacent to the site, and must show the same detail for all adjacent properties within 200 ft. of the subject sites property lines;
 - ii. A detailed and scaled Site Plan depicting accurately and in detail the proposed construction, alteration or repair;
 - iii. A Certified Land Survey;
 - iv. Interior floor plans;
 - v. A Landscape Plan;
 - vi. A Photometric Plan;
 - vii. Colored elevation drawings for each building elevation;
- II. Specification sheets for all proposed materials, light fixtures and mechanical equipment;
- III. Samples of all proposed materials;
- IV. Photographs of existing conditions on the site including all structures, parking areas, landscaping and adjacent structures;
- V. Current aerial photographs of the site and surrounding properties;
- VI. Warranty Deed, or Consent of Property Owner if the applicant is not the owner;
- VII. Any other data requested by the Planning Board, Planning Department, or other City Departments.

6. Project Information

Address/Location of the property: 203 Pierce

 Name of development: _____
 Sidwell #: _____
 Current Use: _____
 Proposed Use: _____
 Area of Site in Acres: _____
 Current zoning: _____
 Is the property located in the floodplain? _____
 Name of Historic District Site is Located in: _____
 Date of Historic District Commission Approval: _____

Date of Application for Preliminary Site Plan: _____
 Date of Preliminary Site Plan Approval: _____
 Date of Application for Final Site Plan: _____
 Date of Final Site Plan Approval: _____
 Date of Application for Revised Final Site Plan: _____
 Date of Revised Final Site Plan Approval: _____
 Date of Design Review Board Approval: _____
 Is there a current SLUP in effect for this site? _____
 Date of Application for SLUP: _____
 Date of SLUP Approval: _____
 Date of Last SLUP Amendment: _____

7. Details of the Proposed Development (attach separate sheet if necessary)

Toast requests an amended Special Land Use Permit such that specific hours are not required. There are no changes to the layout, number of seats, or ownership. Toast's SLUP was last amended in 2019. All of the documents pertaining to the property and interior of the restaurant are the same. See the attached letter for further explanation.

8. Buildings and Structures

Number of Buildings on Site: _____
 Height of Buildings & # of Stories: _____

Use of Buildings: _____
 Height of Rooftop Mechanical Equipment: _____

9. Floor Use and Area (in Square Feet)**Structures:**

Restaurant Space: _____
 Office Space: _____
 Retail Space: _____

Number of Residential Units: _____
 Rental or Condominium? _____
 Total Floor Area: _____

10. Proposed Bistro Operation

Number of Indoor Seats: _____
 Number of Outdoor Seats: _____
 Entertainment Proposed: _____
 Previous LCC Complaints? _____
 Number of Tables along Street Façade: _____
 Type of Cuisine: _____

Bar Area? _____
 Number of Seats at Bar: _____
 Full Service Kitchen? _____
 Percentage of Glazing Proposed: _____
 Years of Experience in Birmingham: _____
 Years of Experience Outside Birmingham: _____

11. Required and Proposed Setbacks

Required Front Setback: _____
 Required Rear Setback: _____
 Required Total Side Setback: _____

Proposed Front Setback: _____
 Proposed Rear Setback: _____
 Proposed Total Side Setback: _____

12. Outdoor Dining Facility

Location (sidewalk right-of-way or on-street parking space): _____
 Hours of Operation: _____
 Width of unobstructed sidewalk between door and café? (5 ft. required): _____
 Platform Proposed: _____
 Trash Receptacles: _____

Number of Tables/Chairs: _____
 Material of Tables/Chairs: _____
 Tables Umbrellas Height & Material: _____
 Number and Location of Parking Spaces Utilized: _____
 Screenwall Material: _____
 Enclosure Material: _____

13. Required and Proposed Parking

Required number of parking spaces: _____
 Location of parking on site: _____
 Screenwall material: _____

Shared Parking Agreement? _____
 Location of parking off site: _____
 Height of screenwall: _____

14. Landscaping

Location of landscape areas: _____

Proposed landscape material: _____

15. Streetscape

Sidewalk width: _____
Number of benches: _____
Number of planters: _____
Number of existing street trees: _____
Number of proposed street trees: _____
Streetscape plan submitted? _____

Description of benches or planters: _____
Species of existing trees: _____
Species of proposed trees: _____

16. Loading

Required number of loading spaces: _____
Typical angle of loading spaces: _____
Screenwall material: _____
Location of loading spaces on site: _____

Proposed number of loading spaces: _____
Typical size of loading spaces: _____
Height of screenwall: _____
Typical time loading spaces are used: _____

17. Exterior Waste Receptacles

Required number of waste receptacles: _____
Location of waste receptacles: _____
Screenwall material: _____

Proposed number of waste receptacles: _____
Size of waste receptacles: _____
Height of screenwall: _____

18. Mechanical Equipment

Utilities and Transformers:

Number of ground mounted transformers: _____
Size of transformers (L•W•H): _____
Number of utility easements: _____
Screenwall material: _____

Location of all utilities & easements: _____
Height of screenwall: _____

Ground Mounted Mechanical Equipment:

Number of ground mounted units: _____
Size of ground mounted units (L•W•H): _____
Screenwall material: _____

Location of all ground mounted units: _____
Height of screenwall: _____

Rooftop Mechanical Equipment:

Number of rooftop units: _____
Type of rooftop units: _____
Screenwall material: _____
Location of screenwall: _____

Location of all rooftop units: _____
Size of rooftop units (L•W•H): _____
Percentage of rooftop covered by mechanical units: _____
Height of screenwall: _____
Distance from rooftop units to all screenwalls: _____

19. Accessory Buildings

Number of accessory buildings: _____
Location of accessory buildings: _____

Size of accessory buildings: _____
Height of accessory buildings: _____

20. Building Lighting

Number of light standards on building: _____
Size of light fixtures (L•W•H): _____
Maximum wattage per fixture: _____
Light level at each property line: _____

Type of light standards on building: _____
Height from grade: _____
Proposed wattage per fixture: _____

21. Site Lighting

Number of light fixtures: _____
Size of light fixtures (L•W•H): _____
Maximum wattage per fixture: _____
Light level at each property line: _____

Type of light fixtures: _____
Height from grade: _____
Proposed wattage per fixture: _____
Holiday tree lighting receptacles: _____

22. Adjacent Properties

Number of properties within 200 ft.: _____

Property #1

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #2

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #3

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #4

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #5

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #6


Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

The undersigned states the above information is true and correct, and understands that it is the responsibility of the applicant to advise the Planning Division and / or Building Division of any additional changes made to an approved site plan. The undersigned further states that they have reviewed the procedures and guidelines for Site Plan Review in Birmingham, and have complied with same. The undersigned will be in attendance at the Planning Board meeting when this application will be discussed.

By providing your e-mail to the City, you agree to receive news notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner:  Date: 9/10/2021
DocuSigned by:
B9B4BCB9DAD24BA...
 Print Name: Regan K. Bloom

Signature of Applicant:  Date: 9/10/2021
DocuSigned by:
B9B4BCB9DAD24BA...
 Print Name: Regan K. Bloom

Signature of Architect: _____ Date: _____
 Print Name: _____

Office Use Only

Application #: _____ Date Received: _____ Fee: _____
 Date of Approval: _____ Date of Denial: _____ Accepted by: _____



Special Land Use Permit Application – Bistro Planning Division

Form will not be processed until it is completely filled out.

1. Applicant

Name: Toast Birmingham, LLC
Address: 203 Pierce Street
Birmingham, MI 48009
Phone Number: 248-258-6278
Fax Number: 248-479-1800
Email address: finance@eatattoast.com

3. Applicant's Attorney/Contact Person

Name: Anthony Minicilli (Contact Person)
Address: 23150 Woodward Ave
Ferdale, MI 48220
Phone Number: 734-716-4405
Fax Number: 248-479-1800
Email address: finance@eatattoast.com

2. Property Owner

Name: Maple-Pierce Properties
Address: 700 N. Old Woodward Ave., Suite 300
Birmingham, MI 48009
Phone Number: 248-865-1515
Fax Number: _____
Email address: msarafa@visiongrowthpartners.com

4. Project Designer/Developer

Name: Krieger Associates
Address: 2120 E. Eleven Mile Rd.
Royal Oak, MI 48067
Phone Number: 248-414-9270
Fax Number: _____
Email address: _____

5. Required Attachments

- I. Two (2) paper copies and one (1) digital copy of all project plans including:
 - i. A detailed Existing Conditions Plan including the subject site in its entirety, including all property lines, buildings, structures, curb cuts, sidewalks, drives, ramps and all parking on site and on the street(s) adjacent to the site, and must show the same detail for all adjacent properties within 200 ft. of the subject sites property lines;
 - ii. A detailed and scaled Site Plan depicting accurately and in detail the proposed construction, alteration or repair;
 - iii. A certified Land Survey;

- iv. Interior floor plans;
 - v. A Landscape Plan;
 - vi. A Photometric Plan;
 - vii. Colored elevation drawings for each building elevation;
- II. Specification sheets for all proposed materials, light fixtures and mechanical equipment;
- III. Samples of all proposed materials;
- IV. Photographs of existing conditions on the site including all structures, parking areas, landscaping and adjacent structures;
- V. Current aerial photographs of the site and surrounding properties;
- VI. Any other data requested by the Planning Board, Planning Department, or other City Departments.

6. Project Information

Address/Location of the property: 203 Pierce Street
Birmingham, MI 48220
Name of development: Toast: A Neighborhood Joint
Sidwell #: _____
Current Use: Restaurant/Bar A-2
Proposed Use: Same
Area of Site in Acres: .08
Current zoning: D-4
Is the property located in the floodplain? No
Name of Historic District Site is Located in: Shane Park
Date of Historic District Commission Approval: 3/28/2008

Date of Application for Preliminary Site Plan: _____
Date of Preliminary Site Plan Approval: _____
Date of Application for Final Site Plan: _____
Date of Final Site Plan Approval: _____
Date of Application for Revised Final Site Plan: _____
Date of Revised Final Site Plan Approval: _____
Date of Design Review Board Approval: _____
Is there a current SLUP in effect for this site? _____
Date of Application for SLUP: _____
Date of SLUP Approval: _____
Date of Last SLUP Amendment: _____

CITY OF BIRMINGHAM
Date 02/26/2019 12:53:39 PM
Ref 00156850
Receipt 471036
Amount \$2,700.00
And 100.00
Sisva found

7. Details of the Proposed Development (attach separate sheet if necessary)

No new development. We are changing ours to Monday through Friday: 7am - 3pm and Saturday and Sunday: 8am - 4pm

8. Buildings and Structures

Number of Buildings on Site: 1
Height of Buildings & # of Stories: 2 Stories

Use of Buildings: 1 Floor: Restaurant 2nd Floor: offices
Height of Rooftop Mechanical Equipment: _____

9. Floor Use and Area (in Square Feet)

Structures:

Restaurant Space: 3,298 sq ft
Office Space: 2nd level approximately the same
Retail Space: None

Number of Residential Units: None
Rental or Condominium? None
Total Floor Area: 3,298 sq ft

10. Proposed Bistro Operation

Number of Indoor Seats: 65
Number of Outdoor Seats: 52
Entertainment Proposed: None
Previous LCC Complaints? None
Number of Tables along Street Façade: 6 on sidewalk; 16 on platform
Type of Cuisine: America

Bar Area? Yes; 168 sq feet
Number of Seats at Bar: 9 seats
Full Service Kitchen? Yes
Percentage of Glazing Proposed: Existing
Years of Experience in Birmingham: 11
Years of Experience Outside Birmingham: 18 years

11. Required and Proposed Setbacks

Required Front Setback: _____
Required Rear Setback: _____
Required Total Side Setback: _____

Proposed Front Setback: _____
Proposed Rear Setback: _____
Proposed Total Side Setback: _____

12. Outdoor Dining Facility

Location (sidewalk right-of-way or on-street parking space): Both
Hours of Operation: M-F: 7am - 3pm S & S: 8am-4pm
Width of unobstructed sidewalk between door and café? (5 ft. required): 5ft
Platform Proposed: Yes
Trash Receptacles: Existing Public

Number of Tables/Chairs: 22 Tables; 52 seats
Material of Tables/Chairs: Metal
Tables Umbrellas Height & Material: 7' canvas
Number and Location of Parking Spaces Utilized: Two
Screenwall Material: N/A
Enclosure Material: N/A

13. Required and Proposed Parking

Required number of parking spaces: _____
Location of parking on site: _____
Screenwall material: _____

Shared Parking Agreement? _____
Location of parking off site: _____
Height of screenwall: _____

14. Landscaping

Location of landscape areas: _____

Proposed landscape material: _____

15. Streetscape

Sidewalk width: 12' 8"
Number of benches: None
Number of planters: None
Number of existing street trees: One
Number of proposed street trees: None
Streetscape plan submitted? On File

Description of benches or planters: N/A

Species of existing trees: Unknown

Species of proposed trees: N/A

16. Loading

Required number of loading spaces: 1
Typical angle of loading spaces: Ally
Screenwall material: N/A
Location of loading spaces on site: Rear Ally

Proposed number of loading spaces: None

Typical size of loading spaces: N/A

Height of screenwall: N/A

Typical time loading spaces are used: Ally: 7am - 3pm

17. Exterior Waste Receptacles

Required number of waste receptacles: 0
Location of waste receptacles: N/A
Screenwall material: N/A

Proposed number of waste receptacles: 0

Size of waste receptacles: N/A

Height of screenwall: N/A

18. Mechanical Equipment

Utilities and Transformers:

Number of ground mounted transformers: 0
Size of transformers (L•W•H): N/A
Number of utility easements: 0
Screenwall material: N/A

Location of all utilities & easements: N/A

Height of screenwall: N/A

Ground Mounted Mechanical Equipment:

Number of ground mounted units: None (Basement)
Size of ground mounted units (L•W•H): N/A
Screenwall material: N/A

Location of all ground mounted units: None

Height of screenwall: N/A

Rooftop Mechanical Equipment:

Number of rooftop units: Existing
Type of rooftop units: Existing

Location of all rooftop units: On roof

Size of rooftop units (L•W•H): Existing

Percentage of rooftop covered by mechanical units: Existing

Height of screenwall: N/A

Distance from rooftop units to all screenwalls: N/A

Screenwall material: N/A

Location of screenwall: Units no visible from street

19. Accessory Buildings

Number of accessory buildings: 0
Location of accessory buildings: N/A

Size of accessory buildings: N/A

Height of accessory buildings: N/A

20. Building Lighting

Number of light standards on building: 4
Size of light fixtures (L•W•H): Existing
Maximum wattage per fixture: 50w
Light level at each property line: Low

Type of light standards on building: Existing

Height from grade: 7' 0"

Proposed wattage per fixture: _____

21. Site Lighting

Number of light fixtures: N/A
Size of light fixtures (L•W•H): N/A
Maximum wattage per fixture: N/A
Light level at each property line: N/A

Type of light fixtures: N/A

Height from grade: N/A

Proposed wattage per fixture: N/A

Holiday tree lighting receptacles: N/A

22. Adjacent Properties

Number of properties within 200 ft.: 2

Property #1

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #2

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #3

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #4

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

Property #5

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

Property Description: _____

North, south, east or west of property? _____

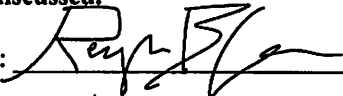
Property #6

Number of buildings on site: _____
Zoning district: _____
Use type: _____
Square footage of principal building: _____
Square footage of accessory buildings: _____
Number of parking spaces: _____

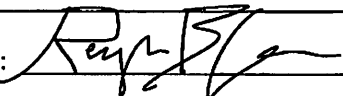
Property Description: _____

North, south, east or west of property? _____

The undersigned states the above information is true and correct, and understands that it is the responsibility of the applicant to advise the Planning Division and / or Building Division of any additional changes made to an approved site plan. The undersigned further states that they have reviewed the procedures and guidelines for Site Plan Review in Birmingham, and have complied with same. The undersigned will be in attendance at the Planning Board meeting when this application will be discussed.

Signature of Owner:  Date: 02/21/19

Print Name: Regan K Bloom

Signature of Applicant:  Date: 02/21/19

Print Name: Regan K Bloom

Signature of Architect: _____ Date: _____

Print Name: _____

Office Use Only

Application #: _____ Date Received: _____ Fee: _____

Date of Approval: _____ Date of Denial: _____ Accepted by: _____

e-recorded

LIBER 51496 PAGE 602

0011796

OAKLAND COUNTY TREASURERS CERTIFICATE

I HEREBY CERTIFY that there are no TAX LIENS or TITLES held by the state or any individual against the within description and all TAXES on same are paid for five years previous to the date of this instrument as appears by the records in the office except as stated.

Reviewed By: RC

Jan 23, 2018

5.00 E-FILE

Sec. 135, Act 206, 1893 as amended
ANDREW E. MEISNER, County Treasurer

Not Examined

LIBER 51496 PAGE 602

\$21.00 DEED - COMBINED

\$4.00 REMONUMENTATION

\$5.00 AUTOMATION

\$30,960.00 TRANSFER TX COMBINED

01/23/2018 05:09:49 PM RECEIPT# 8712

PAID RECORDED - Oakland County, MI

Lisa Brown, Clerk/Register of Deeds



WARRANTY DEED

Corporate(Platted/Condominium)

Drafted By:

Diana Sharer, Sole Member
Cedarcliff LLC
8855 Warwick Street
Beverly Hills, MI 48025

Return To:

50935 Van Dyke, LLC
40700 Woodward Avenue, Suite 125
Bloomfield Hills, MI 48304

Send Tax Bills To:

50935 Van Dyke, LLC
40700 Woodward Avenue, Suite 125
Bloomfield Hills, MI 48304

Recording Fee: \$30.00

File Number: 774840 - BH

State Transfer Tax:

\$27,000.00

County Transfer Tax:

\$3,960.00

Tax Parcel No.: 19-36-201-020

Know All Persons by These Presents: That **Cedarcliff LLC, a Michigan Limited Liability Company** whose address is 8855 Warwick Street, Beverly Hills, MI 48025

Convey(s) and Warrant(s) to **50935 Van Dyke, LLC, a Michigan limited liability company** whose address is 40700 Woodward Avenue, Suite 125, Bloomfield Hills, MI 48304

the following described premises situated in the City of **Birmingham**, County of **Oakland**, State of Michigan, to wit:

(SEE ATTACHED EXHIBIT A)

More commonly known as: **165 through 217 Pierce Street, Birmingham, MI 48009**

For the full consideration of: **three million six hundred thousand Dollars (\$3,600,000.00)**

Subject To:

See Attached Exhibit B - Permitted Exceptions



First American Title Insurance Company

First American Title

4

(Attached to and becoming a part of Warranty Deed dated: January 09, 2018 between Cedarcliff LLC, a Michigan Limited Liability Company, as Seller(s) and 50935 Van Dyke, LLC, a Michigan limited liability company, as Purchaser(s).)

Dated this January 09, 2018.

Seller(s):

Cedarcliff LLC, a Michigan limited liability company

By: Diana J. Sharer
Name: Diana Sharer
Title: Sole Member AKA Diana J. Sharer (C6)

State of Michigan
County of Oakland

The foregoing instrument was acknowledged before me this January 09, 2018 by Diana Sharer, Sole Member of Cedarcliff LLC, a Michigan Limited Liability Company. AKA Diana J. Sharer (C6)



Notary Public:
Notary County/State: /
County Acting In:
Commission Expires:

(Attached to and becoming a part of Warranty Deed dated: January 09, 2018 between Cedarcliff LLC, a Michigan Limited Liability Company, as Seller(s) and 50935 Van Dyke, LLC, a Michigan limited liability company, as Purchaser(s).)

EXHIBIT A

Land situated in the City of Birmingham, County of Oakland, State of Michigan, described as follows:

Part of Lots 15 and 16, ASSESSOR'S PLAT NO. 24, according to the recorded plat thereof, as recorded in Liber 54 of Plats, page 72, Oakland County Records, described as: Beginning at a point distant North 01 degree 52 minutes 25 seconds West 22 feet from the Southwest corner of Lot 16; thence North 87 degrees 60 minutes 00 seconds East 100.56 feet; thence North 05 degrees 21 minutes 50 seconds East 20.34 feet; thence North 35 degrees 22 minutes 05 seconds West 57.55 feet; thence North 11 degrees 52 minutes 30 seconds West 17.15 feet; thence South 54 degrees 26 minutes 10 seconds West 82.08 feet; thence South 01 degree 52 minutes 25 seconds East 41.48 feet to beginning; ALSO including the Southerly part of Lot 17, ASSESSOR'S PLAT NO. 24, according to the recorded plat thereof, as recorded in Liber 54 of Plats, page 72, Oakland County Records, measuring 3 feet on the Easterly lot line and 48.53 feet on the Westerly lot line.

Tax Parcel Number: 19-36-201-020

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

FILING ENDORSEMENT

This is to Certify that the CERTIFICATE OF AMENDMENT TO THE ARTICLES OF
ORGANIZATION

for

MAPLE PIERCE PROPERTIES, LLC

ID Number: 801712582

received by electronic transmission on January 10, 2018 ***, is hereby endorsed.***

Filed on January 10, 2018 ***, by the Administrator.***

The document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.



In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 10th day of January, 2018.

Julia Dale, Director
Corporations, Securities & Commercial Licensing Bureau

LARA Corporations
Online Filing System
Department of Licensing and Regulatory Affairs

Form Revision Date 07/2016

CERTIFICATE OF AMENDMENT TO THE ARTICLES OF ORGANIZATION

For use by DOMESTIC LIMITED LIABILITY COMPANY

Pursuant to the provisions of Act 23, Public Acts of 1993, the undersigned executes the following Certificate of Amendment:

The identification number assigned by the Bureau is:	801712582
The name of the limited liability company is:	50935 VAN DYKE, LLC
The date of filing the original Articles of Organization was:	12/3/2013

Complete only those articles being amended.

Article I

The name of the limited liability company as amended, is:

MAPLE PIERCE PROPERTIES, LLC

Article III

The duration of the limited liability company if other than perpetual is:

PERPETUAL

The amendment was approved by unanimous vote of all the members entitled to vote.

This document must be signed by a member, manager, or an authorized agent:

Signed this 10th Day of January, 2018 by:

Signature	Title	Title if "Other" was selected
KEVIN DENHA	Member	

By selecting ACCEPT, I hereby acknowledge that this electronic document is being signed in accordance with the Act. I further certify that to the best of my knowledge the information provided is true, accurate, and in compliance with the Act.

☐ Decline ☒ Accept

[illegible]

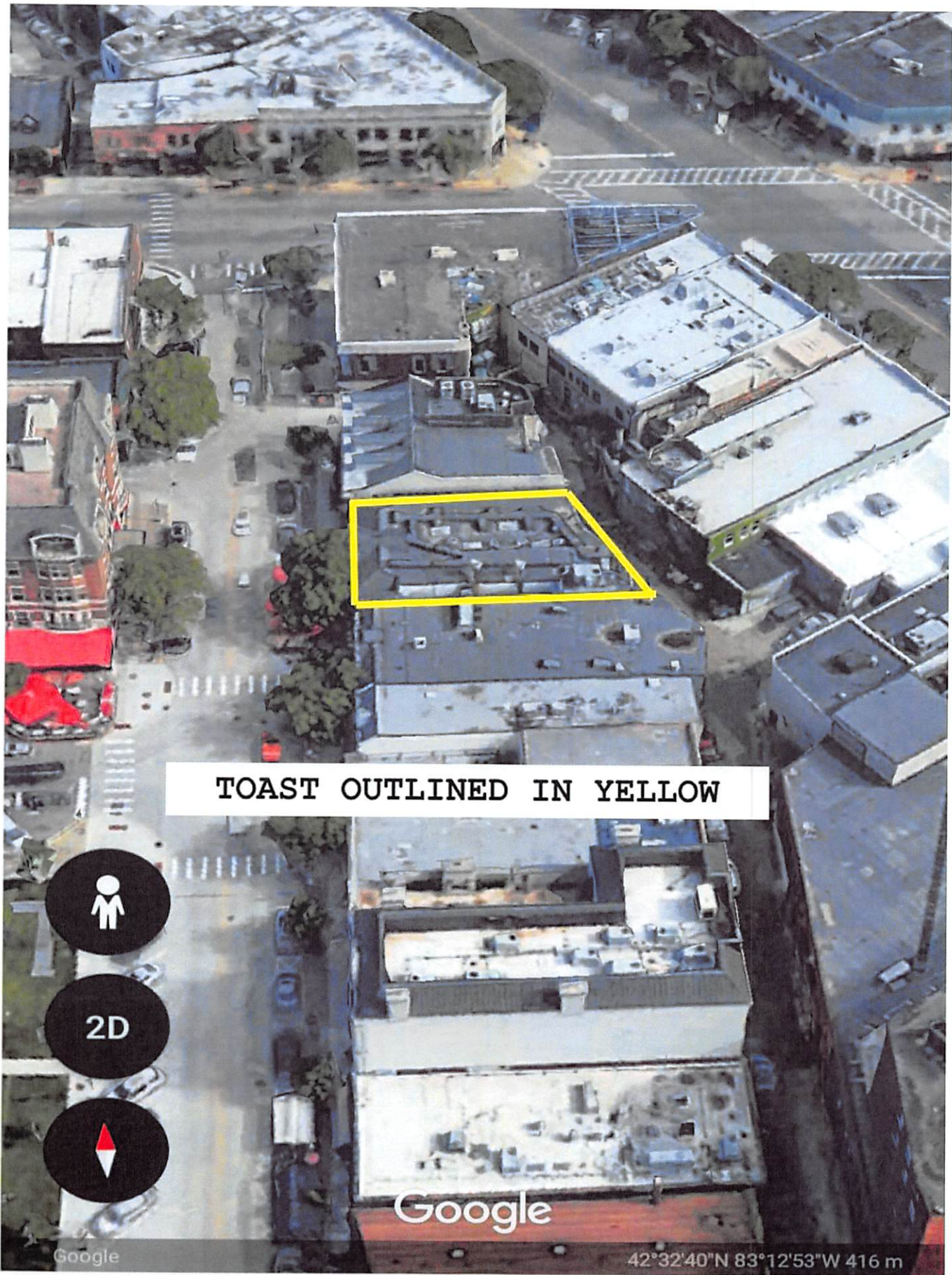












TOAST OUTLINED IN YELLOW



Google

42°32'40"N 83°12'53"W 416 m

Park
IN
BIRMINGHAM
The Shopping District
2 hours
free
parking
IN
all decks





ANIMAL FRIENDLY
OUTDOOR AREA
ANIMAL ACCESS ONLY
THROUGH OUTDOOR DINING
AREA



NO PARKING
ANYTIME

TOAS

Pierce & Co.



MEMORANDUM

Planning Department

DATE: October 22th, 2021

TO: Planning Board

FROM: Brooks Cowan, Senior Planner

APPROVED: Nicholas Dupuis, Planner Director

SUBJECT: 203 Pierce St. – Toast – Special Land Use Permit Amendment and Final Site Plan Review

Toast has operated as a Bistro at 203 Pierce Street since 2008. A condition of Toast's original approval is that it be open for dinner hours in order to bring activity to the space and provide dining opportunities during evening hours. Toast's original approval from 2008 indicated they would be open until 5 pm on Sunday, 9pm Monday-Wednesday, and 12am Thursday-Saturday.

In 2018, City staff was made aware that Toast was closing prior to the hours documented in their 2008 SLUP agreement. Article 7, Section 7.34 of the Zoning Ordinance states that once a permit for a Special Land Use has been granted as to any parcel of land, no change in that use may be made nor may any addition to or change in the building or improvements on the parcel of land take place until a new request for approval has been filed with the City Commission and the City Commission has approved the request for change.

On January 9th, 2019, the applicant went before the Planning Board for a pre-application discussion regarding a proposal to change their hours of operation to eliminate dinner hours and host special events in the evenings instead, such as cooking classes and private parties. Toast wished to close at 3 p.m. Monday through Friday and 4 p.m. on Saturday and Sunday. During the meeting, Board members expressed positive responses to the proposals, as Toast Bistro is the only restaurant on Pierce open for breakfast, serves two meals (breakfast and lunch), and activates the street during the morning and afternoon hours.

On February 25th, 2019, the restaurant went before the City Commission for a hearing regarding the 2018-2019 renewal of their Liquor License. During the meeting, the change in hours was discussed as a violation of their SLUP. Toast had proposed to close between 3 pm to 4 pm every day, however City Commission had indicated during Liquor License review that they were not in support of the proposal.

On April 24th, 2019, the applicant appeared before the Planning Board to request a Special Land Use Permit Amendment to change the hours of operation from those approved in the Special Land Use Permit obtained in 2008. As a compromise to City Commission's comments on hours of operation during liquor license review, Toast proposed to stay open into evening hours closer to the weekend on Wednesday through Saturday with proposed hours of operation as follows:

Sunday.....	8 am – 4 pm
Monday-Tuesday.....	7 am – 3 pm
Wednesday.....	7 am – 8 pm
Thursday-Friday.....	7 am – 8 pm
Saturday.....	8 am – 9 pm

The Planning Board was amenable to the proposed changes and felt that the applicant satisfied the intent of the Bistro Ordinance. The Board then moved to recommend the proposed changes, citing that the applicant satisfies the Bistro Ordinance requirements, and that multiple restaurants had opened on or near Pierce Street and do not have as strict of hours of operation requirements as Toast.

On June 3rd, 2019, the applicant appeared before City Commission to amend their hours of operation for an earlier closing time. Commission discussed how the goal of the Bistro Ordinance was to enliven the streets and encourage traffic downtown. Being closed for dinner is not what was envisioned. Commission encouraged the applicant to stay open later for dinner, however the applicant indicated difficulties attracting such business when Toast's brand is identified as a breakfast and lunch restaurant. The Commission approved the proposed changes in hours with the condition that the agreement include "minimum" hours of operation, meaning the applicant may stay open later than indicated, but not close earlier.

On August 4th, 2021, The applicant "Toast" was issued a violation notice for not being in compliance with their SLUP agreement in regards to hours of operation. The subject Bistro has been closing at 3pm Monday-Friday and 4pm Saturdays and Sundays, which is 5 hours earlier than the hours indicated in the 2019 SLUP agreement.

At this time, the applicant is proposing to eliminate the dinner hours and proposes the following hours of operation:

Monday-Friday.....7 AM – 3 PM
Saturday-Sunday.....8 AM – 4 PM

1.0 Land Use and Zoning

- 1.1 Existing Land Use – The existing land use is commercial.
 - 1.2 Existing Zoning – The property is currently zoned B-4, Business-Residential, and D-4 in the Downtown Overlay District. The existing use and surrounding uses appear to conform to the permitted uses of each Zoning District.
 - 1.3 Summary of Land Use and Zoning - The following chart summarizes existing land use and zoning adjacent to and/or in the vicinity of the subject site.
-

	North	South	East	West
Existing Land Use	Commercial / Retail	Commercial / Retail	Commercial / Retail	Commercial / Retail / Residential
Existing Zoning District	B-4, Business-Residential	B-4, Business-Residential	B-4, Business-Residential	B-4, Business-Residential
Downtown Overlay Zoning District	D-4	D-4	D-4	D-4

2.0 Bistro Requirements

Article 9, Section 9.02, Definitions, of the Zoning Ordinance defines a bistro as a restaurant with a full service kitchen with interior seating for no more than 65 people and additional seating for outdoor dining for no more than 65 people.

Article 3, Section 3.04(C)(10) of the Zoning Ordinance permits bistros in the Downtown Overlay District as long as the following conditions are met:

- No direct connect additional bar permit is allowed and the maximum seating at a bar cannot exceed 10 seats;
 - Alcohol is served only to seated patrons, except those standing in a defined bar area;
 - No dance area is provided;
 - Only low key entertainment is permitted;
 - Bistros must have tables located in the storefront space lining any street, or pedestrian passage;
 - A minimum of 70% glazing must be provided along building facades facing a street or pedestrian passage between 1' and 8' in height;
-

-
- g. All bistro owners must execute a contract with the City outlining the details of the operation of the bistro; and
 - h. Outdoor dining must be provided, weather permitting, along an adjacent street or passage during the months of May through October each year. Outdoor dining is not permitted past 12:00 a.m. If there is not sufficient space to permit such dining on the sidewalk adjacent to the bistro, an elevated, ADA compliant, enclosed platform must be erected on the street adjacent to the bistro to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.
 - i. Enclosures facilitating year round dining outdoors are not permitted.
 - j. Railings, planters or similar barriers defining outdoor dining platforms may not exceed 42" in height.
 - k. Outdoor rooftop dining is permitted with the conditions that surrounding properties are not impacted in a negative manner and adequate street level dining is provided as determined by the Planning Board and City Commission. Rooftop dining seats will count towards the total number of permissible outdoor dining seats.

The only proposed change to the Bistro requirements is for (g) – operations of the bistro regarding an earlier closing time. **At this time, the applicant appears to meet the Bistro requirements listed above.**

3.0 Screening and Landscaping

2.1 Screening – No changes proposed.

2.2 Landscaping – No changes proposed.

4.0 Parking, Loading, Access, and Circulation

3.1 Parking – As the subject site is located within the Parking Assessment District, the applicant is not required to provide on-site parking.

3.2 Loading – No changes are proposed.

3.3 Vehicular Access & Circulation - Vehicular access to the building will not be altered.

3.4 Pedestrian Access & Circulation – No changes proposed.

3.5 Streetscape – No changes proposed.

4.0 Lighting

The applicant is not proposing any new lighting for the property.

5.0 Departmental Reports

- 5.1 Engineering Division – Engineering has no concerns at this time.
- 5.2 Department of Public Services – DPS has no concerns at this time.
- 5.3 Fire Department – The Fire Department has no concerns at this time.
- 5.4 Police Department – The Police Department has no concerns at this time.
- 5.5 Building Department – The Building Department has no concerns at this time.

6.0 Design Review

The applicant is not proposing any exterior changes as a part of the Special Land Use Permit Amendment. The applicant has 65 indoor seats and 52 outdoor seats. The applicant is approved for 20 seats located on the sidewalk and 32 seats located on the dining deck which occupies two parking spaces. The applicant is current with all outdoor dining licenses and there are no pending violations.

7.0 Downtown Birmingham 2016 Plan

The site is located within the D-4 zone of the Downtown Birmingham Overlay District. The Downtown 2016 Plan encourages a mix of uses in the downtown to encourage visitors and social activation during the morning, afternoon, and night. Toast is within the Downtown 2016 Plan's Central Business District retail loop consisting of Pierce, Merrill, Woodward and Maple. This loop allows pedestrians to window shop without encountering gaps in store frontage or interruptions by vehicular traffic. Restaurants along this loop includes Toast, Elie's, Streetside, La Strada, Sushi Japan, Leo's Coney Island, Kaku Sushi, Churchills Cigar Bar, Eli Tea Bar, and Planthropie. When considering restaurants across the street from the subject loop, there is Townhouse, 220 Merrill, Hyde Park Steakhouse, Pernoi (alley), Starbucks, and Clean Juice (opening to be determined). A number of the surrounding restaurants are open for dinner, helping to balance out dining offerings at all times of the day.

The Planning Division finds the proposed SLUP amendment adequately enhances street life along this loop during breakfast and lunch hours within the downtown, thus helping to promoting a pedestrian friendly environment and assisting in activating the downtown during the morning and afternoon hours.

8.0 Approval Criteria

In accordance with Article 7, section 7.27 of the Zoning Ordinance, the proposed plans for development must meet the following conditions:

- (1) The location, size and height of the building, walls and fences shall be such that there is adequate landscaped open space so as to provide light, air and access to the persons occupying the structure.
-

-
- (2) The location, size and height of the building, walls and fences shall be such that there will be no interference with adequate light, air and access to adjacent lands and buildings.
 - (3) The location, size and height of the building, walls and fences shall be such that they will not hinder the reasonable development of adjoining property not diminish the value thereof.
 - (4) The site plan, and its relation to streets, driveways and sidewalks, shall be such as to not interfere with or be hazardous to vehicular and pedestrian traffic.
 - (5) The proposed development will be compatible with other uses and buildings in the neighborhood and will not be contrary to the spirit and purpose of this chapter.
 - (6) The location, shape and size of required landscaped open space is such as to provide adequate open space for the benefit of the inhabitants of the building and the surrounding neighborhood.

In addition, Article 7, Section 7.36 requires applications for a Special Land Use Permit to meet the following criteria:

- (1) The use is consistent with and will promote the intent and purpose of this Zoning Ordinance.
- (2) The use will be compatible with adjacent uses of land, the natural environment, and the capabilities of public services and facilities affected by the land use.
- (3) The use is consistent with the public health, safety and welfare of the city.
- (4) The use is in compliance with all other requirements of this Zoning Ordinance.
- (5) The use will not be injurious to the surrounding neighborhood.
- (6) The use is in compliance with state and federal statutes.

The applicant appears to satisfy approval criteria of 7.27 and 7.36 of the Zoning Ordinance. Closing before dinner hours does not appear to be contrary to the spirit and intent of the Zoning Ordinance as the approved use activates the space and supports economic vitality of Pierce Street between W. Maple and Merrill Street during morning and afternoon hours seven days a week.

10.0 Suggested Action

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board recommend **APPROVAL** to the City Commission of the applicant's request for Special Land Use Permit Amendment and Final Site Plan Review for 203 Pierce – Toast. It is also recommended that the terminology "minimum hours of operation" be included into the SLUP agreement to permit the applicant to stay open later into the evening if economically feasible.

The Planning Division's recommendation is based on the consideration that the applicant is open and providing dining services to patrons of Birmingham at times when other restaurants and Bistros are not. Toast is open for breakfast and lunch and enhances the economic vitality of Pierce Street during those times. The Planning Division's

recommendation is also based on the precedent that other Bistros have not been required to be open during the morning and provide service during typical breakfast, lunch and dinner hours.

If the City wishes to deny the applicant's request and require Toast to maintain current dinner hours Wednesday-Saturday, the Planning Division recommends that the City consider a temporary social district trial on Pierce Street from Merrill to the alley intersection, similar to what Royal Oak, Ferndale, and Northville have in order to activate the space. Doing so could assist the surrounding businesses in activating the space and attracting more business at all times of the day.

11.0 Sample Motion Language

The Planning Board recommends **APPROVAL** to the City Commission of the Special Land Use Permit Amendment Final Site Plan Review for 203 Pierce – Toast.

OR

Motion to recommend **POSTPONEMENT** of the Special Land Use Permit Amendment and Final Site Plan Review for 203 Pierce – Toast, for the following reasons:

1. _____
2. _____
3. _____

OR

Motion to recommend **DENIAL** of the Special Land Use Permit Amendment and Final Site Plan Review for 203 Pierce – Toast, for the following reasons:

1. _____
2. _____
3. _____

OR

Motion to recommend **DENIAL** of the Special Land Use Permit Amendment and Final Site Plan Review for 203 Pierce – Toast, for the following reasons:

1. _____
 2. _____
 3. _____
-

AND

To consider a temporary social district trial on Pierce Street from Merrill to the alley intersection as an effort to activate the space and encourage social gathering at all times of the day for the benefit of residents, visitors, and surrounding businesses.

**CITY OF BIRMINGHAM
JOINT MEETING OF THE PLANNING BOARD AND
HISTORIC DISTRICT COMMISSION
WEDNESDAY, MARCH 26, 2008**

Minutes of the Joint meeting of the City of Birmingham Planning Board held March 26, 2008. Chairman Robin Boyle convened the meeting at 7:32 p.m.

Present: Chairman Robin Boyle; Board Members Brian Blaesing (arrived at 7:47 p.m.), Gillian Lazar, Mark Nickita, Janelle Whipple-Boyce

Absent: Board Members Sam Haberman, Bryan Williams; Student Representative Cole Fredrick

03-58-08

Approval of the Minutes of the Planning Board Meeting held March 12, 2008

Motion by Mr. Nickita

Seconded by Ms. Whipple-Boyce to approve the Minutes of March 12 as prepared.

Motion carried, 4-0.

VOICE VOTE

Yeas: Nickita, Whipple-Boyce, Boyle, Lazar

Nays: None

Absent: Blaesing, Haberman, Williams

03-59-08

Approval of the Minutes of the Planning Board Meeting held December 12, 2007

Motion by Ms. Whipple-Boyce

Seconded by Ms. Lazar to approve the Minutes of December 12 as revised.

Motion carried, 4-0.

VOICE VOTE

Yeas: Whipple-Boyce, Lazar, Nickita, Boyle

Nays: None

Absent: Blaesing, Haberman, Williams

03-60-08

Chairperson's Comments (none)

03-61-08

Approval of the Agenda (two reviews withdrawn)

03-62-08

SPECIAL LAND USE PERMIT ("SLUP")

203 Pierce St.

Toast Birmingham bistro, request for Bistro License, New Establishment

FINAL SITE PLAN REVIEW

203 Pierce St.

Toast Birmingham bistro, request for Bistro License, New Establishment

Ms. Robinson advised that the subject site is located on the east side of Pierce St. between Maple Rd. and Martin St. The parcel is zoned B-4 Business-Residential and D-4 in the Downtown Overlay District. The applicant, a new restaurant, is seeking approval of a Bistro License under Chapter 10, Alcoholic Liquors, of the City Code. Chapter 10 requires that the applicant obtain a SLUP and approval from the City Commission to operate an establishment with a Bistro License within the City. Bistro requirements allow two new bistros in the calendar year 2008. Accordingly, the applicant will be required to receive a recommendation from the Planning Board on the Final Site Plan and SLUP, and then obtain approval from the City Commission for the final site plan, SLUP, and for the operation of a Bistro License.

As the applicant is also proposing signage and changes to the exterior of the building, and because the building is located within the CBD Historic District, approval from the Historic District Commission ("HDC") is also required.

In accordance with the Commission resolution passed December 10, 2007, since parking spaces are being taken out of service for this proposal, the applicant must also submit plans of the dining deck for review by the Advisory Parking Committee ("APC").

Toast Birmingham is proposing to have 9 seats in the 174 sq. ft. bar area. Toast Birmingham bistro does not propose any dancing area, but they wish to have low key musical entertainment. They also propose to have tables located in the storefront space lining Pierce St., and to provide the existing 70 percent glazing along the front façade. They propose to install a new canvas black awning over the café, directly against the building.

Toast Birmingham is also proposing 26 seats for outdoor dining, with 18 on an elevated platform along Pierce St., and 8 seats on the sidewalk directly adjacent to the south side

of the front elevation of the building. A 5 ft. clear passage will be maintained along the public sidewalk. They propose to construct a temporary 12 ft. 5 ½ in. by 20 ft. platform of composite non-slip decking fastened with clips to provide a level outdoor dining surface on the sidewalk and into the street. The platform is proposed to extend 7 ft. into one parking space along Pierce St. The applicant is also proposing a 3.5 ft. high custom-made metal fencing system to enclose the outdoor dining space.

At the recommendation of the Planning Division, the restaurant will maintain hours that extend into the evening. Mr. Thom Bloom said Birmingham Toast hours will be Monday–Wednesday 7 a.m. – 9 p.m.; Thursday–Saturday 7 a.m. – midnight; Sunday 7 a.m. – 5 p.m.

Mr. Drew Norton was present to represent Toast Birmingham. With him were Thom and Regan Bloom, the business owners; Mr. Jason Kregar, the architect; along with the head chef, Rubin Griffin. Mr. Norton indicated the applicant has satisfied or is prepared to satisfy all of the conditions raised by the Planning Division.

Mr. Bloom discussed some of the special events they may want to have in the evening, such as wine tastings for charitable events, guest chef cooking classes, and art gallery showing/openings with local artists. On the weekends there could be a Bloody Mary and Belini/Mimosa bar. The front section can be closed off as a private dining area for larger parties while they are operating the restaurant. Lastly, they manage quite a robust catering business out of their establishment for upscale corporate events. They request that on occasion there be some light entertainment such as a violin or a harp in the background, but nothing loud. If they are given the opportunity to have a bistro license Mr. Bloom feels it will be a benefit to the City, the patrons, and the community, as well as something they would very much enjoy.

He distributed a final draft of the dinner menu and a summary on the history of Toast. They have been in business in Ferndale for seven years. Due to the success of their Ferndale, location they are very confident that they will provide a very unique and lively establishment in Birmingham with some additional offerings.

Mr. Kregar clarified that the bistro tables measure 28 in. x 24 in. The restaurant seating will be adjusted to accommodate 65 people.

Mr. Nickita noted the board has not done this sort of dual outdoor enclosure in the past. His issue was congestion on the sidewalk. He suggested moving the entrance to the small dining area along the building to the north side, and flipping the outer platform 180 degrees in order to have the ramp access near the door.

Mr. Blaesing indicated he is extremely pleased after looking at the presentation. This is the kind of establishment that the board was hoping to get, right in the middle of town, and run by proprietors who have been successful with another establishment. The more synergy that occurs with the restaurants, the art community, shopping, and the office crowd, the better the whole downtown will work. He is concerned about having the dual

outdoor dining areas because he feels that when a pedestrian walks up and sees tables on both sides of the sidewalk the pedestrian may be intimidated and shy away. Mr. Blaesing is reluctant to approve with dining on both sides of the sidewalk, because he thinks it takes up too much of the public space and sets a precedent for other applicants to come in with seating on both sides and further constrict sidewalk width and functionality. His view is that the board should approve outside dining on one side or the other, see how it goes for a year, and if they think it is going to work, the applicant can come back next year and get seating on the other side. Once the seating is in, however, it is not easy to take it out.

Mr. Nickita noted that to the north there is an existing stone planter that protrudes from the building frontage almost the exact same distance as this dining area. So, the planter has already established the pedestrian path away from the building. Therefore, in this condition he is absolutely comfortable with the two dining areas. Walking between tables makes for a very interesting urban experience and he doesn't think people would be intimidated. Ms. Lazar noted the dining areas are enclosed by a railing.

Chairman Boyle said that if it is determined that outdoor dining on both sides of the sidewalk is not working out, it is not beyond the realm of common sense to remove the seating next to the building. There is the opportunity to be flexible.

Mr. Nickita observed the board has set a bit of a precedent as to the construction of platforms. Mr. Bloom said they have looked at designs that have been approved and designed their platform to those exact specs. The railings will be painted black.

No members of the public came forward to comment at 8:20 p.m.

Motion by Mr. Nickita

Seconded by Ms. Whipple-Boyce to approve the applicant's request for Final Site Plan and a SLUP to permit a Bistro License for Toast Birmingham restaurant at 203 Pierce with the following conditions:

- 1) The applicant maintain nighttime hours as presented this evening, Monday–Wednesday 7 a.m. – 9 p.m.; Thursday–Saturday 7 a.m. – midnight; Sunday 7 a.m. – 5 p.m.;**
- 2) The applicant pay for the removal and re-installment of the parking meter where the outdoor dining platform is located;**
- 3) The applicant appear before the Historic District Commission for all building changes and signage;**
- 4) The applicant execute a contract with the City of Birmingham for use of the right-of-way;**
- 5) The applicant obtain an outdoor dining permit from the City of Birmingham for use of the right-of-way;**
- 6) The applicant comply with all requests of City departments;**
- 7) The applicant shall provide low-key entertainment as desired;**
- 8) The color of the railing is black as presented;**

- 9) The tables measure 24 in. x 28 in. as opposed to 28 in. x 28 in.;
- 10) The entry to the east outdoor seating area is at the north side of the enclosure and the west patio access is at the north side of the enclosure, flipped from what is shown;
- 11) The seating be 65 seats, with no more than ten at the bar in accordance to the Ordinance.

There was no discussion from the audience at 8:30 p.m.

Motion carried, 4-1.

VOICE VOTE

Yeas: Nickita, Whipple-Boyce, Boyle, Lazar

Nays: Blaesing

Absent: Haberman, Williams

APPROVED

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, JANUARY 9, 2019
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on January 9, 2019. Chairman Scott Clein convened the meeting at 7:30 p.m.

A. ROLL CALL

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams

Also Present: Alternate Board Member Jason Emerine

Absent: Alternate Board Member Nasseen Ramin; Student Representatives Madison Dominato, Sam Fogel, Ellie McElroy

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

Fleis & Vanderbrink ("F&V")
Julie Kroll

01-07-19

H. PRE-APPLICATION DISCUSSION

1. 203 Pierce St., Toast Birmingham

Mr. Tony ~~Manicilli~~ **Minicilli**, Director of Operations for Toast, was present with Mr. Chris ~~Gadelka~~ **Gadulka**, Executive Chef, and Ms. Reagan **Regan** Bloom with Toast. Mr. Manicilli said they are looking to change the required hours of their Special Land Use Permit ("SLUP") to 7 a.m. to 3 p.m. Monday through Friday and 8 a.m. to 4 p.m. on week-ends. They want to eliminate dinner and do special events in the evenings such as cooking classes and private parties.

Ms. Ecker advised they are required under their SLUP to serve breakfast, lunch, and dinner. To change that condition they would have to amend their SLUP. They can do one of two things to correct the violation:

- Start serving dinner again; or
- Go before the Planning Board and City Commission to get approval to strike the condition that they must serve dinner.

Ms. Ecker explained if they just wanted to have a restaurant with regular dining and no alcohol they would not need a SLUP. At the time this SLUP was approved the Planning Board and City Commission didn't feel a bistro license should be issued if the street would not be activated in the evenings. Mr. ~~Manicilli~~ **Minicilli** said on week-ends their customers generally have about an hour wait. During that wait, most people are in the City and walking around. Even if it is during the day and not at night they are adding to activity on the street.

Board members requested that in Toast's application for a change in their SLUP they include details on their special events and average customer count after 3 p.m. over the last six months or so.

Mr. Williams pointed out there are three other restaurants on Pierce and that are open at night and none are open for breakfast. So he would be inclined to go forward with this request.

Mr. ~~Manicilli~~ **Minicilli** responded for Ms. Whipple-Boyce that they have had 15 special events in the evening through December. He anticipates seeing an increase in pop-ups, cooking classes, or other events. He described a pop-up as an invitation for another chef to come in and set up a temporary restaurant with a different menu other than theirs for a one night event. The purpose is to receive an indication of whether to invest in opening a new restaurant.

Ms. ~~Reagan~~ **Regan Bloom** opined that increasing competition has had something to do with their declining dinner crowd.

Mr. Jeffares said these people have tried everything to get people in for dinner and it has been a valiant effort. They do quite a few events in the evening and he didn't think the board should try to force anybody to lose money.

BIRMINGHAM CITY COMMISSION MINUTES
FEBRUARY 25, 2019
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Patty Bordman called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL:	Present:	Mayor Bordman Mayor Pro Tem Boutros Commissioner DeWeese Commissioner Harris Commissioner Hoff Commissioner Nickita
	Absent:	Commissioner Sherman

Administration: City Manager Valentine, Assistant City Manager Gunter, City Attorney Currier, Police Chief Clemence, Planning Director Ecker, Finance Director Gerber, Building Official Johnson, Library Director Koschik, City Engineer O'Meara, City Clerk Mynsberge, Birmingham Shopping District Executive Director Tighe

02-047-19

LIQUOR LICENSE REVIEW AND RENEWAL

Commissioner Nickita recused himself from discussing and voting on 220 Merrill and Toast due to business relationships with the owners of both establishments.

City Clerk Mynsberge presented the item.

Commissioner Hoff thanked staff for the clarity of the submitted reports.

Comments/Clarification

Planning Director Ecker explained:

- Elie's Mediterranean filled out their liquor license application incorrectly in regards to numbers, but upon the Planning Department on-site review it was clear that Elie's was actually in compliance

City Clerk Mynsberge confirmed:

- Rojo and Sidecar share an owner and together owe the City \$16,325 in taxes and water bills. The owner entered into a payment plan with the City for the water bills on February 25, 2019 by paying a portion and agreeing to continue making regular payments on the debt. The outstanding taxes for both establishments remain unpaid.

Mayor Bordman invited Stephen Simon, owner of Rojo and Sidecar, to speak to the Commission.

Mr. Simon explained both Rojo and Sidecar were purchased in bankruptcy court in June 2018. There are current talks with the City and Oakland County as to whether the July 2018 taxes are due from the current or previous owner. In addition, the company's accountant has indicated that the assets purchased were only about \$20,000, which would free the business from owing taxes.

City Attorney Currier said with respect to the delinquent taxes he was unsure because he was not familiar with the bankruptcy filing. He could not say whether that was a matter the bankruptcy court was taking into consideration, but that it would have some priority with respect to payment in the bankruptcy court. If the priority stays as-is, eventually the property will go to tax sale.

Commissioner Harris suggested setting a March 25, 2019 public hearing date to encourage a speedy resolution of the matter on the part of the previous owner and Mr. Simon.

Mayor Bordman concurred and advised Mr. Simon that the tax liability may fall to him if he intends to keep the restaurants. She said this was not legal advice, but that it seemed to her that if the previous owner were mandated to pay by the court that Mr. Simon would be reimbursed.

Commissioner DeWeese said Toast has been slow in addressing issues with the City, including the fact that Toast is in violation of its Special Land Use Permit (SLUP) because it is not currently operating in the evenings.

Planning Director Ecker explained:

- Toast had been subject to code enforcement for not providing dinner hours as per their SLUP. The owners then came to a pre-application meeting with the Planning Department to discuss either providing dinner hours or applying for a SLUP amendment.
- Toast ultimately submitted an application and attendant fee for a SLUP amendment earlier in the day on February 25, 2019, hoping not to provide regular dinner hours but to provide evening space for cooking classes and other activities instead.
- Toast would not likely receive a public hearing regarding their application with the Planning Board before the end of April 2019.

Toast representative Tony Minicilli came forward to address the Commission. He explained:

- Toast's hours were changed in October 2018, and they were unaware their SLUP was contingent on having dinner hours. He said that he believed Toast was the only restaurant that had a SLUP requiring evening hours.
- When Toast was made aware that they were in violation of their SLUP, Toast was advised to re-apply.
- He is the Director of Operations, and neither he nor the current owner were part of the SLUP process when it was originally granted to Toast by Birmingham. Toast was originally owned by married couple Thom and Regan Bloom, and they since divorced with Regan retaining ownership of the restaurant along with investors.

Mayor Bordman stated:

- SLUPs require any change in ownership be reviewed by the City Commission.
- Since Toast did not submit their change in ownership for review to the City Commission, the restaurant has now made the City aware of an additional violation of their SLUP.
- Given the major problems with the operation of the restaurant, she recommended setting a public hearing for Toast on March 25, 2019.

Commissioner Hoff noted there were several restaurants with discrepancies between the number of seats allowed and the number of seats the Planning Department found upon inspection. She added that as of the submission of the information to the City Commission, many of those discrepancies had not been resolved. She asked Mayor Bordman if the Commission could speak with representatives from the establishments in violation present this evening to see whether the discrepancies have since been resolved.

Mayor Bordman concurred, suggested reviewing the discrepancies one establishment at a time, and asked whether a representative from Bella Piatti was present.

Nino Cutraro introduced himself as the owner of Bella Piatti.

Mayor Bordman asked Mr. Cutraro why he had not responded to contact from the City regarding the issue with the number of seats in Bella Piatti.

Mr. Cutraro said he never saw any communication from the City regarding the matter.

Mayor Bordman invited Planning Director Ecker to confirm that attempts to contact Bella Piatti had occurred.

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, APRIL 24, 2019**

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on April 24, 2019. Chairman Scott Clein convened the meeting at 7:30 p.m.

A. ROLL CALL

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Jason Emerine; Student Representative Sophia Trimble

Absent: Board Member Bert Koseck; Student Representative John Utley

Administration: Jana Ecker, Planning Director
Nicholas Dupuis, City Planner
Laura Eichenhorn, Transcriptionist

Present in Audience: Alternate Board Member Nasseen Ramin

04-059-19

F. Request for Special Land Use Permit Review and Request for Final Site Plan and Design Review

1. 203 Pierce – Toast – Request for approval of a SLUP Amendment and Final Site Plan Review to permit a change of hours of operation and a change of ownership.

City Planner Dupuis presented the item.

Kelly Allen, Attorney for Toast, noted that the correct proposed hours were listed in her letter dated April 18, 2019 and included on page 83 of the agenda packet. She continued:

- Toast was one of the first two restaurants issued a bistro license in Birmingham in 2008. Ms. Allen had served as attorney for Toast at the time, and she had mostly worked with former co-owner Thomas Bloom.
- The goal of bistro licenses was to activate the street, especially with nighttime hours. Toast agreed to attempt nighttime hours, even though the focus was more of a breakfast and brunch experience. Toast tried to attract dinner patrons for ten years, and the efforts were largely unsuccessful.
- When Reagan Bloom assumed full ownership of Toast following her divorce from Mr. Bloom, she was unaware that Toast was obligated to stay open into the evening hours as part of the establishment's contract with the City.

- The City has many more bistros now, and the necessity of Toast having evening hours is no longer extant. City streets are now well-utilized in the evenings.
- Since the originally proposed change in hours was explicitly discouraged by the Commission, Toast is proposing a compromise in hours to try and meet the Commission's directive.
- Toast will attempt the proposed compromise hours in earnest, but they still may not be successful. If that is the case, Toast may be back before the Planning Board and the Commission in the future.
- During the change in ownership Toast acquired new investors and went through the required changes with the Michigan Liquor Control Commission. The attorneys handling that process did not come before the City to update the information as required by ordinance, so Ms. Allen is facilitating that process now. She expects all involved parties will be cleared by the City's Police Department.
- Toast's seating is now in compliance with the original SLUP. Toast will be open during all of the hours proposed in Ms. Allen's April 18, 2019 letter, and may host special events during some of its evening hours on occasion.

Mr. Jeffares noted other bistro license holders that seem to have less onerous hour requirements. He stated that Bella Piatti is not open for business two days out of the week, that La Strada is not open for business on Mondays, and that both Tallulah Wine Bar & Bistro and Bistro Joe's have days they are not open for business. Meanwhile, Toast is required to be open for all meals seven days a week.

Ms. Allen agreed with Mr. Jeffares, and suggested that a slight hardship is being imposed on Toast in terms of the evening hours.

Mr. Boyle noted that the City was imposing the requirement that Toast revise its schedule to stay open during evenings. He suggested that since the City is requiring this, the City could help publicize Toast's new hours and correct the perception that Toast will continue to remain closed in the evenings.

Chairman Clein said he understood the Commission's concerns, acknowledged it was a policy issue for the Commission to decide, and would not try to persuade them differently. He also opined that a reduction or elimination of evening hours would not negatively impact evening activity on Pierce Street.

Motion by Mr. Share

Seconded by Mr. Williams to recommend approval of the amended SLUP for 203 Pierce - Toast, incorporating the hours in the letter of April 18, 2019, based on the fact that of the six items in Article 7, Section 7.2.7 Items One, Two, Three, Four, and Six remain unchanged and Item Five, which relates to compatibility and the spirit and purpose are well-satisfied by changing circumstances over time including the evening activation of Pierce Street.

Motion carried, 7-0.

VOICE VOTE

Yeas: Share, Williams, Clein, Boyle, Emerine, Jeffares, Whipple-Boyce
Nays: None

Motion by Mr. Share

Seconded by Mr. Williams to recommend approval of the Final Site Plan for 203 Pierce - Toast, which includes the original seating plan contained in the applicant's submittal materials and the letter of April 18, 2019. With reference to Article 7, Section 7.2.7, all of the site plan issues are satisfied.

Motion carried, 7-0.

APPROVED

BIRMINGHAM CITY COMMISSION MINUTES
JUNE 3, 2019
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE
--

Mayor Patty Bordman called the meeting to order at 7:30 PM.

II. ROLL CALL

Present: Mayor Bordman
Mayor Pro Tem Boutros
Commissioner DeWeese
Commissioner Hoff
Commissioner Nickita
Commissioner Sherman

Absent: Commissioner Harris

Administration: City Manager Valentine, City Attorney Currier, Communications Director Byrnes, Police Chief Clemence, Planning Director Ecker, DPS Manager Filipski, Finance Director Gerber, Building Official Johnson, City Clerk Mynsberge, DPS Director Wood

VI. NEW BUSINESS

06-149-19

PUBLIC HEARING TO CONSIDER A SPECIAL LAND USE AMENDMENT AND LIQUOR LICENSE OWNERSHIP CHANGE FOR TOAST – 203 PIERCE

Mayor Bordman opened the public hearing at 7:58.

Commissioner Nickita recused himself due to a current business relationship with one of the owners of the building as well as the applicant.

Planning Director Ecker presented the item.

Commissioner Hoff pointed out that on the special land use permit application, the hours of operation under outdoor dining facility differ from what was just presented. If the restaurant remains open for dinner, wouldn't the outdoor dining area stay open when weather permits?

Planning Director Ecker expressed that it was probably a mistake on the application and advised Commissioner Hoff to refer those questions to the applicant.

Attorney Kelly Allen, representing Toast, introduced Rita Bloom and Tony Micelli of Toast. Attorney Allen stated, in regard to Commissioner Hoff's question, a letter was submitted on April 18th and it reflected the hours that you see in the packet. The outdoor dining area will be open the same hours as the operation of the restaurant.

Mayor Bordman expressed that she was very pleased to see the willingness to make changes to the hours so that evening dining is available and said she will be supportive of the application.

Commissioner Sherman expressed that he was also very pleased and has no issue with the restaurant being closed some evenings at dinner time, but, he is a little concerned with closing at 8:00 or 9:00 p.m. on Thursday, Friday, and Saturday when there are a lot of people walking around and many restaurants are having their first seating. He asked the owners to consider staying open until 10:00 p.m. Thursday through Saturday.

Attorney Allen, owner representative, responded with a respectful no. In the past, there has not been a demand for dinner at Toast and that is why the hours were cut back. Ms. Bloom, partner, explained that they have tried many combinations of lunch and dinner without success. She added that they are going to continue to try and find a sweet spot for evening hours by putting a fun twist on breakfast at night.

Commissioner Sherman went on to advise the restaurant to stay open until "at least 8:00 p.m." He encouraged late hours on the weekend because the restaurant is a big space to have closed during the dinner hour. Commissioner Sherman also reminded the commission that the goal of the Bistro Ordinance was to enliven the streets and to bring traffic downtown. To have one bistro on Pierce Street with the lights off is not what the commission envisioned.

Mayor Bordman agreed with Commissioner Sherman's suggestion on the change of wording to allow the applicant to eventually grow the business and extend hours of operation.

Commissioner DeWeese expressed that by changing the agreement to read "minimum" hours of operation, the applicant has the flexibility to best serve the customer.

Mayor Pro Tem Boutros was supportive but struggled with the applicant limiting their hours. He wondered if it is a staffing issue and said he believes that they can be successful if marketing and advertising strategies are used to increase the dinner crowd.

Ms. Bloom explained that it is not a staffing issue, it is a brand issue. She explained that the brand is a breakfast and lunch bistro. Incorporating dinner into a strong breakfast brand suggests that people will double down on a restaurant for three meals. People generally go to the applicant for breakfast and lunch; it is going to be a struggle to push the hours that the Commission is requiring.

Commissioner Hoff supported approval of the proposal with the suggestions of other Commissioners. She also expressed confidence in what the restaurant owner says is best for her establishment.

Attorney Allen called attention to an error in the letter of April 18th, listing hours of operation on Sunday from 7am – 4 pm. The hours are 8:00a.m. – 4 p.m. on Sunday. She requested that the letter be amended to reflect the correction.

Commissioner Hoff asked if the applicant would consider staying in business without the bistro license. The answer was an emphatic no.

Maureen Sarle, 1585 Henrietta and 12 year Birmingham resident, stated that she likes Toast and asked Ms. Bloom if the applicant ever marketed breakfast for dinner. Ms. Bloom's response was yes.

Aljosa Krajisnik, a millennial, asked if dinner prices are similar to Leo's Coney Island (under \$10.00) which can attract people 24 hours per day.

Ms. Bloom explained her prices are more than \$10.00 for dinner but admitted to being on the lower end of Birmingham dinner prices.

Mayor Bordman closed the public hearing at 8:16 p.m.

MOTION: Motion by Commissioner DeWeese, and seconded by Mayor Pro Tem Boutros: To approve a Special Land Use Permit Amendment for 203 Pierce, aka Toast, to reflect an ownership change and change in the hours of operation, with the correction of Sunday hours to 8:00 a.m. until 4:00 p.m. and the amendment of language to read "the applicant shall maintain minimum hours of operation."

AND

To authorize the Chief of Police to sign the MLCC Police Investigation Report (LC-1800) and to approve the liquor license request of Toast Birmingham, LLC that requests a transfer of interest in a Class C License to be issued under MCL 436.1521(A)(1)(B) and SDM License with Outdoor Service (1 Area) located at 203 Pierce, Birmingham, Oakland County, MI 48009. Furthermore, pursuant to Birmingham City Ordinance, to authorize the City Clerk to complete the Local Approval Notice at the request of Toast Birmingham, LLC approving the liquor license transfer request of Toast Birmingham, LLC that requested a Class C License be transferred under MCL 436.1521 (A)(1)(B) & SDM License with Outdoor Service (1 Area) located at 203 Pierce, Birmingham, Oakland County, MI 48009. *Formal resolution appended to these minutes as Attachment A.*

VOTE:	Yeas,	5
	Nays,	0



MEMORANDUM

Finance Department

DATE: December 7, 2021

TO: Thomas M. Markus, City Manager

FROM: Mark Gerber, Director of Finance/Treasurer

SUBJECT: 48th District Court FY 2022 Budget

INTRODUCTION:

Every year the 48th District Court prepares an annual budget which must be approved by the four funding units: City of Birmingham, City of Bloomfield Hills, Bloomfield Township, and West Bloomfield Township.

BACKGROUND:

In accordance with the 1985 agreement, revenues and Court expenditures are allocated to the four control units, which include the cities of Birmingham and Bloomfield Hills and the townships of Bloomfield and West Bloomfield, in the same proportion as the number of cases arising from each unit. At the end of each calendar year following the Court's audit, an adjustment is made for the difference between those amounts advanced based on the estimate and the actual caseload of each control unit under the agreement as well as the court revenue.

Four municipal governments fund the budget of the 48th District Court: City of Birmingham, City of Bloomfield Hills, Bloomfield Township, and West Bloomfield Township. The expenditure budget of the court is allocated to each municipality based on that municipality's percentage of the total case load of the court. The City's percentage of the caseload for just the funding units was 22.85% in calendar year 2020 and is projected to remain approximately the same in 2021 at 22.27%. Each quarter, the City advances 25% of the City's allocation of the total expenditure budget to the Court. Revenue generated by the court is also distributed to each municipality based on the percentage of caseload except for cost of prosecution reimbursements which are specific to each municipality.

Attached is the proposed 2022 budget for the 48th Judicial District Court. In total, the Court is requesting an operating budget of \$4,689,032 which represents an increase of \$85,644, or 1.86%, from the 2021 budget. Increases are proposed for salaries, benefits, operations and professional fees while security & other expenses and capital expenses are proposed to decrease.

Salaries: For 2022, salaries are proposed to increase \$34,809, or 1.9%, from the 2021 budget.

Benefit Expenses: This budgeted category is proposed to increase by \$10,000, or 1% from the 2021 budget. The change is the result of an increase in health and other insurances which was partially offset by a decrease in defined contribution expense.

Operating Expenses: For 2022, operating expenses are proposed to increase by \$52,835, or 3.8% from the 2021 budget. This is primarily the result of an increase in rent of \$50,835 from 2021's budget. Additionally, payroll tax expense is proposed to increase \$2,000.

Professional Fees: Overall this budgeted category is proposed to increase by \$5,000, or 2.9%, from 2021's budget as a result of an increase in magistrate's expense.

Security & Other Expenses: This category is proposed to decrease \$12,000, or 8.7%, primarily as a result of a decrease in court security of \$7,000 and a decrease in library/dues/certifications of \$5,000.

Equipment & Capital: Expenditures for this category are proposed to decrease by \$5,000, or 2.9%, primarily as a result of a decrease in equipment rental of \$10,000 which was partially offset by an increase in equipment maintenance of \$5,000.

LEGAL REVIEW:

No legal review is required.

FISCAL IMPACT:

The Court is estimating that its expenditures will be under budget by \$882,597 for 2021. The City's caseload for 2021 is projected to be 22.27%. Based on this, the City's expected portion of the Court's expenditures is projected to be approximately \$828,620. The Court is projecting 2021 court revenue of \$695,542 for Birmingham. This leaves a shortage of approximately \$133,000 for 2021 that the City has to absorb.

Based on the budget presented and the projected caseload for 2022, the City would advance the Court approximately \$1,044,250 for their fiscal year 2022. It is very difficult to project court revenues in the current COVID environment. As explained in the Court's COVID Measures at the beginning of the budget document, the Court has undertaken several strategies to minimize the fiscal impact of their operations on the funding units.

PUBLIC COMMUNICATIONS:

None.

SUMMARY:

It is recommended that the City Commission approve the 48th District Court budget as submitted.

ATTACHMENTS:

1. 48th District Court Proposed Budget for FY 2022

SUGGESTED RESOLUTION: Make a motion adopting a resolution approving the 48th District Court budget for fiscal year 2022 as submitted.

State of Michigan
48th District Court
Bloomfield Hills, MI 48302
2022 Budget

COVID MEASURES

Until the COVID pandemic, the funding of the Court has historically been a net zero cost to each municipality. After the declaration of the pandemic the Courts caseload plummeted. When it became clear that this unprecedented and tragic situation was not going to pass quickly, the Court immediately implemented drastic measures to reduce expenditures. For example, but not limited to:

1. Participated in the Work Share Program in 2020 shifting a portion of salaries to the Federal Government.
2. Two (2) key positions have been left vacant-Supervisor and Staff Attorney.
3. One (1) general clerk position has been left vacant.
4. Reduced the staff by four (4) part-time positions and one (1) full time position.
5. Froze most capital expenditures.
6. Cashier passed away in 2021 and position has been left vacant.
7. Aggressively pursued the limited grant money available.

In 2020, the Court returned approximately \$600,000 in unused budget money. Although the case load has substantially increased this year and continues to do so, the Court has maintained the cost saving measures listed in items 2-7 above. The staff is stretched to maximum capacity, which is unsustainable. There is not a direct correlation between caseload numbers and expenses and operating under COVID protocols is far more labor intensive.

We don't pretend to know the future. We must retain our skilled and well-trained staff members in this highly competitive job market and begin to fill some of the positions left vacant during the pandemic. We have presented a 2022 budget that we believe reasonably reflects the needs of the Court necessary to carry out its responsibilities. As we have shown year after year, we are respectful and protective of tax payer dollars. We will only use what is necessary for the effective operations of the Court, and the remainder will be returned to the funding units.

THE COURT IN REVIEW

The 48th District Court serves the Charter Townships of Bloomfield and West Bloomfield, and the Cities of Birmingham, Bloomfield Hills, Keego Harbor, Orchard Lake Village and Sylvan Lake. Bloomfield Township, West Bloomfield Township, Birmingham and Bloomfield Hills (collectively referred to as the “Funding Unit(s)”) fund the Court’s operation pursuant to an agreement executed between the Funding Units. The Court is not a signatory to the Funding Units’ agreement. The political subdivisions of Keego Harbor, Orchard Lake Village and Sylvan Lake utilize the Court’s services and receives reimbursements pursuant to the Funding Unit agreement. As defined by the Michigan Legislature in 1968, the District Courts are an independent third branch of government providing services to municipalities and have jurisdiction over:

- Arraignments – advising defendants of their rights, the pending charge(s) and the setting of bond in misdemeanor & felony cases.
- Misdemeanors – all criminal cases punishable by imprisonment not exceeding one year, written under state law or local ordinance. This includes, but is not limited to: Operating While Intoxicated (1st and 2nd), Domestic Violence, Assault/Battery, Aggravated Assault/Battery, Drug Possession, Stalking, Retail Fraud, Larceny, Breaking and Entering, Driving While License Suspended, and all violations of probation for these cases.
- Preliminary Examinations in all felony cases. A preliminary exam is a hearing where testimony is heard to determine whether there is probable cause that a crime has been committed and probable cause that the defendant committed the crime. If the judge so finds, the case is bound over to the Oakland County Circuit Court for further proceedings.
- Felony Guilty Pleas.
- Civil Lawsuits – claims where the amount in controversy does not exceed \$25,000.
- Landlord/Tenant Disputes – Hearings, which include eviction proceedings, land-contract forfeitures and mortgage foreclosures.
- Small Claims – claims where the amount in controversy does not exceed \$6000 and litigants represent themselves.
- Civil Infractions – includes all informal and formal hearings.
- Search Warrants – Judges and Magistrates on call 24 hours a day.

The budget of the 48th District Court has two separate and distinct components. The first addresses caseload and monetary funds received by the Court. Fines, costs and other fees are assessed as appropriate within the law. Funds received by the Court are subsequently distributed to the State, Oakland County and local Funding Units pursuant to law and the Funding Unit agreement.

The second component of this budget analyzes the expenses incurred for the operation of the Court. The Court submits a lump-sum budget comprised of six account groupings. Funds used to maintain the operation of the Court are reviewed and approved through an annual budget process with the Funding Units. Once approved, the Funding Units advance the Court funds for Court operations on a quarterly basis. Any surplus is returned to the funding units upon completion of the annual external audit.

The Judges and the entire staff of the 48th District Court understand the difficult budget issues facing all municipalities, courts, families and individuals. In preparing this budget, we continue to strive to ensure that public funds are used in the most efficient and responsible manner possible by reducing costs and maintaining a high standard of service, while honoring our constitutional duty to serve the public. The figures and data presented highlight the Court's commitment to the efficient use of the public's resources.

ADDITIONAL INFORMATION

- The requirements relative to case disposition have changed.
 - The judges and the 48th District Court must submit quarterly reports to the State Court Administrator's Office (SCAO) regarding the disposition of cases and all matters submitted before them. They are meeting or exceeding the guidelines specified by the Michigan Supreme Court.
- Collections
 - The judges and staff of the Court are diligent in collecting fines and costs at the time of sentencing.
 - The Court has a closely monitored Collection System for delinquent civil infractions. The goal of the program is to enforce outstanding court orders. Since the implementation of the program, the Court has collected in excess of \$2 million. The program is monitored with extreme efficiency at minimal cost.
 - Cases meeting certain criteria are forwarded to the Michigan Department of Treasury for tax garnishment.

EXPENSES, REDUCTIONS & COURT IMPROVEMENTS

PERSONNEL

Knowing that employee salaries and benefits account for a substantial portion of Court expenses, the Court has made significant changes over the past decade. These changes have set a foundation which will save costs well into the future.

Building Lease

The Court's building lease was renewed in November 2016. Court Administration invested time analyzing the building, as well as assessing operational needs in preparation for negotiations with the landlord Bloomfield Township. The majority of the Court building is over 30 years old, and the addition to the building is now 20 years old. Functional elements such as the heating and cooling (HVAC), plumbing, electrical and the roof have reached or exceeded their useful life. Structural components such as windows, entryways, and the parking lot need repairs and/or replacement. Cosmetic upgrades and replacement are needed for carpet, walls and offices due to normal wear and tear. The new lease takes all of these concerns into consideration. Given the large number of improvements needed, it is not financially feasible for the Court to perform all in one fiscal year. Therefore, Bloomfield Township has created a "Building Improvement Fund" for the Court's needs. The Court will deposit a fixed amount of \$44,750 into the fund annually. Projects will be completed in a chronological order, based on prioritized need and will be subsidized by this account. This fixed cost appears in the "Operating Expense" section of the 2022 Budget.

OPERATION & SECURITY

The Court has reached a point where maintenance costs for certain aspects of Court operation are exceeding the replacement costs. Recognizing that not all of these needs necessarily fall under the scope of the building lease, the Court anticipates investing in these items through the general fund. All due diligence is exercised in assessing the Court's needs, while operating within the budget and maintaining high standards for fulfilling the Court's obligation to the public. Heightened security measures, both inside and outside the building are mandatory to protect the public, judges and staff that visit and work within the courthouse. During 2017-2018, the Court upgraded security cameras and security access by installing a secured parking lot for all Court staff. In 2019, a separate security plan, approved by the funding units in 2018, expanded the Court's entryway to allow for enhanced security checkpoints and additional room for the public to enter and exit the building safely. The clerical and cashier work areas also feature safety glass from counter to ceiling to further enhance security.

SPECIAL PROGRAMS & SERVICES

- **Cost of Prosecution** – The law allows for the Court to collect costs of prosecution for Operating While Intoxicated (OWI) cases when requested by the prosecutor. Once collected, these funds are reimbursed, in full, directly to the appropriate municipality.
- **Restitution** – In proceedings involving individual or business victims, the Court collects the restitution from the defendant and forwards it to the crime victim. Since 2010, the Court forwarded over \$500,000 to individuals/businesses who have been victims of theft, embezzlement, fraud, property destruction, medical injuries, auto damage, etc.
- **OAK.gov Credit Card Processing** – The Court utilizes Oakland County's online services to accept credit card payments both within the courthouse and on the Court's website.
- **Website** – The Court's website, <http://48thdistrictcourt.us>, is an extremely user-friendly and informative site. Users are able to easily access general information about the Court, as well as print necessary court forms. The Court's website provides convenient and easy access for credit card payments through Oak.gov Credit Card Processing. The website reduces the number of telephone calls received by the clerks and reduces the foot traffic inside the courthouse, allowing the clerks to utilize their time more efficiently.
- **WWAM & Community Service** – Weekend and Weekday Alternative for Misdemeanants – The WWAM program is an alternative to incarceration where sentenced defendants use their skills to help community groups by performing work on a supervised crew. In addition to WWAM, appropriate defendants are sentenced to perform other acts of community service benefiting local non-profit groups such as food banks, soup kitchens, shelters, hospitals, schools, etc.
- **Drug and Alcohol Intensive Probation Oversight Program** – The Court has an intensive Probation Oversight program for defendants suffering with addictions. The program includes, but is not limited to, referral to intensive treatment facilities, counseling, education, 12-step programs, and aggressive testing requirements. This program is administered to those that have committed alcohol or drug related offenses, domestic violence, assault and battery, and other related crimes to ensure the safety of the public and promote rehabilitation of the defendant.
- **Serving the Community** – In addition to serving as judges at the 48th District Court, each individual judge strives to use the Court as a tool to reach into the community and educate our youth helping them to make positive and empowering choices. Additionally, the judges host an annual "Constitution Day" to educate our middle school students about the Bill of Rights.

- Judge Marc Barron presides over the “*Teen Court*” program, which allows high school students from local schools to take an active role in the Court process by handling actual juvenile cases. The students act as lawyers and jurors and decide the penalty on juvenile cases presented by the Prosecutor’s Office, while Judge Barron advises and sentences the individual.
- Judge Diane D’Agostini’s “*Order in the Court*” program has hosted thousands of students through field trips to the Court where she educates the young visitors about the Court process and making responsible decisions. She also speaks at local high schools about the law and penalties in addition to conducting Court at local high schools.
- Judge Kimberly Small implemented her “Critical Life Choices” and “*Cool to be Clean*” programs which is conducted at our local middle schools. The programs are a combination of real court proceedings and a multi-media interactive presentation designed to help our youth make wise decisions. To date, she has shared her programs with over 20,000 students. She also participates in numerous community panels on drug and alcohol use prevention.

STATE OF MICHIGAN
48th JUDICIAL DISTRICT
Case Type Activity

Case Type	NEW CASES JAN-DEC 2019	NEW CASES JAN-DEC 2020	NEW CASES JAN-SEP 2021	PROJECTED CASES JAN-DEC 2021	PROJECTED VARIANCE % 2021 vs 2020
Traffic Cases (Civil Infractions & Misdemeanor Traffic)	27,129	13,941	14,722	19,629	40.80%
Drunk Driving Cases	449	266	288	384	44.36%
Criminal & Non-Traffic Cases	1,366	749	816	1,088	45.26%
Civil Cases	4,492	3,328	3,210	4,280	28.61%
Total Cases	33,436	18,284	19,036	25,381	38.82%

STATE OF MICHIGAN
48th JUDICIAL DISTRICT
Case Volume By Community

Community	NEW CASES JAN- DEC 2019	NEW CASES JAN- DEC 2020	NEW CASES JAN-SEP 2021	PROJECTED CASES JAN-DEC 2021	PROJECTED VARIANCE % 2021 vs 2020
Birmingham	8,822	3,624	3,753	5,004	38%
Bloomfield Hills	2,965	2,463	2,449	3,265	33%
Bloomfield Township	11,217	5,893	6,042	8,056	37%
West Bloomfield	6,066	3,878	4,609	6,145	58%
Keego Harbor	1,393	674	459	612	-9%
Orchard Lake	1,841	1,014	1,219	1,625	60%
Sylvan Lake	772	433	264	352	-19%
Other *	360	305	241	321	5%
Total Cases	33,436	18,284	19,036	25,381	38.82%

* Other Includes but not limited to :
MSP, Animal Control, Marine Division ,
DNR

**STATE OF MICHIGAN
48th JUDICIAL DISTRICT**

Funding Unit Caseload Percentages

Community	ACTUAL CASE LOAD	ACTUAL CASE LOAD	ACTUAL CASE LOAD
	2019	2020	Jan- Sep 2021
Birmingham	30.35%	22.85%	22.27%
Bloomfield Hills	10.20%	15.53%	14.53%
Bloomfield Township	38.59%	37.16%	35.85%
West Bloomfield	20.86%	24.46%	27.35%
	100.00%	100.00%	100.00%

STATE OF MICHIGAN
48th JUDICIAL DISTRICT
Budget Expenditure Summary

	2019	2020	2021	2021	2021	2022	Variance %
	Budget Request	Budget Request	Budget Request	Projected Spending	Budget VS Projected	Budget Request	2021 vs 2022
Salaries	\$ 1,835,450	\$ 1,800,000	\$ 1,844,000	\$ 1,488,279	80.71%	\$ 1,878,809	1.89%
Judicial Reimbursement *	\$ (137,172)	\$ (137,172)	\$ (137,172)	\$ (137,172)		\$ (137,172)	
Benefits	\$ 1,090,000	\$ 1,063,000	\$ 1,030,000	\$ 959,229	93.13%	\$ 1,040,000	0.97%
Operations **	\$ 1,195,760	\$ 1,374,860	\$ 1,389,060	\$ 1,175,526	84.63%	\$ 1,441,895	3.80%
Professional Fees	\$ 132,500	\$ 171,000	\$ 170,000	\$ 150,504	88.53%	\$ 175,000	2.94%
Security & Other Expenses	\$ 177,500	\$ 180,250	\$ 137,500	\$ 59,302	43.13%	\$ 125,500	-8.73%
Equipment & Capital	\$ 190,000	\$ 176,000	\$ 170,000	\$ 25,122	14.78%	\$ 165,000	-2.94%
Total	\$ 4,484,038	\$ 4,627,938	\$ 4,603,388	\$ 3,720,791	80.83%	\$4,689,031.97	1.86%

* Judicial Salary Reimbursement received from the State

** Reflects an increase in Rent

STATE OF MICHIGAN
48th JUDICIAL DISTRICT
Benefit Expense

	2019	2020	2021	2021	2021	2022	Variance %
	Budget Request	Budget Request	Budget Request	Projected Spending	Budget vs Projected	Budget Request	2021 vs 2022
Defined Contribution	\$ 240,000	\$ 260,000	\$ 225,000	\$ 192,103	85.38%	\$ 205,000	-8.89%
Medical Insurance	\$ 630,000	\$ 575,000	\$ 575,000	\$ 542,040	94.27%	\$ 600,000	4.35%
Other Post -Employment Benefits (OPEB)	\$ 110,000	\$ 110,000	\$ 110,000	\$ 110,000	100.00%	\$ 110,000	0.00%
Dental, Life, Disability Insurance	\$ 110,000	\$ 118,000	\$ 120,000	\$ 115,086	95.91%	\$ 125,000	4.17%
Total	\$ 1,090,000	\$ 1,063,000	\$ 1,030,000	959,229	93.13%	\$ 1,040,000	0.97%

**STATE OF MICHIGAN
48th JUDICIAL DISTRICT
Operating Expenses**

	2019 Budget Request	2020 Budget Request	2021 Budget Request	2021 Projected Spending	2021 Budget vs Projected	2022 Budget Request	Variance % 2021 vs 2022
Payroll Taxes	\$ -	\$ 150,000	\$ 153,000	\$ 115,758	75.66%	\$ 155,000	1.31%
Information Systems	\$ 56,200	\$ 62,500	\$ 75,000	\$ 65,764	87.69%	\$ 75,000	0.00%
Office Supplies	\$ 66,000	\$ 59,300	\$ 60,000	\$ 52,532	87.55%	\$ 60,000	0.00%
Postage	\$ 39,000	\$ 44,000	\$ 40,000	\$ 33,671	84.18%	\$ 40,000	0.00%
Payroll Processing & Bank Services	\$ 25,000	\$ 22,000	\$ 20,000	\$ 8,690	43.45%	\$ 20,000	0.00%
Insurance	\$ 82,500	\$ 98,000	\$ 105,000	\$ 77,690	73.99%	\$ 105,000	0.00%
Utilities/Telephone	\$ 113,000	\$ 130,000	\$ 132,000	\$ 101,497	76.89%	\$ 132,000	0.00%
Rent	\$ 584,310	\$ 584,310	\$ 584,310	\$ 584,310	100.00%	\$ 635,145	8.70%
Building Capital Improvement Escrow	\$ 44,750	\$ 44,750	\$ 44,750	\$ 15,850	35.42%	\$ 44,750	0.00%
Building Maintenance & Janitorial	\$ 185,000	\$ 180,000	\$ 175,000	\$ 119,764	68.44%	\$ 175,000	0.00%
Total	\$ 1,195,760	\$ 1,374,860	\$ 1,389,060	\$ 1,175,526	84.63%	\$ 1,441,895	3.80%

**STATE OF MICHIGAN
48th JUDICIAL DISTRICT
Professional Fees**

	2019 Budget Request	2020 Budget Request	2021 Budget Request	2021 Projected Spending	2021 Budget vs Projected	2022 Budget Request	Variance % 2021 vs 2022
Auditors	\$ 28,000	\$ 35,000	\$35,000.00	\$ 32,355	92.44%	\$ 35,000	0.00%
Magistrates	\$ 62,000	\$ 62,000	\$65,000.00	\$ 65,000	100.00%	\$ 70,000	7.69%
Consultants & Other Professional Services	\$ 42,500	\$ 74,000	\$70,000.00	\$ 53,149	75.93%	\$ 70,000	0.00%
Total	\$ 132,500	\$ 171,000	\$170,000.00	\$ 150,504	88.53%	\$ 175,000	2.94%

STATE OF MICHIGAN
48th JUDICIAL DISTRICT
Equipment & Capital Expense

	2019 Budget Request	2020 Budget Request	2021 Budget Request	2021 Projected Spending	2021 Budget vs Projected	2022 Budget Request	Variance % 2021 vs 2022
Equipment Rental	\$ 20,000	\$ 21,000	\$ 20,000	\$ 4,942	24.71%	\$ 10,000.00	-50.00%
Equipment Maintenance	\$ 25,000	\$ 30,000	\$ 25,000	\$ 20,180	80.72%	\$ 30,000.00	20.00%
Capital Expenses/Improvements *	\$ 145,000	\$ 125,000	\$ 125,000	\$ -	0.00%	\$ 125,000.00	0.00%
Total	\$ 190,000	\$ 176,000	\$ 170,000	\$ 25,122	14.78%	\$ 165,000	-2.94%

**STATE OF MICHIGAN
48th JUDICIAL DISTRICT
Security & Other Expenses**

	2019	2020	2021	2021	2021	2022	Variance %
	Budget Request	Budget Request	Budget Request	Projected Spending	Budget vs Projected	Budget Request	2021 vs 2022
Jury & Witness Fees	\$ 8,500	\$ 8,750	\$ 7,500	\$ 4,557	60.76%	\$ 7,500	0.00%
Library/Dues/Certifications	\$ 19,000	\$ 21,500	\$ 15,000	\$ 5,062	33.75%	\$ 10,000	-33.33%
Court Security Personnel (Deputy Sheriffs)	\$ 150,000	\$ 150,000	\$ 115,000	\$ 49,684	43.20%	\$ 108,000	-6.09%
Total	\$ 177,500	\$ 180,250	\$ 137,500	\$ 59,302	43.13%	\$ 125,500	-8.73%

**STATE OF MICHIGAN
48th JUDICIAL DISTRICT
CASH DISTRIBUTION - 2021**

		Birmingham		Bloomfield Hills		Bloomfield Township		West Bloomfield		Total
Based on Case Load Percentage		22.85%		15.53%		37.16%		24.46%		
1st Qtr.	\$	145,370	\$	98,801	\$	236,409	\$	155,549	\$	636,129
2nd Qtr.	\$	177,476	\$	120,622	\$	288,622	\$	189,981	\$	776,701
3rd Qtr.	\$	191,126	\$	124,997	\$	312,781	\$	225,600	\$	854,504
4th Qtr (Projected)	\$	181,570	\$	118,747	\$	297,142	\$	214,320	\$	811,779
Total of distributions to Funding Units	\$	695,542	\$	463,167	\$	1,134,955	\$	785,449	\$	3,079,113
Cost of Prosecution Reimbursement		\$5,543		\$7,993		\$33,082		\$5,677		\$52,295
Total Cash Distributions in 2021 Including 4th Qtr projected	\$	701,085	\$	471,160	\$	1,168,037	\$	791,127		3,131,408

MEMORANDUM

DATE: December 13, 2021

TO: Thomas M. Markus, City Manager and City Commission

FROM: Mary M. Kucharek

SUBJECT: 48th District Court Interlocal Agreement for the Expenses and Maintenance of the 48th District Court

INTRODUCTION:

Before you this evening is an Agreement between the City of Birmingham, the Charter Township of Bloomfield and the Charter Township of West Bloomfield which defines the sharing of expenses of maintenance, financing and operating the 48th District Court and to define the appropriation of fines and costs assessed in the 48th District Court.

BACKGROUND:

The 48th District Court is the district court that serves seven (7) local communities and has been established by MCL § 600.8123(6). The political subdivisions of the City of Birmingham, the City of Bloomfield Hills, the Charter Township of Bloomfield, the Charter Township of West Bloomfield, the City of Orchard Lake Village, the City of Sylvan Lake and the City of Keego Harbor have been determined to be a district of the third class by statute. In 1984, with amendments in 1985, four (4) communities, the City of Birmingham, the Charter Township of Bloomfield, the Charter Township of West Bloomfield, and the City of Bloomfield Hills, mutually agreed to be "the District Funding Units" of the 48th District Court. Earlier this year, the City of Bloomfield Hills contacted and approached the other three (3) funding units that being, the City of Birmingham, the Charter Township of Bloomfield and the Charter Township of West Bloomfield to discuss a change in the agreements established in 1984 and 1985. The City of Bloomfield Hills, after having a decrease in revenues in 2020, most likely a direct impact from the COVID pandemic and shutdown, announced its desire to no longer be part of the District Funding Units. Under the original Agreement of 1984, any of the four (4) District Funding Units could opt out of the agreement. After much heated discussion, it was determined that the City of Bloomfield Hills would no longer participate in an agreement. As a result, a new agreement has been drafted, wherein now the three (3) communities will be the District Funding Units, and the other four (4) will receive a distribution of fines and costs as agreed by this 2021 agreement.

LEGAL REVIEW:

Statutes of the State of Michigan dictate how courts are to function and provide for the framework by which expenses and appropriation of fines and costs are assessed. The Michigan statutes define the ability for communities to articulate and define their arrangements for the

sharing of expenses and for the appropriation of fines and costs as long as they are authorized by each municipality's governing body. Michigan law, particularly at MCL §600.8379(1)(c) allows for the three (3) funding units to receive and to be paid one-third (1/3) of all fines and costs imposed for violations for their respective ordinances and to share in a percentage of the fines and costs imposed for violations of the other four (4) smaller communities.

FISCAL IMPACT:

The City of Birmingham will continue to receive a portion of the fines and costs imposed in its cases at the 48th District Court. Whether the decrease of one of the original four (4) District Funding Units impacts the finances of the City of Birmingham, will be measured over the next year or two to determine its full financial impact. There is a chance that the City of Birmingham will receive less money from the 48th District Court than in the past as a result of the City of Bloomfield Hills dropping out of being a funding unit. Yet, the portions of revenues from the other units will now be shared by three (3) instead of four (4).

PUBLIC COMMUNICATIONS:

There have been no public communications regarding this issue. The 48th District Court and its operating court officer, finance officer and judges are aware of this situation.

SUMMARY:

The Birmingham City Commission is being asked to agree to direct the City Manager to partake in this Agreement with the Charter Township of Bloomfield and Charter Township of West Bloomfield to be the 48th District Court's District Funding Units.

ATTACHMENTS:

Please find attached the Agreement between the three (3) funding units as described.

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to accept the Agreement between the City of Birmingham, the Charter Township of Bloomfield and the Charter Township of West Bloomfield to be the three (3) District Court Funding Units for the 48th District Court, and further authorize Thomas M. Markus as the City Manager to sign the Agreement.

AGREEMENT

BETWEEN
THE CITY OF BIRMINGHAM,
THE CHARTER TOWNSHIP OF BLOOMFIELD AND,
THE CHARTER TOWNSHIP OF WEST BLOOMFIELD

TO DEFINE THE SHARING OF EXPENSES OF MAINTAINING, FINANCING AND
OPERATING THE 48TH DISTRICT COURT AND TO DEFINE THE APPROPRIATION
OF FINES AND COSTS ASSESSED IN THE 48TH DISTRICT COURT

This Agreement is entered into by and between the City of Birmingham, a Michigan Municipal Corporation, 151 Martin Street, Birmingham, Michigan 48009, and the Charter Township of Bloomfield, a Michigan Municipal Corporation, 4200 Telegraph Road, Bloomfield Township, MI 48303 and the Charter Township of West Bloomfield, a Michigan Municipal Corporation, 4550 Walnut Lake Rd. West Bloomfield, MI 48323. The City of Birmingham, Charter Township of Bloomfield and Charter Township of West Bloomfield may be referred to individually as a "Party" and jointly as "Parties."

PURPOSE OF AGREEMENT. The Parties enter into this Agreement pursuant to the Urban Cooperation Act of 1967, 1967 Public Act 7, MCL 124.501 et seq., for the purpose of jointly exercising the powers, privileges and authority that the agencies share in common under the Revised Judicature Act of 1961, Act 236 of 1961, specifically, MCL 600.8104, to define and set forth the sharing of expenses of maintaining, financing and operating the 48th District Court and to define and set forth how the fines and costs assessed in the 48th District Court shall be appropriated among the District Funding Units and political subdivisions as provided by the Revised Judicature Act of 1961, Act 236 of 196, MCL 600.101 et seq.

RECITALS

WHEREAS, the 48th District Court consists of the political subdivisions of the City of Birmingham, the City of Bloomfield Hills, the Charter Township of Bloomfield, the Charter Township of West Bloomfield, the City of Orchard Lake Village, the City of Sylvan Lake, and the City of Keego Harbor, and is established as a district of the third class by Revised Judicature Act of 1961, Act 236 of 1961, specifically MCL 600.8123 (6); and

WHEREAS, the City of Birmingham, the Charter Township of Bloomfield and the Charter Township of West Bloomfield have mutually agreed to be the "District Funding Units" for the 48th District Court, responsible for the sharing of expenses of maintaining, financing and operating the 48th District Court pursuant to MCL 600.8104(3); and

WHEREAS, the Revised Judicature Act of 1961, Act 236 of 1961, MCL 600.8379, establishes how fines and costs assessed in the district court shall be appropriated among the District Funding Units and political subdivisions unless a distribution of fines and costs is agreed to differently than as provided by law; and

WHEREAS, there is a "1984 48th District Court Agreement," an "Addendum To 1984 48th District Court Agreement", a "1985 48th District Court Agreement" and a "First Amendment to the 1985 48th District Court Agreement" that provide the for the sharing of costs, expenses and revenues of the 48th District Court between the District Funding Units which agreements are outdated and need to be replaced; and

WHEREAS, the District Funding Units desire to revoke the prior 1984 Agreement, Addendum, 1985 48th District Court Agreement and First Amendment and enter into a new agreement to set forth and define the sharing of expenses of maintaining, financing and operating the 48th District Court between the District Funding Units and to set forth and define how fines and costs assessed in the 48th District Court shall be appropriated among the District Funding Units and political subdivisions.

AGREEMENT

NOW, THEREFORE, based upon the foregoing statements, the Parties agree to the following terms, conditions, representations, consideration and acknowledgements and mutually agree as follows:

1. **District Funding Units.** The City of Birmingham, the Charter Township of Bloomfield and the Charter Township of West Bloomfield shall be the "District Funding Units" for the 48th District Court responsible for the sharing of expenses of maintaining, financing and operating the 48th District Court pursuant to MCL 600.8104(3). The City of Bloomfield Hills, the City of Orchard Lake Village, the City of Sylvan Lake, and the City of Keego Harbor are not District Funding Units and are designated as "political subdivisions".
2. **Expenses.** The Parties agree that the expenses of maintaining, financing and operating the 48th District Court, including, but not limited to, approved capital expenditures and rent, shall be the responsibility of the three (3) District Funding Units, and shall be allocated among the District Funding Units in proportion to the number of cases arising from each District Funding Unit in relation to the total number of cases arising for all three (3) of the District Funding Units, from the year immediately prior to the current year in which allocation is made for expenses of maintaining, financing and operating the 48th District Court. The District Funding Units and political subdivisions' respective local share contributions for the 48th District Court Indigent Counsel Program shall be paid as provided in the previously executed Interlocal Agreement between said entities.
3. **Distribution of Fines and Costs.**
 - 3.1. **Distribution to District Funding Units.** Despite that the fact that pursuant to MCL 600.8379(1)(c) the City of Birmingham and the Charter Township of West Bloomfield would each be entitled to receive and be paid 1/3 of all fines and costs imposed for violations of their respective Ordinances, except for those fines and costs imposed for violations of a penal law of the State or ordered in a civil infraction action for the violation of a law of this State, and pursuant to MCL 600.8379(1)(c) the Charter Township of Bloomfield would be entitled to receive all of the fines and costs imposed

for violations of its Ordinances and 2/3 of the fines and costs imposed for violations of the Ordinances of the City of Birmingham, Charter Township of West Bloomfield, City of Bloomfield Hills, City of Keego Harbor, City of Orchard Lake Village and City of Sylvan Lake, except for those fines and costs imposed for violations of a penal law of the State or ordered in a civil infraction action for the violation of a law of this State, the parties pursuant to MCL 600.8379(1)(d) hereby agree to a different distribution of fines and costs than that provided for in MCL 600.8379(1)(c). Except for the costs and revenues described in Section 3.3 of this Agreement, all fines and costs that the District Funding Units are collectively entitled to receive from the fines and costs collected by the 48th District Court, except those fines and costs required by statute to be paid to the State, shall be paid to the three (3) District Funding Units in proportion to the number of cases arising from each District Funding Unit in relation to the total number of cases arising from all three (3) of the District Funding Units, from the year immediately prior to the current year in which the disbursement is made.

3.2. Distribution to political subdivisions. Fines and costs for the City of Bloomfield Hills, City of Keego Harbor, City of Orchard Lake Village and City of Sylvan Lake shall be distributed in accordance with MCL 600.8379(1)(c) to wit; each political subdivision shall receive 1/3 of the fines and costs imposed for violations of their respective Ordinances, other than those fines and costs imposed for the violation of the penal law of the State or ordered in a civil infraction action for the violation of a law of this State, and the other two-thirds (2/3) of the fines and costs that would be paid to the municipality where the guilty plea or civil infraction admission was entered or where the trial or civil infraction action hearing took place, which currently is Bloomfield Township, shall be distributed among the District Funding Units as provided in Section 3.1 of this Agreement.

3.3. Distribution of other costs. Other costs collected by the 48th District Court for expenses incurred in relation to an incident including, but not limited to, expenses for an emergency response and expenses for prosecuting a person, or any cost authorized by law in which a defendant is required to directly reimburse a local unit of government, shall be paid directly to the political subdivision whose law was violated. Other revenues, besides those referred to above in this Subsection and the fines and costs referred to in Sections 3.1 and 3.2, such other revenues including, but not limited to, bond forfeitures, civil case fees and filing fees, marriage ceremony fees, garnishment fees, probation oversight fees and other probation fees and alcohol evaluation fees, shall distributed and paid to the three (3) District Funding Units in proportion to the number of cases arising from each District Funding Unit in relation to the total number of cases arising from all three (3) of the District Funding Units, from the year immediately prior to the current year in which the disbursement is made.

4. Effective date and duration of Agreement.

4.1 This Agreement shall be effective when executed by the three (3) District Funding Units with Resolutions passed by the governing bodies of each Party. The approval and

terms of this Agreement shall be entered in the official minutes of the governing bodies of each Party. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

- 4.2 This Agreement shall remain in effect until cancelled or terminated by any of the Parties pursuant to the terms of the Agreement.

5. Assurances.

- 5.1. **Responsibility for Claims.** Each Party shall be responsible for any Claims made against that Party by a third party, and for the acts of its employees or agents arising under or related to this Agreement.
- 5.2. **Responsibility for Attorney Fees and Costs.** In any Claim that may arise from the performance of this Agreement, each Party shall seek its own legal representation and bear the costs associated with such representation, including judgments and attorney fees.
- 5.3. **No Indemnification.** Except as otherwise provided for by law, no Party shall have any right under this Agreement or under any other legal principle to be indemnified or reimbursed by the other Party or any of its agents in connection with any Claim.
- 5.4. **Reservation of Rights.** This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties. Nothing in this Agreement shall be construed as a waiver of governmental immunity for either Party.
- 5.5. **Authorization and Completion of Agreement.** The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Party have legal authority to sign this Agreement and bind the Parties to the terms and conditions contained herein.
- 5.6. **Compliance with Laws.** Each Party shall comply with all federal, state, and local ordinances, regulations, administrative rules, and requirements applicable to its activities performed under this Agreement.

6. Termination or Cancellation of Agreement.

- 6.1. A Party may terminate or cancel this Agreement by giving written notice to all of the other Parties to this Agreement by at least 180 days prior to February 1, of each calendar year preceding the next annual budgetary year for the 48th District Court, but only with the agreement and consent of the other two (2) units.

- 6.2. If any Party attempts to terminate or cancel this Agreement they shall provide written notice to the chief executive officer of all other Parties to the addresses listed herein.
7. **Delegation or Assignment.** No Party may delegate or assign any obligations or rights under this Agreement.
8. **No Third-Party Beneficiaries.** Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to indemnification, right to subrogation, and/or any other right in favor of any other person or entity.
9. **No Implied Waiver.** Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently affect its right to require strict performance of this Agreement.
10. **Severability.** If a court of competent jurisdiction finds a term or condition of this Agreement to be illegal or invalid, then the term or condition shall be deemed severed from this Agreement. All other terms, conditions, and provisions of this Agreement shall remain in full force.
11. **Captions.** The section and subsection numbers, captions, and any index to such sections and subsections contained in this Agreement are intended for the convenience of the reader and are not intended to have any substantive meaning. The numbers, captions, and indexes shall not be interpreted or be considered as part of this Agreement. Any use of the singular or plural, any reference to gender, and any use of the nominative, objective or possessive case in this Agreement shall be deemed the appropriate plurality, gender or possession as the context requires.
12. **Notice.** Notices given under this Agreement shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the chief executive officer of each Party listed herein. Notice will be deemed given on the date when one of the following first occur:
- (i) the date of actual receipt;
 - (ii) the next business day when notice is sent express delivery service or personal delivery;
 - or
 - (iii) three days after mailing first class or certified U.S. mail.
14. **Governing Law.** This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Agreement shall be brought in the 6th Judicial Circuit Court of the State of Michigan, the 48th District Court of the State of Michigan, or the United States District Court for the Eastern District of Michigan,

Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.

15. Entire Agreement.

15.1. This Agreement represents the entire agreement and understanding between the Parties regarding the sharing of expenses of maintaining, financing and operating the 48th District Court between the District Funding Units and how fines and costs assessed in the 48th District Court shall be appropriated among the District Funding Units and political subdivisions. This Agreement supersedes all other oral or written agreements between the Parties.

15.2. The language of this Agreement shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

IN WITNESS WHEREOF, the Parties have, by Resolution of their governing body, approved this Agreement and have taken all actions and secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Party have legal authority to sign this Agreement and bind the Parties to the terms and conditions contained herein. The Parties have executed this Agreement as of the day and year written below.

CITY OF BIRMINGHAM

By: _____
Thomas M. Markus
Its: City Manager

By: _____
Alexandria Bingham
Its: Clerk
Date: _____

CHARTER TOWNSHIP OF BLOOMFIELD

By: _____
Dani Walsh
Its: Supervisor

Date: _____

By: _____
Martin C. Brook
Its: Clerk

CHARTER TOWNSHIP OF WEST BLOOMFIELD

By: _____
Steven Kaplan
Its: Supervisor

Date: _____

By: _____
Deborah Binder
Its: Clerk



MEMORANDUM

City Clerk's Office

DATE: 12/8/2021
TO: Tom Markus, City Manager
FROM: Alexandra Bingham, City Clerk
SUBJECT: 2022 Annual Review of Fee Schedule

INTRODUCTION:

The fee required to be paid and the amount of any bond required to be posted, or insurance required to be carried, to obtain any license to engage in the operation, conduct or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of the Birmingham City Code is set by the City Commission through the Schedule of Fees, Charges, Bonds and Insurance.

Each year the fee schedule is reviewed by City departments to determine whether amendments are needed to cover the costs of service and processing.

BACKGROUND:

On the attached 2021 Proposed Fee Schedule, proposed changes are noted with the following codes:

CHANGE CODES AS LISTED ON THE FEE SCHEDULE	
A	Fee has remained the same for many years
B	Proposed fee covers current costs
C	Pass through costs that reflect actual cost of service
D	Fee consistent with neighboring communities
E	New Fee
F	Increase to cover normal inflationary increase
G	No longer provide this service
H	Other

Proposed changes for the 2022 Fee Schedule include:

Community Development

The Community Development Department is proposing an additional fee for online submissions to cover pass-through costs for using the web based service for documents.

Department of Public Services

Well (irrigation) permit has been moved to engineering to reflect the department which reviews the permit.

Engineering

The proposed Engineering Fee changes are updated to reflect actual costs, recommended increases will better cover the actual costs of in office and in field reviews related to permits. Increase to the trench maintenance fee reflects actual costs associated with upkeep of the trench material costs and labor estimated from the current 2021 asphalt contract. This includes time to review and follow up on repairs. An addition of a fee for online submission is required to cover the pass-through cost for using the web based service for documents. New fees associated with 5G Small Cell work are required for New Pole and Colocation work, these fees are set by the State. General permit fees are being updated to match minimum requirements or cover actual costs of the permits, these fees cover the basic costs of staff to review and enforce permits. Well (irrigation) permit has been moved to engineering to reflect what department reviews the permit.

Fire Department

The Birmingham Fire Department recommends increasing the 2022 ALSII and ALS I emergency transport and BLS emergency transport fees to the Blue Cross Blue Shield and Medicare 2022 acceptable payable amounts. This fee increase was recommended by the City's third party medical billing company MHR. This fee increase helps to offset increased medical supply and personnel cost for 2022.

Public Records Policy

The Public Records Policy as it relates to FOIA was reviewed and updated. Item 8 (relating to ordering copies of the Annual Budget and Audit) was removed by the Finance Department, due to the ability to print the Annual Budget and Audits in office from digital files, making ordering them unnecessary. Item 13 was updated by the Police Department to reflect current offerings of police video which may be requested under FOIA.

LEGAL REVIEW:

The City Attorney has reviewed the fee schedule and is satisfied the fees are reflective of actual costs to the City in compliance with State of Michigan laws.

FISCAL IMPACT:

Most of the proposed changes in the fee schedule are to offset an increase in operating costs. The overall financial impact for the City will be an increase in revenues from charges for services which will keep these costs from being funded by property taxes. The new fees for small cell permits will increase the City's revenues for the initial installation of the cells. The increase in revenues will be dependent on the number of providers that come into the City and the number of cells installed. This revenue is a one-time revenue source.

PUBLIC COMMUNICATIONS:

Fee Schedule for Review is included in the Commission Packet, which is available

online for residents to review, and public comment as available per the Commission approval process. Departments will update their information on the website and any appropriate documents to reflect the changes after Commission approval.

SUMMARY:

As a result of the annual review of City fees, the Community Development, Department of Public Services, Engineering, and Fire Departments are recommending presented fees in line with actual costs of the fee schedule for 2022. Also recommended is clean up language of the Public Records Policy as it relates to the Finance and Police Departments.

ATTACHMENTS:

1. 2022 Proposed Fee Schedule
2. Public Records Policy

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to amend the 2022 Schedule of Fees, Charges, Bonds and Insurance, in the Community Development Department, Department of Public Services, Engineering Department, and Fire Department as stated in this report, and to adopt the revised Public Records Policy.

City of Birmingham
2022 Fee Schedule for Review



FEES, CHARGES, BONDS, INSURANCE

The fee required to be paid and the amount of any bond required to be posted, or insurance required to be carried, to obtain any license to engage in the operation, conduct or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of the Code of the City of Birmingham code shall be as hereinafter provided. These fees may be amended by resolution of the City Commission.

Adopted by Resolution #02-18-10 by the Birmingham City Commission at a regular meeting held February 8, 2010, effective February 14, 2010.

A handwritten signature in cursive script, reading "Nancy H. Weiss".

City Clerk

City of Birmingham
2022 Fee Schedule for Review

City of Birmingham
2022 Fee Schedule for Review
STANDARD INSURANCE REQUIREMENTS

Where insurance is required to be carried to make application for a permit or license, the applicant shall procure and maintain the following coverages and limits unless otherwise specified in this document.

Workers' compensation insurance. Workers' compensation insurance, including employers' liability coverage, in accordance with all applicable statutes of the state.

Commercial general liability (CGL) insurance. Commercial general liability insurance on an "occurrence basis," with limits of liability not less than \$1,000,000 per occurrence combined single limit, personal injury, bodily injury and property damage. Coverage shall include broad form general liability extensions or equivalent.

Motor vehicle liability insurance. Motor vehicle liability insurance, including all applicable no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit bodily injury and property damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

Additional insured. Commercial general liability insurance and motor vehicle liability insurance as described above shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage be primary, contributing or excess.

Professional liability. Professional liability insurance with limits of not less than \$1,000,000 per claim if providing service that is customarily subject to this type of coverage.

Cancellation notice. Thirty days advance written notice of insurance cancellation, non-renewal and/or reduction or material change in coverage shall be provided to the city. Notice of cancellation, material change or reduction shall be attached to the certificate of insurance, or otherwise evidenced as in effect under the policy listed.

Proof of insurance coverage. The city shall be provided with certificates of insurance evidencing the coverages outlined above.

Expiration. If any of the above coverages expire, renewal certificates and/or policies must be provided to the city at least ten days prior to the expiration date.

Acceptability of insurance company. All coverages shall be with insurance carriers licensed to do business in the state. All coverages shall be with carriers acceptable to the city.

City of Birmingham
2022 Fee Schedule for Review

<u>DATE AMENDED</u>	<u>RESOLUTION NUMBER</u>	<u>SECTION</u>
2/22/2010	02-30-10	Police - Parking Offenses and Fines
3/8/2010	03-44-10	Engineering - Schedule of Parking Fees
3/8/2010	03-48-10	Fire - EMS Transportation Fees
3/22/2010	03-37-10	Community Development - Vacant Property Registration Fee
5/10/2010	05-118-10	DPS - Water; Finance - Sewer Service Rates
6/14/2010	06-150-10	Engineering - Bidding Document Fee and Private Building Sewer Investigation Program Fee
6/28/2010	06-172-10	DPS - Sewer Lateral Fee
2/14/2011	02-38-11	Clerk - Voter Information Fees, Valet Parking Fee Museum - Research Fee
3/21/2011	03-72-11	Police - Non-metered zone, Precious Metal Dealer Fee
4/11/2011	04-89-11	DPS - Annual Dog Park Pass
5/23/2011	05-141-11	Clerk - Vendor and Peddler Fees
6/27/2011	06-172-11	DPS & Finance - Water/Sewer Rates
7/25/2011	07-190-11	DPS - Wedding Ceremony Fees
3/19/2012	03-74-12	DPS - Water and Sewer Connection Fees Clerk - Alcoholic Beverages for Consumption on the Premises Fee, Animal License Fee, Annual Licenses Criminal Background Check Fee, Frozen Confection Vendor Insurance Requirements Community Development - Lot Division Fee, Temporary Use Permit Fee, Zoning Ordinance Fees, Zoning Compliance Fees DPS - Water and Sewer Connection Fees, Wedding Rental (Parks) Fee Fire - EMS Transport Service Fee, Fire Code Operational Permits
6/11/2012	06-163-12	DPS - Water; Finance - Sewer Service Rates
9/10/2012	09-257-12	Museum - Allen House Event Request
12/17/2012	12-356-12	Clerk - Cemetery Fees
3/18/2013	03-100-13	DPS - Water and Sewer Connection Fees Community Development - Contractor Registration Fees, Bond Range
5/20/2013	05-163-13	DPS & Finance - Water/Sewer Rates (effective 7/1/13)
7/8/2013	07-203-13	Clerk - Special Event Fees
7/22/2013	07-211-13	DPS - Water/Sewer Connection Fees
12/16/2013	12-356-13	DPS - Water Meter Opt Out Plan Fees
4/28/2014	04-98-14	Community Development - Lot Division Fees, Mechanical & Refrigeration Permit Fees, Zoning Ordinance Fees Fire - EMS Transport Fees, Water Fee, Permit Fee, DPS - Frozen Water Line Fee, Water & Sewer Connection Fees, Water Disconnection Fee Police - Investigation Fees
5/19/2014	05-118-14	DPS - Water; Finance - Sewer Service Rates (effective 7/1/14)
7/28/2014	07-187-14	DPS - Grass & Noxious Weeds Civil Infraction
3/30/2015	03-63-15	Clerk - background check fees, DPS - Refuse Collection & Water and Sewer Connection fees, Fire - Hydrant Use fees
4/27/2015	04-86-15	Engineering - Monthly Parking Permit Rates (effective 7/1/15)
5/18/2015	05-112-15	DPS - Water; Finance - Sewer Service Rates (effective 7/1/15)
8/10/2015	08-174-15	Clerk - Cemetery Fees
9/10/2015	09-191-15	Police - Pedicabs & Quadricycle Fees
3/28/2016	03-99-16	Fire - BLS Transportation & Loaded Mile Fees, move Hydrant Fees to DPS section. Building - swimming pool & replacement window bonds & lawn sprinkler and water heater update
6/6/2016	06-183-16	Engineering - Daily Parking Rate at all parking structures (effective 7/1/16)

City of Birmingham
2022 Fee Schedule for Review

6/27/2016	06-203-16	DPS - Water; Finance - Sewer Service Rates (effective 7/1/16)
8/8/2016	08-252-16	Community Development - Lot Division Fee for Combination of Platted Lot
12/5/2016	12-364-16	Engineering (DPS) Trench maintenance fee;
12/5/2016	12-364-16	Community Development -Text change; Vents and Exhaust Fans (under 1500 C.F.M.) fee change
12/12/2016	12-376-16	Fire Department - Non-electronic reporting Administrative fee
2/27/2017	02-50-17	Engineering - Storm Water Utility Fees & Credits
5/22/2017	05-140-17	Engineering-\$.50 increase in all parking meter rates; Police-Daily Meter Bag Fee; City Clerk-Outdoor Dining Café Platform Fees, Removal/restoration of parking meter housings, valet parking Bag Meter Fee
6/26/2017	06-180-17	DPW & Finance - Water/Sewer Rate Changes for 2017-2018
12/11/2017	12-339-17	Clerk-Removal of Taxicabs due to State law. Community Development-increases in Site Evaluation fees & text change to include impervious surfaces
2/26/2018	02-057-18	Community Development - Adding Construction Site Maintenance Violations (Sec. 50-29)
6/25/2018	06-188-18	Water/Sewer Rate Changes for 2018-2019. Effective July 1, 2018.
9/17/2018	09-256-18	City Clerk-Addition, under Alcoholic Beverages Consumption on the Premises, of Administrative Applicant Review fee.
1/28/2019	01-026-19	Clerk: remove passport fee; increase application fee. Building: increase Site Evaluation fees. Community Development: Cross Connections relocated to Department of Public Services section; remove clause at end of section regarding reduced SLU permit fees. Engineering: remove Private Building Sewer Investigation Program; increase Trench Maintenance ROW fee; add Small Cell Monthly License fees. Fire Dept.: increase transport fees. Museum: Limited use fees specified for Allen House; limited use fees added for Parks/Grounds.
10/28/2019	10-259-19	Engineering;Waive fees for replacement of lead water services
11/25/2019	11-280-19	Clerk; Increase fee for Full Burial in Greenwood Cemetery to be consistent with other Oakland County cemeteries
12/16/2019	11-306-19	Engineering-Increase fees for: Right-of-Way Permits,Soil erosion & sediment control permit fees, Stormwater runoff permit fee, Streets & Sidewalks permit fees: curb closing, curb cuts, driveways, sidewalks, excavations; and Obstructions permits. Fire Department-Increase fees for ALS Emergency and Non-Emergency Transport.
12/21/2020	12-286-20	Engineering - Increase to bidding document fees
3/22/2021	03-098-21	Fire - increases to emergent transport fees
4/26/2021	04-127-21	Grave Price increase for space that accomidates one full burial or up to 3 cremains from \$3000 to \$4000. Greenwood Cemetary increases to: grave space accomodating two and one cremains, fee for transfer of ownership, additional equip fees applicable for disinterment, marker installation (single and companion), marker or monument resets, and hourly overtime fee time changes.
10/24/2021	10-268-21	Remove usage of Shain Park Wedding Rental, Increase in wedding rental cost and security deposit for remaining parks

City of Birmingham
2022 Fee Schedule for Review

CHANGE CODES AS LISTED ON FEE SCHEDULE

- A Fee has remained the same for many years
- B Proposed fee covers current costs
- C Pass through costs that reflects actual cost of service
- D Fee consistent with neighboring communities
- E New fee
- F Increase to cover normal inflationary increase
- G No longer provide this service
- H Other

City of Birmingham
2022 Fee Schedule for Review

CITY CLERK'S OFFICE		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
<u>Alcoholic beverages for consumption on the premises</u>					
Initial fee		\$ 1,500.00			
Administrative Applicant Review		\$ 350.00			
Annual renewal		\$ 350.00			
Transfer fee		\$ 1,500.00			
Annual criminal background check - per person <i>(to be provided by applicant using the Michigan State Police ICHAT system)</i>					
<u>Animals (18-1)</u>					
Stray animal fines: See Police					
Pet dog and cat licenses:					
license for one year or less		\$ 5.00			
license for two years		\$ 10.00			
license for three years		\$ 12.00			
license obtained 30 days after expiration		\$ 20.00			
Kennels:					
Annual fee		\$ 300.00			
Plus for each dog in excess of ten		\$ 10.00			
<u>Auctions (See Initial Merchants)</u>					
<u>Bicycle Rental Agencies (122-26) annual fee</u>		\$ 5.00			
<u>Insurance:</u> Motor vehicle liability insurance conforming with Michigan Vehicle Code § 520: \$20,000 per person/\$40,000 per accident for bodily injury claims/\$10,000 for property damage per occurrence.					
<u>Charitable Solicitations (38-1)</u>		No charge			
Annual criminal background check - per person <i>(to be provided by applicant using the Michigan State Police ICHAT system)</i>					
<u>Child Care Facilities (58-106)</u>					
Annual criminal background check - per person <i>(to be provided by applicant using the Michigan State Police ICHAT system)</i>					
Child Care Center annual fee		\$ 150.00			
Initial investigation fee		\$ 100.00			
Day care home, family annual fee		\$ 100.00			
Initial investigation fee		\$ 100.00			
Day care home, group annual fee		\$ 100.00			
Initial investigation fee		\$ 100.00			
<u>Christmas Tree Sales (26-88)</u>					
December 1 through December 25 - non-profit corporations and merchants assessed for personal property		No charge			
All others		\$ 100.00			
Deposit for clean up of lot <i>(forfeited if not cleaned up by January 1st.)</i>		\$ 300.00			
<u>Dancing Schools (26-201)</u>					
Investigation and annual fee		\$ 50.00			
<u>Day Care (See Child Care Facilities)</u>					
<u>Electronic Video Game (14-106)</u>					
Each game, annual fee <i>(subject to additional fees and requirements for regulated use)</i>					
<u>FOIA fees - See public records policy (attached)</u>					
<u>Fumigation (58-141)</u>					
Fumigation Contractor, annual fee		\$ 50.00			
Fumigation permit, per event		\$ 25.00			
<u>Insurance (58-144):</u> Standard insurance requirements plus environmental impairment/pollution liability coverage					
<u>Garage Public (54-26) - Annual Fee</u>		\$ 50.00			
<u>Going out of Business (State Law)</u>					
Up to 30 days		\$ 50.00			

City of Birmingham
2022 Fee Schedule for Review

CITY CLERK'S OFFICE	EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
Limit two renewals, each	\$ 50.00			
<u>Greenwood Cemetery (126-26)</u>				
Grave space accommodating one full burial or three cremations	\$ 4,000.00			
Additional Rights of Burial for cremated remains, each	\$ 750.00			
Grave space accommodating two cremated remains	\$ 2,600.00			
Grave space accommodating one cremated remains	\$ 1,300.00			
Administrative fee for transfer of grave ownership	\$ 200.00			
Interment and disinterment fees:				
Cremation	\$ 750.00			
Full Burial	\$ 1,400.00			
<i>*additional equipment fees may apply for disinterment</i>				
Foundation charges for markers & monuments:				
Foundation Installment - per linear foot	\$ 125.00			
Marker installation - single	\$ 250.00			
Marker installation - companion	\$ 350.00			
Marker or monument resets, reinstallations, raising & leveling:				
Single	\$ 250.00			
Companion	\$ 350.00			
<i>*additional fees may apply, depending on scope of work, equipment necessary and time required.</i>				
<i>Foundation installation charge as per above schedule, plus an hourly charge for removal of old foundation</i>				
Weekend, holiday, and overtime interments	\$ 400.00			
<i>This fee is in addition to the normal interment fee charged during regular working hours. Hourly overtime fees begin at 2 pm Monday - Saturday</i>				
<u>Horse Drawn Carriages (122-71)</u>				
Company, annual fee	\$ 50.00			
Carriage, each vehicle annual fee	\$ 50.00			
Insurance: Standard insurance requirement, with coverage to include premises liability; personal injury liability; products liability; and horse or horses liability. (122-75)				
<u>Hotels/Motels annual fee</u>	\$ 75.00			
1-50 Rooms	\$ 300.00			
50+ Rooms	\$ 500.00			
<u>Initial Merchants: (All types including transfers)</u>	\$ 100.00			
<u>Kennels (See Animals)</u>				
<u>Lumberyard annual fee</u>	\$ 50.00			
<u>Marriage Ceremony Fee</u>	\$ 10.00			
<u>Mechanical Amusement Device each device annual fee</u>	\$ 50.00			
<i>(Subject to additional fees and requirements for regulated use.)</i>				
<u>Motor vehicle rentals (122-26)</u>				
Annual fee	\$ 50.00			
Insurance: Motor vehicle liability insurance conforming with Michigan Vehicle Code § 520: \$20,000 per person/\$40,000 per accident for bodily injury claims/\$10,000 for property damage per occurrence.				
<u>Open Parking Stations annual licenses (26-428)</u>				
Lots accommodating 25 cars or less	\$ 100.00			
Lots accommodating 26-50 cars	\$ 125.00			
Lots accommodating 51-75 cars	\$ 150.00			
Lots accommodating 76 cars or more	\$ 200.00			
<u>Outdoor Amusements (14-161)</u>				

City of Birmingham
2022 Fee Schedule for Review

CITY CLERK'S OFFICE		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
Annual fee		\$ 25.00			
Surety bond or cash deposit		\$ 1,000.00			
Outdoor Dining license annual fee		\$ 200.00			
Additional flat fee for off-season (<i>subject to additional fees for use of city right of way</i>)		\$ 200.00			
<u>Insurance:</u>					
<u>Workers' Compensation Insurance</u> , including Employer's Liability Insurance, in accordance with all acceptable statutes of the State of Michigan.					
<u>Commercial General Liability Insurance</u> on an occurrence basis with the limits of liability of not less than \$1,000,000 per occurrence and aggregate of \$2,000,000 for combined single limit personal injury and property damage, and shall include independent contractor's coverage and broad form general liability coverages. Liquor Liability Insurance (if liquor is to be served) on an occurrence basis with limits of liability of not less than \$1,000,000 per occurrence.					
<u>Additional Insured:</u> Commercial General Liability Insurance (and Liquor Liability, if applicable) shall name the City of Birmingham as additional insured for all activities connected with this Agreement and shall include an endorsement stating the following as: "Additional Insureds: The City of Birmingham, all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and their board members, including employees and volunteers thereof. This coverage shall be primary to the additional insureds, and not contributing with any other insurance or similar protection available to the additional insured, whether said other available coverage be primary, contributory or excess, The authorized representative of the insurance carrier acknowledges that it has read the insurance provisions of the agreement between the City of Birmingham and the insured."					
<u>Cancellation Notice</u> , Thirty (30) days advance written notice of cancellation, non-renewal, reduction of material change in coverage, will be provided to the City of Birmingham by the insurance carrier.					
<u>Proof of Insurance Coverage</u> . The city shall be provided with certificates of insurance evidencing the coverages outlined above.					
<u>Acceptability of insurance company</u> . All coverages shall be with insurance carriers licensed to do business in the state. All coverages shall be with carriers acceptable to the city.					
Outdoor Dining Café Platform Meter Fees - Seasonal					
\$1.00 Per Hour Meter Areas		\$ 2,280.00			
\$1.50 Per Hour Meter Areas		\$ 3,420.00			
Removal of parking meter housing and/or posts - minimum fee (<i>cost</i>)		\$ 88.29			
Removal of parking meter housing and/or posts - 1 meter space (<i>cost</i>)		\$ 264.87			
Removal of parking meter housing and/or posts - 2 meter spaces (<i>cost</i>)		\$ 441.45			
Outdoor Dining Café Platform Meter Fees - Pro-Rated					
\$1.00 Per Hour Meter Areas (<i>per space, per day</i>)		\$ 12.00			
\$1.50 Per Hour Meter Areas (<i>per space, per day</i>)		\$ 18.00			
Passports					
Acceptance of passport application		\$ 35.00			
Pawnshops					
Annual licensing fee		\$ 500.00			
Annual criminal background check - per person (<i>to be provided by applicant using the Michigan State Police ICHAT system</i>)					
Peddlers and Commercial Vendors (Chapter 26)					
Annual criminal background check - per person (<i>to be provided by applicant using the Michigan State Police ICHAT system</i>)					
Special Event and School Vendor/Athletic Vendor in City Park					
Application Fee (<i>per event/application</i>)		\$ 50.00			
Daily Fee (<i>per day/location</i>)		\$ 10.00			
50% discount for Birmingham licensed merchants					
Frozen Confection Vendor					

City of Birmingham
2022 Fee Schedule for Review

CITY CLERK'S OFFICE		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
Application Fee		\$ 80.00			
Amendment to the Application		\$ 26.00			
Annual License Fee		\$ 500.00			
<i>Insurance: Standard Insurance Requirements</i>					
Peddling					
Application Fee (per event/application)		\$ 50.00			
Amendment to the Application		\$ 16.00			
Daily Fee Option (per day/location)		\$ 10.00			
Yearly Fee Option (calendar year)		\$ 1,825.00			
<u>Poolroom, each billiard or pool table annual fee</u>		\$ 50.00			
<i>(subject to additional fees for regulated use)</i>					
<u>Refuse Collector: (Chapter 90)</u>					
Annual fee first truck		\$ 150.00			
Each additional truck		\$ 75.00			
<i>Insurance: Proof of workers compensation coverage, motor vehicle liability insurance and the VIN number of each vehicle must be provided to the city prior to obtaining a license.</i>					
<u>Regulated Uses not otherwise listed Chapter 26:</u>					
Application fee		\$ 1,000.00			
Annual licensing fee		\$ 200.00			
<u>Rollerskating rinks annual fee (Chapter 14)</u>		\$ 50.00			
<u>Special Events (98-140) non-refundable application fee</u>					
Annual Application fee		\$ 165.00			
First Time Event Application fee		\$ 200.00			
<i>Additional permit fees as determined by administrative staff due two weeks prior to event with insurance documents. Insurance: Standard insurance requirements</i>					
<u>Telecommunications</u>					
Application fee		\$ 500.00			
Annual maintenance fee as determined by the Metro					
Authority pursuant to Act 48 of the Public Acts of 2002					
<u>Theatres annual fee 14.26</u>		\$ 50.00			
<u>Valet Parking</u>					
<i>Annual criminal background check - per person (to be provided by applicant using the Michigan State Police ICHAT system)</i>					
Initial application fee		\$ 1,000.00			
Annual license fee		\$ 500.00			
One Day Valet Permit fee		\$ 50.00			
Valet parking card deposit, per card		\$ 20.00			
Fees per car:					
1-100 cars, pre-paying for six months in advance, per month		\$ 500.00			
101-200 cars, pre-paying for six months in advance, per month		\$ 750.00			
201 and above cars, pre-paying for six months in advance, per month		\$ 1,000.00			
<u>Valet Parking Meter Bag Fees - (Monthly)</u>		\$ 216.00			
<i>Insurance: Workers' compensation insurance, including employers' liability coverage, in accordance with all applicable statutes of the state. Garage liability insurance with limits of liability of not less than \$1,000,000 per occurrence; or commercial general liability insurance endorsed to provide the equivalent of this coverage. Garage keepers legal liability insurance with limits of liability of not less than \$100,000.00 per occurrence; or commercial general liability insurance endorsed to provide the equivalent of this coverage.</i>					

City of Birmingham
2022 Fee Schedule for Review

CITY CLERK'S OFFICE		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
<p><u>Additional insured:</u> Garage liability and garage keepers legal liability insurance, as described above, shall name the city as additional insured for all activities connected with the valet parking service and shall include an endorsement stating the following as "additional insured": the city, all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and their board members, including employees and volunteers thereof. This coverage shall be primary to the additional insureds, and not contributing with any other insurance or similar protection available to the additional insured, whether said other available coverage be primary, contributing or excess.</p> <p><u>Cancellation notice:</u> Thirty (30) days advance written notice of insurance cancellation, nonrenewal, and/or reduction in material change in coverage must be provided to the city. Notice of cancellation material change or reduction must be attached to the certificate of insurance, or otherwise evidenced as in effect under the policy listed.</p> <p><u>Proof of insurance coverage:</u> The following certificates and policies shall be provided to the city:</p> <ol style="list-style-type: none"> 1. Two copies of certificate of insurance for workers' compensation insurance. 2. Two copies of certificate of insurance for garage liability insurance. 3. Two copies of certificate of insurance for garage keepers legal liability insurance. 4. If so requested, certified copies of all policies mentioned above will be furnished. <p><u>Expiration:</u> If any of the above coverages expire, renewal certificates and/or policies must be provided to the city at least ten days prior to the expiration date.</p> <p><u>Acceptability of insurance company:</u> All coverages shall be with insurance carriers licensed to do business in the state. All coverages shall be with carriers acceptable to the city.</p>					
<u>Voter Information</u>					
Daily Absentee Voter List		\$	15.00		
Voter Information List		\$	5.00		

City of Birmingham
2022 Fee Schedule for Review

COMMUNITY DEVELOPMENT DEPT.	EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
<u>Administrative approval (Planning Department)</u>	\$ 100.00			
<u>Brownfield Developments</u>				
Application fee non-refundable and non-reimbursable	\$ 1,500.00			
Outside consultant fees reimbursement: <i>Where a review of applications, plans, construction documents, Brownfield development documents or any other documents is performed by outside consultants engaged by the city, a review fee shall be charged at 1.05 times the actual cost. Payment shall be in advance of the review based on estimated cost.</i>				
<u>Building Permits (Chapter 22)</u>				
Online Application Fee	N/A	\$2.00	C	BJ
(a) Building permit fees: <i>The building permit fee is determined from the total construction value as shown in the most recent edition of the ICC Building Evaluation Data Square foot construction costs. For all use groups except one and two family residential, the minimum square foot construction cost is 100% of the value shown in construction costs table; for renovations the minimum square foot construction costs is 50% of the value shown in the table. For residential one and two family structures, the minimum square foot construction cost is \$125.</i>				
(b) Total Construction Valuation: <i>Permit fees are computed at \$85.00 for the first \$1,000 of construction valuation; \$10.00 for each additional \$1,000 (or fraction thereof) up to \$100,000 of construction valuation; and \$15.00 for each additional \$1,000 (or fraction thereof) over \$100,000 of construction valuation.</i>				
(c) Refunds: <i>Refunds of any permit fees are subject to a minimum of 25 percent for administrative services with no construction work commencing. After construction has started, fees will be refunded proportionately as determined by the building official. Any permit fee for construction that is 75 percent or more completed will not be refunded.</i>				
(d) Plan examination fees: <i>When a plan is required to be submitted, a plan review fee must be paid at the time of submitting plans and specifications for review. The review fee shall be \$85.00 for projects up to \$10,000 in construction value; all other plan examination fees shall be computed as shown below:</i>				
Construction value up to \$10,000	\$ 85.00			
Construction Value from \$10,001 to \$500,000	Construction value multiplied by 0.0020 \$150.00 minimum			
Construction Value over \$500,000	\$1,000 plus construction value multiplied by 0.0010			
<i>The building plan review fee shall be multiplied by 1.25 when MEAP reviews are required.</i>				
<i>An administrative fee equal to the permit fee may be charged in addition to the permit fee, when work is started and/or completed without first obtaining the permit. Plan review fees are not refundable.</i>				
(e) Construction Bonds <i>In addition to the required building permit fee, a cash bond must be posted at the time the permit is issued in accordance with the following schedule:</i>				
Construction value between \$0-\$10,000	\$ 100.00			
Construction value between \$10,001-\$50,000	\$ 200.00			
Construction value between \$50,001-\$100,000	\$ 300.00			
Construction value between \$100,001-\$500,000	\$ 500.00			
Construction value of \$500,001 and up	\$ 1,000.00			
<u>Swimming Pools</u>	\$ 1,000.00			
<u>Window Permits</u>	\$ 500.00			
<i>Upon satisfactory completion of all final inspections required, and the issuance of a certificate of occupancy, if applicable, the construction bond will be returned upon request without interest.</i>				

City of Birmingham
2022 Fee Schedule for Review

COMMUNITY DEVELOPMENT DEPT.	EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
(f) A reinspection fee may be required by the building official	\$ 50.00			
(g) Bonding requirements for a temporary certificate of occupancy: <i>When a temporary certificate of occupancy is issued prior to completion of the entire work covered by the permit, a cash bond shall be posted in an amount as determined by the building official up to \$10,000 for residential dwellings and \$100,000 for commercial buildings or spaces based on the cost of completing all remaining and outstanding work.</i>				
(h) Bonding requirements for maintenance and replacements costs of public right-of-way facilities: <i>A bond shall be posted prior to the issuance of a building permit for new construction in the amount of \$5,000 to assure that the public right-of-way is properly maintained at all times during construction. This includes the replacement of city sidewalk, curb and gutter, and the re-establishment of green space in the public right-of-way.</i>				
<u>Board of Building Trades Appeals</u>				
Single family residential	\$ 310.00			
All other construction	\$ 510.00			
<u>Construction Site Maintenance Violations (Sec. 50-29)</u>				
Municipal Civil Infraction Penalty	\$ 100.00			
First Offense	\$ 250.00			
Second Offense	\$ 500.00			
Subsequent Offenses	\$ 500.00			
Building Permit Holders				
Five or more violations at same site within one calendar month	\$ 500.00			
<u>Contractor Annual Registration Fees</u>				
Building Contractor	\$ 25.00			
Electrical Contractor	\$ 25.00			
Mechanical Contractor	\$ 5.00			
Plumbing Contractor	\$ 15.00			
<u>Demolition of Buildings</u>				
Online Application Fee	N/A	\$2.00	C	BJ
Less than 3,000 cubic feet	\$ 125.00			
3,000 to 50,000 cubic feet	\$ 200.00			
More than 50,000 cubic feet	\$ 300.00			
Performance cash bond:				
Minimum (as determined by the building official)	\$ 100.00			
Maximum (as determined by the building official)	#####			
<u>Electrical Installation (Chapter 22)</u>				
Online Application Fee	N/A	\$2.00	C	BJ
Base fee	\$ 50.00			
Reinspection Fee	\$ 50.00			
120 volt or 277 volt first circuit	\$ 15.00			
120 volt or 277 volt each additional circuit	\$ 8.00			
Each 208V, 240V, 480V branch circuits	\$ 20.00			
First 25 lights, receptacles and switches	\$ 20.00			
Each additional set of 20	\$ 15.00			
First sign	\$ 50.00			
Feeders/Buss Ducts:				
First 100 feet	\$ 25.00			
Over 100 feet	\$ 15.00			
Commercial fire alarms:				
Fire alarm panel	\$ 30.00			
Each alarm device	\$ 10.00			
Residential smoke detectors up to 8 units, 120 volts	\$ 20.00			

City of Birmingham
2022 Fee Schedule for Review

COMMUNITY DEVELOPMENT DEPT.	EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
Low voltage smoke alarm with panel	\$ 50.00			
Residential smoke alarm system less than 50 volts with panel	\$ 50.00			
Services or transformers:				
30 AMP to 200 AMP	\$ 35.00			
201 AMP to 400 AMP	\$ 50.00			
Over 401 AMP	\$ 100.00			
A/C Interrupt service	\$ 20.00			
Temporary service up to 200 AMP	\$ 40.00			
Sub panel: Sidewalk inspection req:				
Each additional sign	\$ 20.00			
Each residential A/C	\$ 35.00			
Furnace/unit heaters	\$ 20.00			
Pools/hot tubs/spas	\$ 50.00			
Appliances/disposal/dishwashers	\$ 10.00			
Commercial HVAC:				
5 ton or less each	\$ 50.00			
Over 5 ton each	\$ 75.00			
Motors - Commercial only:				
1/4 HP up to 10 HP each	\$ 25.00			
Over 10 HP to 30 HP each	\$ 40.00			
Over 30 HP each	\$ 60.00			
<i>New house construction minimum of four inspections requires An administrative fee equal to the permit fee may be charged in addition to the permit fee when work is started and/or completed without first obtaining the permit.</i>				
Equipment installation permit fee	\$ 10.00			
Final site inspection fee (Planning Dept.)	\$ 100.00			
<u>Housing:</u>				
Housing Board of Appeals Fee:				
Residential dwelling unit	\$ 310.00			
Other - Commercial	\$ 510.00			
<u>Housing Inspections Owner Authorized:</u>				
One and two-family dwellings:				
Building structure fee per dwelling unit	\$ 200.00			
Electrical fee per dwelling unit	\$ 100.00			
Plumbing fee per dwelling unit	\$ 100.00			
Heating and refrigeration fee per dwelling unit	\$ 100.00			
<u>Landlord Licenses (See Rental Properties)</u>				
<u>Lot Division (Chapter 102):</u>				
Fee per parcel created from each platted or unplatted lot (<i>lot splits</i>)	\$ 200.00			
Boundary Adjustment for single family dwelling:				
Separation of platted lots (<i>fee per each lot</i>)	\$ 200.00			
Combination of platted lots (<i>fee per each lot</i>)	\$ 200.00			
<u>Massage Permits (26-251):</u>				
Investigation fee to operate massage facility (<i>subject to additional fees for regulated use</i>)	\$ 250.00			
Investigation fee to perform massage service	\$ 25.00			
Change of location (<i>subject to additional fees for regulated use</i>)	\$ 100.00			
<u>Mechanical Permits:</u>				
Online Application Fee	N/A	\$2.00	C	BJ
Base Fee	\$ 50.00			
Gas/oil furnace/boilers, etc:				
100,000 BTU or less	\$ 60.00			
Over 100,000	\$ 70.00			

City of Birmingham
2022 Fee Schedule for Review

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
Over 500,000		\$ 80.00			
Ductwork		\$ 50.00			
V.A.V. boxes (variable air volume) each		\$ 30.00			
Humidified or air cleaner		\$ 30.00			
Mfg, fireplace (gas or solid fuel), stoves (solid fuel) includes chimney		\$ 30.00			
Gas or oil space heaters		\$ 30.00			
Automatic flue damper		\$ 25.00			
as part of furnace		\$ 10.00			
Gas piping - first two openings		\$ 30.00			
additional openings each		\$ 5.00			
Air handling systems:					
Vents & Exhaust Fans:					
Under 1,500 c.f.m. each		\$ 15.00			
1,500 to 10,000 c.f.m. each		\$ 35.00			
Over 10,000 c.f.m. each		\$ 55.00			
Heat Pumps:					
To 50,000 BTU		\$ 30.00			
To 200,000 BTU		\$ 40.00			
To 500,000 BTU		\$ 50.00			
Over 500,000 BTU		\$ 75.00			
Fire Suppression Systems:					
Standpipe systems:					
2-1/2" thru 4"		\$ 50.00			
Over 4"		\$ 70.00			
Fire pumps & connections		\$ 75.00			
Fire sprinkler system:					
First head up to 20 heads		\$ 50.00			
Each additional head		\$ 3.00			
Hood and duct fire suppression systems:					
Each establishment system- minimum		\$ 75.00			
Each additional system at same establishment		\$ 30.00			
Refrigeration:					
Self contained refrigeration systems		\$ 40.00			
Remote refrigeration systems:					
Up to 10 HP		\$ 50.00			
10 HP up to 50 HP		\$ 70.00			
Over 50 HP		\$ 95.00			
Water heater		\$ 30.00			
Chimney liner		\$ 20.00			
Hydronic Floor Heat:					
Up to 2,000 square feet		\$ 50.00			
Over 2,000 square feet		\$ 60.00			
Geo Thermal:					
Up to 100,000 BTU		\$ 75.00			
Over 100,000 BTU		\$ 90.00			
Additional reinspection		\$ 50.00			
Reinspection fee		\$ 50.00			
<i>An administrative fee equal to the permit fee may be charged in addition to the permit fee, when work is started and/or completed without first obtaining the permit.</i>					
Newsracks (90-160)					
Review fee for each newsrack box		\$ 50.00			
Annual registration for each newsrack box		\$ 50.00			

City of Birmingham
2022 Fee Schedule for Review

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
Plumbing Permits					
Online Application Fee		N/A	\$2.00	C	BJ
Base Fee		\$ 50.00			
Automatic washer		\$ 15.00			
Backflow preventer		\$ 25.00			
Bathtub		\$ 15.00			
Catchbasin		\$ 50.00			
Dental Chair		\$ 15.00			
Dishwasher		\$ 20.00			
Drains to 6 inches		\$ 25.00			
Drains over 6 inches		\$ 40.00			
Drinking fountain		\$ 15.00			
Floor drain		\$ 15.00			
Garbage disposal		\$ 15.00			
Grease trap		\$ 30.00			
Hose bibbs		\$ 15.00			
Humidifier		\$ 15.00			
Inside drain (weep tile)		\$ 15.00			
Laundry tray		\$ 15.00			
Lavatory		\$ 15.00			
Lawn sprinkler - including Backflow Device		\$ 50.00			
Miscellaneous equipment		\$ 15.00			
Reinspection fee		\$ 50.00			
Roof sump		\$ 15.00			
Safe waste		\$ 15.00			
Sewers to 6 inches		\$ 50.00			
Sewers to 8 inches		\$ 60.00			
Sewers to 10 inches		\$ 75.00			
Sewers to 12 inches		\$ 100.00			
Sewers over 13 inches		\$ 100.00			
Shower trap		\$ 15.00			
Stacks, conductors		\$ 15.00			
Stand pipe		\$ 15.00			
Sump w. pump		\$ 30.00			
Urinal		\$ 15.00			
Water closet		\$ 15.00			
Water distribution:					
3/4 inch		\$ 30.00			
1 inch		\$ 30.00			
1 1/4 inch and 1 1/2 inch		\$ 35.00			
2 inches		\$ 45.00			
3 inches		\$ 60.00			
4 inches		\$ 70.00			
Over 4 inches		\$ 75.00			
Water Heater		\$ 30.00			
Water service:					
1 inch		\$ 65.00			
1 1/2 inch		\$ 65.00			
2 inches		\$ 65.00			
Over 2 inches		\$ 125.00			
Additional Inspection		\$ 50.00			
Reinspections		\$ 50.00			

City of Birmingham
2022 Fee Schedule for Review

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
<i>An administrative fee equal to the permit fee may be charged in addition to the permit fee, when work is started and/or completed without first obtaining the permit.</i>					
<u>Production filming fees 114-168:</u>					
Permit application fee (non-refundable):					
Motion picture, television, or video on private property only	\$ 125.00				
Motion picture, television, or video on public property	\$ 225.00				
Still photography only on private property	\$ 50.00				
Still photography only on public property	\$ 100.00				
<i>Additional fee for expedited processing if less than normal processing time is required. (Late application processed at the discretion of the city manager or his/her designee)</i>		\$ 150.00			
Daily public property use fee (from prep to clean-up time):					
Motion picture, television, or video, per day	\$ 75.00				
Public property location holding - per day	\$ 75.00				
On-street base camp - per day (if approved)	\$ 25.00				
Parking space rental - per day	current				
Extended hours of permitted filming activity:					
Any film permitted activity beyond 7:00 a.m. to 7:00 p.m. or driving scenes on major, minor, or neighborhood roads requiring special barricades, noticing, and/or public safety personnel (hourly rates for staff time to be calculated and charged separately).	\$ 75.00				
Security deposit:					
A refundable security deposit may be required to cover any unanticipated city staff costs, clean-up costs, refund fees to user groups affected by the film permit activities, and/or other expenses not included/anticipated in the initial film permit fee calculation.	\$ 500.00				
Staff costs:					
Monitoring fee for additional police, fire, ordinance enforcement, public works, recreation and parks, or other staff as determined by the city manager or his/her designee; fee will be estimated based on hours needed and scheduled. Staff time to be based on most current city overtime rate schedule and calculated and paid in advance of film permit activities.					
Insurance: (Sec 14-172 (5) (6) (8) Standard insurance requirement plus limits of liability of not less than \$5,000,000 per occurrence in the event motor vehicles, aircraft, helicopters, explosives or pyrotechnics are used in the activity. Also, the permittee shall execute a hold-harmless agreement as provided by the city prior to the issuance of any permit.					
<u>Rental Properties</u>					
Fee for rented or leased premises:					
First unit	\$ 125.00				
For properties containing more than one unit:					
Add, per additional unit or common/exterior area, to the one-unit fee	\$ 40.00				
Additional re-inspection fee for rental properties requiring additional inspections, plus \$25.00 for each additional unit beyond the first unit.	\$ 75.00				
<i>The fee shall be increased by 50 percent for any application received more than 30 days after the required renewal date.</i>					
<u>Signs (Chapter 86)</u>					
Online Application Fee	N/A	\$2.00	C	BJ	
Construction	\$ 50.00				
Temporary - non-residential zone districts - permit per 30 square feet or fraction 86-133	\$ 50.00				
Temporary - churches in residential zone districts 86-70	\$ 25.00				
Marquee and roof annual fee	\$ 200.00				
Others:					

City of Birmingham
2022 Fee Schedule for Review

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
Permit per square foot	\$	2.00			
Minimum	\$	100.00			
Inspection fee every three years	\$	50.00			
Removal fee 86-59 86-111	\$	50.00			
Sign impound fee, per sign	\$	25.00			
Sign inspection bonds per required inspection	\$	200.00			
<u>Sign Erectors (Chapter 86)</u>					
Original license	\$	25.00			
Renewal - annual fee	\$	15.00			
Bond	\$	5,000.00			
<u>Sign Removal:</u>					
Failure to comply with notice to remove, daily fine to commence on 31st day after notice to remove is issued.	\$	25.00			
<u>Site Evaluation</u>					
Online Application Fee		N/A	\$2.00	C	BJ
New house	\$	250.00			
Addition, accessory structure and impervious surfaces	\$	125.00			
<u>Special Land Use Permits (See Zoning)</u>					
<u>Subdivision plats (Chapter 102)</u>					
Tentative preliminary plat approval					
Fee		\$2,500.00			
Plus per lot		\$10.00			
Final preliminary plat approval					
Fee		\$1,000.00			
<u>Temporary Structure (Tents, Canopies, etc)</u>					
Online Application Fee		N/A	\$2.00	C	BJ
Original permit	\$	100.00			
Renewal	\$	25.00			
Plan checking fee	\$	50.00			
Temporary Use Permit	\$	100.00			
<u>Vacant Property Registration Fee</u>					
Residential	\$	100.00			
Commercial	\$	100.00			
Safety and maintenance inspection	\$	75.00			
Administrative costs: Inspector per hour	\$	55.00			
Support staff per hour	\$	45.00			
Sanctions, remedies, penalties:					
First offense	\$	150.00			
Second offense and any other subsequent offense	\$	500.00			
<u>Zoning Ordinance Fees</u>					
Online Application Fee		N/A	\$2.00	C	BJ
Board of Appeals					
Single family residential	\$	310.00			
All others	\$	510.00			
Community Impact Review	\$	2,050.00			
Design review fee	\$	350.00			
Historic district review					
Single family residential district	\$	-			
All other zone districts	\$	350.00			
Public notice signs for land development applications					
Fee	\$	50.00			
Deposit	\$	100.00			
Site Plan Review					

City of Birmingham
2022 Fee Schedule for Review

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
R-4 through R-8 zone districts fee	\$	850.00			
Plus, per dwelling unit affected by minor construction or minor site plan changes, as determined by the planning director	\$	50.00			
Or, plus, for each dwelling unit in the entire complex for all other site plan changes, as determined by the planning director	\$	50.00			
Non-residential districts fee	\$	1,050.00			
Plus per acre or fraction thereof	\$	50.00			
Special Land Use Permits					
*Special land use	\$	800.00			
Plus, site plan review	\$	1,050.00			
Plus, design review	\$	350.00			
Plus, publish of legal notice	\$	450.00			
Annual renewal fee	\$	200.00			
Temporary Use Permit	\$	100.00			
Zoning Compliance Letters	\$	50.00			
Zoning Compliance Permit Fees					
Online Application Fee		N/A	\$2.00	C	BJ
Accessory Structures Under 200 Square Feet	\$	125.00			
Fence Permit - <i>Single Family Zoned Districts</i>	\$	50.00			
Impervious Surface (driveway, patio, etc.) <i>Single Family Zoned Districts</i>	\$	125.00			
Zoning Ordinance Interpretation (Formal Report)					
One & two family zone districts		\$125.00			
All other zone districts		\$175.00			
THE FEES FOR DESIGN REVIEW, SITE PLAN REVIEW, HISTORIC DISTRICT REVIEW AND SPECIAL LAND USE PERMITS SHALL BE DOUBLE THE LISTED AMOUNTS IN THE EVENT THE PROPOSED PROJECT IS COMMENCED PRIOR TO FILING OF AN APPLICATION FOR REVIEW BY THE CITY.					
* Special Land Use permit fees may be waived at the discretion of the City Manager where an amendment is sought by the applicant to change the name of the establishment, or remove parties from the permit when it involves a liquor license associated SLUP.					

City of Birmingham
2022 Fee Schedule for Review

DEPARTMENT OF PUBLIC SERVICES	EXISTING FEES	PROPOSED FEE	CHANGE CODE	STAFF
<u>Cross Connections Inspections/Re-Inspections (114-122)</u>				
Fee	\$ 50.00			
Plus, a per hour charge, to be charged at 1/4 hour increments, per city employee or city				
Device test report review, per report	\$ 10.00			
<u>Dog Park Annual Pass:</u>				
Resident	\$ 50.00			
Non-Resident	\$ 200.00			
<u>Golf Course Fees - Adjusted annually by resolution of City Commission with recommendation of Parks and</u>				
<u>Grass & Weed Violations (118-66 to 118-68)</u>				
Cutting charge for properties less than or equal to 50 feet wide	\$ 135.00			
Cutting charge for properties greater than 50 feet wide	\$ 200.00			
Municipal Civil Infraction Fine (in addition to cutting charge):				
First Offense	\$ 50.00			
Second Offense	\$ 100.00			
Third Offense	\$ 200.00			
All violations after the third offense in a calendar year	\$ 200.00			
<u>Hydrant Use</u>				
Deposit (if required as determined by Fire Chief)	\$ 100.00			
Permit Fee	\$ 160.00			
Water Charge	\$ 64.75			
Includes 5000 gallons at standard charge. Water charge in excess of 5000 gallons will be charged at double rate \$25.90 per thousand gallons.	\$ 25.90			
<u>Hydrant Repair</u>				
To be calculated by DPS, Will include labor, equipment, material				
<u>Ice Arena Fees - Annual evaluation at budget</u>				
<u>Leisure Activity Pass:</u>				
First year	\$ 15.00			
Revalidate/Replace for subsequent seasons	\$ 10.00			
<u>Recycle Bins</u>	current cost			
<u>Refuse collection charges (Chapter 90) Fill-A-Dump</u>	\$ 300.00			
<u>Snow Removal from Sidewalks (98-66 - 98-68) - minimum charge</u>	\$ 100.00			
<u>Tree Preservation (Chapter 118)</u>				
Registration for tree service business	\$ 100.00			
Sanctions, remedies, penalties:				
First offense, per tree	\$ 500.00			
Second offense, per tree	\$ 1,000.00			
<u>Water</u>				
Customer requested service, emergency, 2 hr. minimum <i>plus equipment and materials if applicable</i>	\$ 200.00			
Meter department service fee, <i>plus equipment and materials if applicable</i>	\$ 80.00			
Meter department service fee for no show appointment	\$ 40.00			
Final meter reading without 24 hour notice	\$ 150.00			
Stop box construction deposit (<i>includes \$100 inspection \$400 refundable</i>)	\$ 500.00			
Curb box and lid repair (<i>done by city</i>)	\$ 500.00			
Opt Out Plan Meter Reading Fee	\$ 12.02			
Frozen water service line thaw - first visit	no charge			
Frozen water service line thaw - second visit and beyond (<i>\$200 minimum</i>)	time & material (\$200 minimum)			
<u>Water</u>				

City of Birmingham
2022 Fee Schedule for Review

DEPARTMENT OF PUBLIC SERVICES	EXISTING FEES	PROPOSED FEE	CHANGE CODE	STAFF
Additional charge for water used:				
For each 1,000 gallons or part thereof	\$ 4.87			
Service of notice of intent to discontinue service for non-payment of charges (114-303)	\$ 50.00			
Meter department service fee	\$ 80.00			
Meter department service fee for no show appointment	\$ 40.00			
Final meter reading without 24 hour notice	\$ 150.00			
Stop box construction deposit (includes \$100 inspection \$400 refundable)	\$ 500.00			
Curb box and lid repair (done by city)	\$ 500.00			
Water Rates				
Meter Size				
5/8" Quarterly fixed charge	\$ 5.00			
5/8" Monthly fixed charge	\$ 1.67			
1" Quarterly fixed charge	\$ 8.00			
1" Monthly fixed charge	\$ 2.67			
1 1/2" Quarterly fixed charge	\$ 12.00			
1 1/2" Monthly fixed charge	\$ 4.00			
2" Quarterly fixed charge	\$ 16.00			
2" Monthly fixed charge	\$ 5.33			
3" Quarterly fixed charge	\$ 24.00			
3" Monthly fixed charge	\$ 8.00			
4" Quarterly fixed charge	\$ 32.00			
4" Monthly fixed charge	\$ 10.67			
6" Quarterly fixed charge	\$ 48.00			
6" Monthly fixed charge	\$ 16.00			
8" Quarterly fixed charge	\$ 64.00			
8" Monthly fixed charge	\$ 21.33			
Special charges to the city				
Annual charge for fire hydrants	\$ 18.50			
Annual charge for drinking fountains	\$ 20.00			
Water & Sewer Connections (Chapter 114):				
Water Service Only - Single Trench				
Easement 1":				
Service Install	\$ 1,790.00			
Water Meter, MTU, Brass Meter Spuds, and Trip	\$ 657.00			
Water for Construction	\$ 50.00			
Total	\$ 2,497.00			
Easement 1 1/2":				
Service Install	\$ 2,010.00			
Water Meter, MTU, Brass Meter Flanges, and Trip	\$ 1,850.00			
Water for Construction	\$ 70.00			
Total	\$ 3,930.00			
Easement 2":				
Service Install	\$ 2,210.00			
Water Meter, MTU, Brass Meter Flanges, and Trip	\$ 2,060.00			
Water for Construction	\$ 95.00			
Total	\$ 4,365.00			
All Paved Surfaces 1":				
Service Install	\$ 3,950.00			
Water Meter, MTU, Brass Meter Spuds, and Trip	\$ 657.00			
Water for Construction	\$ 50.00			
Total	\$ 4,657.00			
All Paved Surfaces 1 1/2":				

City of Birmingham
2022 Fee Schedule for Review

DEPARTMENT OF PUBLIC SERVICES	EXISTING FEES	PROPOSED FEE	CHANGE CODE	STAFF
Service Install	\$ 4,270.00			
Water Meter, MTU, Brass Meter Flanges, and Trip	\$ 1,850.00			
Water for Construction	\$ 70.00			
Total	\$ 6,190.00			
All Paved Surfaces 2":				
Service Install	\$ 4,630.00			
Water Meter, MTU, Brass Meter Flanges, and Trip	\$ 2,060.00			
Water for Construction	\$ 95.00			
Total	\$ 6,785.00			
Water for construction rates on larger services:				
3"	\$ 120.00			
4"	\$ 190.00			
6"	\$ 330.00			
8"	\$ 465.00			
<i>(Prices on water services over 2" in size will be determined by (DPS) on a time and material basis. A deposit will be made for the estimated cost as determined by DPS.)</i>				
5/8" meter	\$ 120.00			
1" meter	\$ 180.00			
1 1/2" meter	\$ 1,320.00			
2" meter	\$ 1,525.00			
<i>(Price to be obtained from meter department for any water meter larger than 2")</i>				
Meter Transceiver Unit (MTU)	\$ 135.00			
1" Brass Meter Spuds	\$ 22.00			
1.5" Brass Meter Flanges	\$ 75.00			
2" Brass Meter Flanges	\$ 80.00			
Inspection fee when trenching not done by DPS per service	\$ 400.00			
Water disconnection fee:				
Water service disconnection at property line if service will be reused (1" or larger copper water services only)	\$ 1,000.00			
2" service or smaller	\$ 1,850.00			
4" service or greater to be determined individually by the DPS				
Fees for trench maintenance	\$ 800.00			
Refundable deposit	\$ 1,000.00			
Wedding Rental (Parks)	\$ 100.00			
All City Parks (weekdays/weekends) (excluding Shain Park)				
Resident	\$ 200.00			
Non-Resident	\$ 400.00			
Security Deposit	\$ 100.00			
Well (Irrigation) Permit Moved to Engineering	\$ 100.00	\$350.00	A,B,F	JSS

City of Birmingham
2022 Fee Schedule for Review

ENGINEERING		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
<u>Bidding Document Fee</u>					
Large Set - Paper Copy	\$ 75.00				
Small Set - Paper Copy	\$ 50.00				
CD Copy (any size)	\$ 20.00				
Flash Drive	N/A	\$20.00	E	SZ	
(Copy fee waived for Plan Room and Advertising Services)					
<u>Cable Communications Permit (30-133 (j))</u>					
Cable Franchise Insurance: Standard Insurance requirements plus excess liability insurance (or umbrella policy) on an "occurrence basis", with limits of liability not less than \$5,000,000 per occurrence; and indemnification provisions (see Section 30-190)					
<u>Curb Closings (See Streets & Sidewalks)</u>					
<u>Driveways (See Streets & Sidewalks)</u>					
<u>Parking Meters</u>					
High Demand (Areas Inside Central Core of Business District)	\$ 1.50				
Lower Demand (Areas Outside Central Core of Business District)	\$ 1.00				
<u>Parking Structures</u>					
Less than 2 hours	free				
Less than 3 hours	\$ 2.00				
Less than 4 hours	\$ 4.00				
Less than 5 hours	\$ 6.00				
Less than 6 hours	\$ 8.00				
Over 6 hours	\$ 10.00				
Over 7 hours	\$ 10.00				
Over 8 hours	\$ 10.00				
Maximum Fee After 10:00PM	\$ 5.00				
Permit Parking - Chester St. Structure	\$ 50.00				
Permit Parking - All Others	\$ 70.00				
<u>Parking Structure Permit Parking Activation Fee</u>					
Deposit (any cards returned after six-months not eligible for refund)	\$ 20.00				
Activation fee per AVI card	\$ 30.00				
Returned checks	\$ 30.00				
<u>Permit Parking At Meters (3 Months)</u>					
Lot 6 - Regular	\$ 210.00				
Lot 6 - Restricted	\$ 150.00				
Ann St. North	\$ 180.00				
South Old Woodward	\$ 120.00				
Lot 11 - NW Corner Maple & Woodward	\$ 180.00				
Lot 12 - SE Corner Maple & Woodward	\$ 180.00				
<u>Right-of-Way Permits</u>					
Online Application Fee	N/A	\$2.00	C	SZ	
Permit Fee	\$ 65.00				
Trench Maintenance	\$ 900.00	\$1,200	B,C,F	SZ	
Water Service Inspection Fee	\$ 400.00				
Sewer Service Inspection Fee	\$ 400.00				
Cash Bond (Refundable)	\$ 1,000.00				
Small Cell New Pole	N/A	\$300.00	E, H	SZ	
Small Cell Colocation	N/A	\$200.00	E, H	SZ	
<u>Sidewalks (See Streets & Sidewalks)</u>					
<u>Soil erosion and sediment control permit fees:</u>					
Online Application Fee	N/A	\$2.00	C	SZ	

City of Birmingham
2022 Fee Schedule for Review

ENGINEERING		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
Less than 1 acre site		\$ 65.00	\$100.00	A,B,C, F	SZ
1-2 acre site		\$ 125.00			
2-3 acre site		\$ 125.00			
The permit fee shall increase for every acre or portion thereof in access of the above examples.					
Inspection desposits:					
Less than 1 acre site		\$ 1,560.00			
1-2 acre site		\$ 3,120.00			
2-3 acre site		\$ 4,680.00			
The inspection deposit shall increase \$1,560.00 per additional acre or portion thereof in excess of the above examples.					
<u>Soil Filling Permit (Chapter 50)</u>					
Application fee		\$ 600.00	\$2.00	C	SZ
Online Application Fee		N/A			
Permit fee, per cubic yard		\$ 0.20			
<u>Small Cell Monthly License</u>					
Tier 1 - Per Month Per Pole		\$ 75.00			
Tier 2 - Per Month Per Pole		\$ 150.00			
Performance Bond		\$ 10,000.00			
Administrative Fee		\$ 500.00			
<u>Stormwater runoff (Chapter 114)</u>					
Permit per acre of affected area		\$ 125.00			
Minimum		\$ 65.00			
<u>Storm Water Utility Fee Related Charges</u>					
Storm Water Utility Fee Credit Application or Renewal		\$ 50.00			
Low Impact Development Determination		\$ 50.00			
Storm Water Utility Appeals Board Application		\$ 50.00			
<u>Well (Irrigaion) Permit</u>		\$ 100.00	\$350.00	A,B,F	JSS
<u>Storm Water Utility Fee - Credit Schedule</u>					
<u>CREDIT</u>	<u>APPLIES TO</u>	<u>ANNUAL VALUE</u>	<u>RENEWAL PERIOD</u>		
<u>Rain Barrels</u>	SFR/Non-SFR	\$15	2 years		
<u>Rain Garden/Bio-Swale</u>	SFR.Non-SFR	\$20 *	5 years		
<u>Infiltration Trench/Dry Well</u>	SFR/Non-SFR	\$25 *	5 years		
<u>Cistern</u>	SFR/Non-SFR	\$25 *	10 years		
<u>Pervious Pavement</u>	SFR/Non-SFR	\$10 (200-300 Sq. Ft.) \$20 (300-400 Sq. Ft.) \$30 (>400 Sq. Ft.)	10 years		
<u>Disconnect Footing Drain</u>	SFR/Non-SFR	\$40	10 years		
<u>LID Building Measures</u>	Non-SFR	ESWU reduction	N/A		
<u>LID Site Measures</u>	Non-SFR	ESWU reduction	N/A		
<u>Enhanced Retention</u>	Non-SFR	ESWU reduction	N/A		
Those credits marked with an asterisk (*) will be multiplied by the relative size of the parcel the improvement makes on the property, provided that the improvement truly captures at least 50% of the impervious area that is draining directly to the sewer system, according to the following schedule:					
<u>SFR CLASS</u>	<u>CREDIT MULTIPLICATION FACTOR</u>				
Classes A & B	1				
Class C	1.6				
Class D	2.4				
Class E	3.2				

City of Birmingham
2022 Fee Schedule for Review

ENGINEERING		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
Class F	4.6				
<u>Streets & Sidewalks:</u>					
There shall be a minimum charge of \$85.00 \$100.00 for all curb closing, curb, cuts, driveways and sidewalk permits.		\$ 85.00	\$100.00	F	
Curb closings (98-91):					
Permit per linear foot		\$ 4.00			
Minimum		\$ 30.00			
Curb cuts (98-91):					
Permit per linear foot		\$ 4.00			
Minimum		\$ 30.00			
Driveways (98-91):					
Permit		\$ 40.00			
Sidewalks (98-57):					
Permit, per square foot		\$ 0.50			
Minimum		\$ 20.00			
Excavations (98-26):					
Permit		\$ 65.00			
<i>Plus deposit to be determined by city engineer to cover estimated cost of possible city expenses, minimum</i>					
Moving buildings (98-3 - 98-28):					
Permit		\$ 50.00			
<i>Plus deposit to be determined by city engineer to cover estimated cost of possible city expenses, minimum Insurance: Standard insurance requirements plus hold-harmless agreement</i>		\$ 1,000.00			
Obstructions (98-26):					
Permit		\$ 65.00			
<i>Plus deposit to be determined by city engineer to cover estimated cost of possible city expenses, minimum</i>		\$ 1,000.00			

City of Birmingham
2022 Fee Schedule for Review

FINANCE DEPARTMENT				EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
<u>Sewer Service Rates (Chapter 114)</u>							
For each 1,000 gallons or part thereof				\$ 7.56			
<u>Storm Water Utility Fee (Chapter 114)</u>							
<u>Property Type</u>	<u>SFR Class</u>	<u>Average Runoff Potential</u>	<u>ESWU</u>				
Single-Family Residential, 0-125 acres or less	Class A	3,166	0.7				
Single-Family Residential, 0-126 acres - 0.250 acres	Class B	4,317	1				
Single-Family Residential, 0.251 acres - 0.500 acres	Class C	6,716	1.6				
Single-Family Residential, 0.501 acres - 0.750 acres	Class D	10,552	2.4				
Single-Family Residential, 0.751 acres-1,000 acres	Class E	13,094	3.2				
Single-Family Residential, 1,001 acres or larger	Class F	20,496	4.6				
<u>Non-Single Family ESWU.</u>							
The storm water utility fee for non-single family lots shall equal the number ESWU'S for a given lot, multiplied by the annual rate established by the City Commission per ESWU per year. The formula for determining the number of ESWU'S per non-single family lot shall be calculated from the amount of pervious and impervious lot area as follows:							
Number of ESWU'S = "0.15 (TA-1A + 0.90 (IA))/4317 s.f./ESWU							
where TA=total area of each lot (reported in square feet);							
IA=impervious area of each lot (reported in square feet).							
Evergreen-Farmington Sewage Disposal District:							
For each Equivalent Storm Water Unit (ESWU)							
Quarterly fixed fee				\$48.75			
Monthly fixed fee				\$16.25			
Southeast Oakland County Sewage Disposal District:							
For each Equivalent Storm Water Unit (EWSU)							
Quarterly fixed fee				\$61.25			
Monthly fixed fee				\$20.42			
<u>Industrial Surcharge (Chapter 114)</u>							
An industrial surcharge shall be levied against industrial and commercial customers contributing sewage to the system with concentrations of pollutants exceeding the levels described as follows:							
Amounts of Industrial Surcharge - Total Charge per pound of excess pollutants							
Biochemical oxygen demand (BOD), over 275 mg/l				\$ 0.483			
Total suspended solids (TSS), over 350 mg/l				\$ 0.490			
Phosphorus (P), over 12 mg/l				\$ 7.228			
Fats, oils, grease (FOG) over 100 mg/l				\$ 0.465			
<u>Industrial Waste Control IWC (Chapter 114)</u>							
An industrial waste control charge shall be levied against all non-residential properties, in accordance with rates established by resolution.							
Meter Size - Quarterly Charge							
5/8"				\$ 10.65			
3/4"				\$ 16.02			
1"				\$ 26.67			
1 1/2"				\$ 58.68			
2"				\$ 85.32			
3"				\$ 154.65			
4"				\$ 213.30			
6"				\$ 319.92			
8"				\$ 533.22			
10"				\$ 746.52			

City of Birmingham
2022 Fee Schedule for Review

FINANCE DEPARTMENT		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
	12"	\$ 853.14			
	14"	\$ 1,066.44			
	16"	\$ 1,279.74			
	18"	\$ 1,493.01			
	20"	\$ 1,706.31			
	24"	\$ 1,919.58			
	30"	\$ 2,132.88			
	36"	\$ 2,346.18			
	48"	\$ 2,559.45			
	Effective July 1, 2018				

City of Birmingham
2022 Fee Schedule for Review

FIRE DEPARTMENT		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
<u>EMS Transport Service Fees (Chapter 54)</u>					
ALS Emergency Transport II	\$ 800.00	\$ 850.00	F,D	Wells	
ALS Emergency Transport I	\$ 625.00	\$ 650.00	F,D	Wells	
ALS Non-Emergency Transport	\$ 625.00	\$ 650.00	F,D	Wells	
BLS Emergency Transport	\$ 485.00	\$ 525.00	F,D	Wells	
BLS Non-Emergency Transport	\$ 475.00	\$ 525.00	F,D	Wells	
Loaded Mile (<i>scene to hospital fee per mile</i>)	\$ 15.00				
<u>Fire Code Operational Permits</u>					
<i>As listed in the International Fire Code</i>	\$ 50.00				
<u>Hydrant Use & Hydrant Repair - See DPS</u>					
<u>Open Fires Permit (includes inspection)</u>	\$ 50.00				
<u>Pyrotechnics displays Permit</u>	\$ 50.00				
<u>Administrative Fee-Non-electronic reporting (inspections/testing/maintenance)</u>	\$ 50.00				

City of Birmingham
2022 Fee Schedule for Review

MUSEUM		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
Limited Use Fee-Allen House					
Cleaning Deposit, returnable		\$100.00			
2 hrs. of approved private use - Allen House, first floor only, with event specific rider and agreement		\$550.00			
<i>Insurance: Standard Insurance Requirements and Hold Harmless Agreement</i>					
Limited Use Fee-Park/Grounds					
Security Deposit, returnable		\$100.00			
Up to 20 people-resident		\$250.00			
Up to 20 people- non resident		\$500.00			
21-100 people-resident		\$400.00			
21-100 people-non-resident		\$800.00			
Over 100 people		additional			
Security Deposit, returnable		\$250.00			
<i>Insurance: Standard Insurance Requirements and Hold Harmless Agreement</i>					
Research Requests					
First hour		\$25.00			
Each additional hour		\$15.00			

City of Birmingham
2022 Fee Schedule for Review

POLICE DEPARTMENT	EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
<u>*Alcohol:</u>				
Specially Designated Distributor	\$ 500.00			
Specially Designated Merchant	\$ 500.00			
<u>False Alarm fees (74-31):</u>				
First false alarm per calendar year	no charge			
All subsequent false alarms per calendar year	\$ 50.00			
<u>Fingerprints</u>				
Full set of fingerprints; said fee shall be in addition to any license or permit fee which requires fingerprints to be taken and/or submitted to the Michigan State Police or the Federal Bureau of Investigation	\$ 10.00			
<u>Meter Bags - Daily Fee</u>	\$ 18.00			
<u>Outdoor Dining Café Platform Meter Fees</u>				
(See City Clerk's Office Fee Schedule)				
<u>Parking Permits (110-136 - 110-150)</u>				
Residential parking permit per household (includes 2 resident and 3 visitor permits for a two-year period)	\$ 8.00			
<u>Parking Offenses & Fines (If paid before 10 days/If paid after 10 days)</u>				
Expired meter: first seven offenses in calendar	\$10/20			
Expired meter: eight offenses or more in calendar year	\$30/40			
Overtime in non-metered zone	\$10/20			
Overtime in a time zone: less than 2 hours	\$15/25			
Overtime in a time zone: 2 hours or longer	\$30/40			
Stopping, standing or parking where prohibited	\$30/40			
Parking over the meter line	\$10/20			
Back into parking lot space	\$10/20			
Keys in ignition or ignition unlocked	\$30/40			
Other illegal parking	\$30/40			
No parking here to corner	\$30/40			
Handicap zone	\$100/125			
Violation of snow emergency parking ordinance	\$50/75			
Illegal parking in permit area	\$30/40			
Illegal parking on private property	\$30/45			
<u>Pedi-cabs & Commercial Quadricycles</u>				
Annual Application Fee	\$ 50.00			

City of Birmingham
2022 Fee Schedule for Review

POLICE DEPARTMENT	EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
<p>Insurance: The owner of every pedicab or commercial quadricycle shall procure and file with the city clerk a liability insurance policy or similar proof of insurance issued by an insurance company authorized to do business in the state. The amount of such liability insurance for each pedicab or commercial quadricycle shall be as follows: An amount of not less than \$2,000,000 because of bodily injury to or death of any one person; in an amount of \$2,000,000 because of bodily injury of two or more persons in any one accident; in an amount of not less than \$2,000,000 in medical coverage for each passenger. Such policy of insurance may be in the form of a separate policy for each pedicab or commercial quadricycle, or may be in the fleet policy covering all pedicabs or commercial quadricycles operated by such owner; provided, however, that such a policy provide for the same amount of liability for each pedicab or commercial quadricycle operated. Provided further, such policy shall name the City of Birmingham as an additional insured, and no such policy as required above may be cancelled until the expiration of 30 days after notice of intent to cancel has been given in writing to the city clerk of the City by registered mail or personal delivery of such notice and a provision to that effect is made a part of such policy.</p>				
<u>Precious Metals Dealers 26-161</u>				
Annual License Fee	\$ 500.00			
Annual criminal background check - per person <i>(to be provided by applicant using the Michigan State Police ICHAT system)</i>				
<u>Preliminary breath test (PBT) each</u>	\$ 10.00			
<u>Stray Animal Fines:</u>				
Licensed pet properly immunized first offense	\$ 25.00			
Second offense within twelve month period	\$ 50.00			
<u>Vehicle Identification Number Inspection Fee</u>	\$ 25.00			
<u>Vehicle Impounding Fee</u>	\$ 25.00			
<u>Vehicle Inspection Fee</u>	\$ 25.00			
<p>*Fee for liquor license inspection may be waived at the discretion of the City Manager where an applicant seeks to change the liquor license by the removal of a licensee from the license and the licensed establishment is not in operation.</p>				

City of Birmingham
2022 Fee Schedule for Review

TREASURER'S OFFICE		EXISTING FEE	PROPOSED FEE	CHANGE CODE	STAFF
<u>Returned Check fees (15.1 - 15.3)</u>		\$ 25.00			
<u>Treasurer's certificate</u>		\$ 10.00			

CITY OF BIRMINGHAM
PUBLIC RECORDS POLICY

1. The City of Birmingham shall make public records available to the general public in accordance with the Freedom of Information Act (FOIA) and Article VIII, Sections 2-311 through 2.316.
2. The city clerk shall be designated the FOIA coordinator. The clerk may designate others to fulfill FOIA requests, but shall keep copies of requests according to the Records Retention and Disposal Schedule.
3. The FOIA Coordinator shall make available a standard form for requests for public records. There is no requirement under FOIA for lists or reports to be created.
4. Copying of public records shall only be done by city employees or may be reproduced by an outside source as arranged by the FOIA coordinator or his or her designee.
5. Copies of public records shall be charged at \$.10 each sheet of paper 8.5" x 11: and 8.5: x 14", using double sided printing when available.
6. Maps and plans shall be distributed as follows:

11" x 17"	\$5.00
24" x 36"	\$10.00
26" x 36"	\$13.00
36" x 42"	\$15.00
7. The building department does not release copies of interior plans of houses or commercial buildings without written approval of the owner.
8. ~~Copies of the annual budget shall be sold for \$69.00 plus mailing costs. Copies of the annual audit, CAFR, shall be sold for \$64.00 plus mailing costs. As duplicating costs vary for these documents from year to year based on volume, charges will be adjusted accordingly.~~ *Removal per Finance Director – Audit is available in digital format and can be printed using policy No. 5 as listed above.*
9. All agendas will be posted on the city's website. Background material will be made available for public review at the respective department counter where the document is prepared. Upon request, commission agendas will be provided free of charge to the Birmingham homeowners associations representing residents of the City.
10. Requests for computer generated lists or documents shall be made available in accordance with FOIA and the city code. Costs for such documents shall be determined according to the departmental costs to produce such records.

11. Records of fire investigations shall be available to the public after the investigation has been completed. Copies of fire incident reports shall be sold for \$5.00 for each copy plus current mailing costs.
12. Copies of standard records from the police department, including dispatch cards, incident reports and accident reports shall be sold for \$5.00. Police Department letters of clearance will be prepared for \$10.00.
13. Copies of standard **unredacted** police video (booking room, in-car, **body-worn camera** and security) shall be sold for \$75.00. *Addition due to updated technology and services which are available for FOIA request.*
14. Copies of standard police audio (9-1-1, telephone, radio) shall be sold for \$50.00.

Adopted by City Commission July 28, 2008, Resolution #07-240-08

Amended:

March 19, 2012, Resolution #03-74-12
August 27, 2012, Resolution #08-249-12
March 18, 2013, Resolution #03-100-13
April 28, 2014, Resolution #04-98-14
March 30, 2015, Resolution #03-63-15
March 28, 2016, Resolution #03-99-16
December 5, 2016, Resolution #12-364-16
December 12, 2016, Resolution #12-383-16

MEMORANDUM

DATE: December 13, 2021

TO: Thomas M. Markus, City Manager and City Commission

FROM: Mary M. Kucharek

SUBJECT: Commissioners Attendance at Various Advisory Boards and Committees

INTRODUCTION:

At the December 6, 2021 regular Commission meeting, the City Commission discussed the best practice regarding Commissioners' attendance at various boards and committees.

BACKGROUND:

As the Commission recalls at the December 6, 2021 meeting, a legal opinion and the City Manager's opinion was provided discouraging commissioners from attending various boards and committees either in person or with their names advertised remotely. A legal opinion was discussed at the meeting of December 6, 2021, and it was determined that a policy would be adopted by the City Commission stating commissioners should refrain from appearing at the various boards and committee meetings in person or with their names advertised remotely.

LEGAL REVIEW:

The Attorney General of Michigan and Michigan Courts have examined these issues in the past. In 1981 the Attorney General made the determination that it would be improper for commissioners that possess appointment powers over members of boards and committees to appear before boards of committees regarding the business of that board, particularly if they have a personal interest. Also, courts have determined that when the appointees of those serving on committees and boards are conducting their business, the presence of those who appointed them causes an imposition of duress not as a matter of law, but in matters of potential consequence. The courts have stated that "the presence of a city commissioner before boards bring with it the presence and powers of his office."

FISCAL IMPACT:

None.

PUBLIC COMMUNICATIONS:

None.

SUMMARY:

The City Commission would desire to adopt a Policy of Procedure which prohibits commissioners from appearing at various boards and committee meetings.

ATTACHMENTS:

- Report of December 6, 2021
- Resolution
- Amendment to Rules of Procedure
- List of Meetings, taping or access for meetings remotely and after, and ability to review meetings online.
- Instructions to change your name on Zoom.

SUGGESTED COMMISSION ACTION:

Make a motion adopting a Resolution to adopt a policy stating that commissioners will not attend various advisory board and committee meetings.

REPORT

DATE: December 6, 2021

TO: Thomas M. Markus, City Manager and City Commission

FROM: Mary M. Kucharek

SUBJECT: Commissioners Attendance at Various Advisory Boards and Committees

The question has been posed, whether it is advisable for City commissioners to personally attend various advisory boards and committees of the City.

In order to analyze this issue, we must be cognizant of not only impressions and unattended consequences of the presence of commissioners, but the Open Meetings Act as well. Keeping in mind that the basic intent of the Open Meetings Act is to require commissioners to be transparent while conducting business at open meetings of the City Commission. A meeting means the convening of the Commission when there is a quorum present for the purpose of deliberating or rendering a decision on public policy, and all meetings must be considered open to the public with proper notice given to the public stating the date, time and place of all commission meetings. If a commissioner were to address one of the boards or committees while a quorum of the Commission was present, it could be argued that a meeting occurred if the commissioners had an exchange between two (2) members. An exchange between commissioners could be deemed to be deliberation towards a decision, even if that decision was not being made at the committee level but at a future Commission meeting.

Courts have examined these issues in the past and, likewise, the Office of the Michigan Attorney General. In 1981 the Attorney General made the determination that it would be improper for commissioners that possess appointment powers over members of boards and committees to appear before boards of committees regarding the business of that board, particularly if they have a personal interest. Also, courts have determined that when the appointers of those serving on committees and boards are conducting their business, the presence of those appointers causes an imposition of duress on the members of the board not as a matter of law, but in matters of potential consequence. The courts have stated that "the presence of a city commissioner before boards bring with it the presence and powers of his office."

While the intended purpose of commissioners to attend the various boards and committees of the City is to observe, to be aware of, as well as to learn what is happening in the community, those purposes and intents can easily be achieved by either watching the proceedings anonymously on zoom or watching at a later date as all open meetings are recorded. Therefore, to avoid even the appearance of an opportunity of potential influence or duress upon appointees, and to avoid the remote opportunity to violate the OMA, it is my recommendation that commissioners refrain from appearing at the various boards and committee meetings in person or if on zoom with their names.

CITY OF BIRMINGHAM
A RESOLUTION CONCERNING A POLICY REGARDING
COMMISSIONERS' ATTENDANCE AT ADVISORY BOARDS AND COMMITTEES

At a meeting of the City Commission of the City of Birmingham, Oakland County, Michigan, held on the 13th day of December, 2021, at City Hall, 151 Martin Street, Birmingham, MI, 48009.

Moved by: _____

Seconded by: _____

WHEREAS, at the December 6, 2021 regular Commission meeting, discussions were had regarding the best practice for commissioners to not attend various advisory boards and committees; and,

WHEREAS, legal counsel submitted a legal opinion to the City Commission at the December 6, 2021 Commission meeting advising commissioners to refrain from appearing at the various boards and meetings in person, or if on zoom with their names, which is attached to this Resolution; and,

WHEREAS, the State of Michigan, through its Attorney General and courts have determined that there is an opportunity to violate the Open Meetings Act when a quorum of Commissioners attend various advisory boards and committees; and,

WHEREAS, the opportunity for deliberation outside of a formal Commission meeting could occur at one of these advisory boards and committees; and,

WHEREAS, the mere presence of those with the power to appoint causes an imposition of duress on members of boards, and as a consequence, their mere presence and powers of their office is detrimental to advisory boards and committees; and,

WHEREAS, the City Commission has agreed to create a policy against commissioners' attendance at various advisory boards and committees; and,

WHEREAS, the City Commission on October 13, 2021 has reviewed the best practices and has determined that the commissioners will not attend advisory boards and committees.

THEREFORE, BE IT RESOLVED, that the Birmingham City Commission adopt the following amendment to add to the Rules of Procedure:

Commissioners' Attendance at Boards and Committees

It is the decision of the Commission that to avoid the appearance or a possibility of potential influence or duress upon appointees, or to avoid the possibility of violating the OMA, commissioners shall refrain from appearing at various boards

and committees in person or with their names addressed upon remote attendance.
Exceptions may occur upon presentation and vote of the entire Commission.

Passed, adopted and approved this _____ day of _____, 2021.

AYES: _____

NAYS: _____

PRESENT: _____

ABSENT: _____

CERTIFICATION

I, Alexandria D. Bingham, being the duly appointed and qualified Clerk of the City of Birmingham, Oakland County, Michigan, do hereby certify and declare that the foregoing is a true and correct copy of Resolution, the original of which is on file in my office, adopted by the City of Birmingham Commission at a regular meeting held on December 13, 2021.

Alexandria D. Bingham, City Clerk

CITY OF BIRMINGHAM COMMISSION

AN AMENDMENT TO THE CITY COMMISSION RULES OF PROCEDURE TO ADD A POLICY CHANGE REGARDING COMMISSIONERS' ATTENDANCE AT BOARDS AND COMMITTEES

The City of Birmingham Commission Rules of Procedure shall be amended to add a new section entitled Commissioners' Attendance at Boards and Meetings, and shall read as follows:

Open Meetings

Regular meetings and special meetings of the Birmingham City Commission, which are normally held in the Commission Room of the Municipal Building, 151 Martin Street, shall be open to the public, in compliance with the Michigan Open Meetings Act.

It is the desire of the city commission to conclude all business not later than 11:00 PM. The commission will consider this goal during their deliberations.

Closed Sessions

All meetings of the Commission shall be open to the public and shall be held in a place available to the general public. A closed session, a meeting or part of a meeting that is closed to the public, may be called for the permissible purposes included in the Open Meetings Act (Act 267 of 1976 as amended). Examples of such purposes include personnel evaluation, collective bargaining, purchase or lease of real property, and pending litigation.

Agenda

The Commission Meeting Agenda, including minutes, warrants, correspondence and reports shall be distributed to the City Commission on or before the Friday prior to the meeting date. Agendas shall also be made available for public review in the City Clerk's Office and on the City website. Minutes shall not normally be read as part of the meeting.

Minutes

The minutes shall include the mandatory information as required by the Open Meetings Act 267 of 1976; Section 15.269. The minutes shall reflect an overview or brief summary of the subject matter and any Commission comments that may have had an effect on the outcome. Commission

comments may include a summary in support or opposed and discussion which may be relevant for future reference.

The minutes shall include a participating citizen's name and position on an issue when there is public comment during the commission meeting in all of the following instances: (1) a public hearing, (2) an agenda item or (3) recognition of citizens in the audience.

Presiding Officer

The Mayor shall preside at all meetings of the City Commission. In the absence or disability of the Mayor, the Mayor Pro-Tem shall preside. In the absence or disability of both the Mayor and the Mayor Pro-Tem, the Commission shall elect one of its members to act as presiding officer.

The Mayor shall possess all the rights and powers of any other Commissioners; he or she shall not have the right of veto.

Conduct of Business

Commission Meetings shall be governed by the rules contained in the most recent edition of Robert's Rules of Order, Newly Revised in all instances in which they are applicable and not inconsistent with the statutes of the United States or the State of Michigan, or with the Charter or adopted of the City of Birmingham or these Rules of Procedure.

Commissioners should be recognized by the presiding officer before speaking.

Commissioners' Attendance at Boards and Committees

It is the decision of the Commission that to avoid the appearance of or a possibility of potential influence or duress upon appointees, or to avoid the possibility of violating the OMA, commissioners shall refrain from appearing at various boards and committees in person or with their names addressed upon remote attendance. Exceptions may occur upon presentation and vote of the entire Commission.

Voting

Birmingham's City Charter states that four members of the City Commission shall constitute a quorum; that the Commission shall act only by ordinance or resolution, that is, an official action in the form of a motion; and that a minimum of four votes shall be required to adopt any such motion.

For all Boards, Commissions or Committees appointed by the City Commission the minimum number of votes shall be the same as the quorum number for that body. State statute, City of

Birmingham Charter or ordinance may require a larger number of affirmative votes to approve certain actions for either the City Commission or appointed Boards.

The City Commission may take action on any motion either by voice or by roll-call vote. A roll-call vote shall be taken if requested by any Commissioner, the City Clerk, or any member of the public in attendance.

A motion may be amended or modified by combining the original motion and the modifications in one motion, provided all City Commission Members agree to include the "friendly amendment" in the original motion.

A Commission member may abstain from voting on a motion if he or she: 1) has a conflict of interest; or 2) lacks sufficient information about the issue to be decided. Any Commissioner who abstains from voting on a motion shall state, for the record, at the outset of the discussion both his or her intention to abstain and reason for doing so. Should the need to abstain become clear during discussion, the member shall state his or her intention at that time. The Commissioner shall then be prohibited from participating in any further discussion or debate on the issue.

After a motion has been voted upon, any Commissioner who voted on the prevailing side may move to "reconsider" said motion at the same meeting, or at the next regularly scheduled meeting, provided no action has been taken as a result of the previous vote.

General consent or consensus (in lieu of a motion) may be used to give direction. In this case, the minutes shall indicate that a majority consented.

Citizen Participation

During any City Commission meeting, any person may question or comment upon any specific agenda item at the time the City Commission considers that item.

The public shall also be invited to make comments on any item not on the meeting agenda under the agenda item, "Meeting Open To The Public For Items Not On The Printed Agenda."

No person shall address the City Commission without first having been recognized by the presiding officer. Once recognized, the member of the public shall go to one of the available microphones, and state his or her name and community of residence before speaking.

Speakers may be requested to limit their comments so as to provide opportunities for comments from all interested persons. In particular, no member of the public shall normally be permitted to speak a second time on the same issue until all others wishing to make a presentation on the subject have had an opportunity to do so.

If any person becomes loud or unruly, the presiding officer may rule that person out of order and may forfeit that person's opportunity to speak further. A person may also be expelled from the meeting for breach of the peace.

Commission Vacancies

If a vacancy occurs on the City Commission, it shall be filled by a vote of the remaining Commissioners (not including the member who is vacating his or her seat). The vote to fill a vacancy shall be taken during a public meeting held within the time prescribed by State Law. Candidates for a vacant seat need not have previously served on, nor sought election to, the Commission.

The person selected to fill a vacancy shall serve only until the next following general election, at which time any remaining unexpired term shall be filled by the voters.

Appointment Procedures

No member of the City Commission shall serve on any Board of the City of Birmingham, except the Retirement System, unless membership is required by Michigan Statute or the Birmingham City Charter.

When the City Commission desires to fill a vacancy on an appointed City of Birmingham Board, Commission or Committee, the City Clerk shall give notice to the public by publishing the intent to fill the vacancy on the City website.

If the number of persons nominated for appointment to a City Board, Commission or Committee does not exceed the number of positions to be filled, the City Commission may use a voice vote. If the number of nominations exceeds the number of positions to be filled, nominees shall be voted upon in the order in which they were nominated, either by voice or by roll-call vote.

If no nominee receives the required four votes for appointment, the process of nomination and voting may be repeated either at the same meeting or at a subsequent meeting. If the Commission desires, the position may be re-noticed.

Requests for members of the City Commission to serve on non-city bodies shall be given to the Mayor, who shall make such information available to all Commissioners. Members shall indicate their interest in such positions to the Mayor and the appointment shall officially be made at a public meeting.

Amendment or Suspension of the Rules of Procedure

These rules may be changed at any meeting of the City Commission by a majority vote with notice at the previous meeting or by a 2/3 vote (5) without notice.

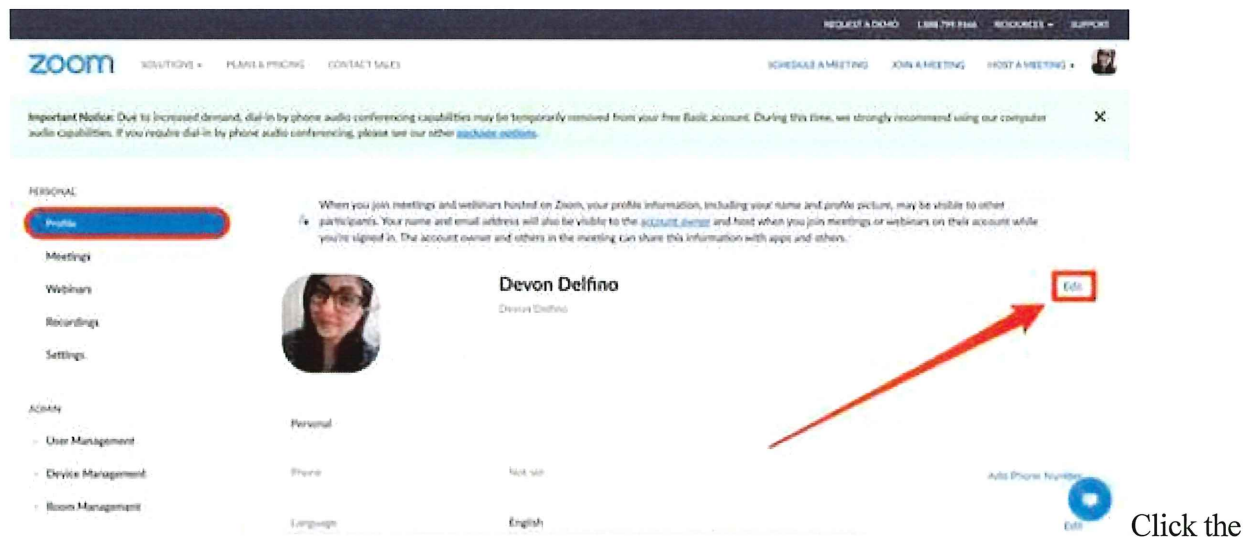
Board Name	Staff Liason	How to Watch	When
Ad Hoc Joint Senior Services Committee	City Manager	inactive	
Ad Hoc Unimproved Street Study Committee	City Manager	inactive	
Advisory Parking Committee	Scott Grewe & Ryan Weingartz	Zoom: https://zoom.us/j/98209276859#success	Typically the first Wednesday of the month at 7:30am
Architectural Review Committee	Engineering	This board seldom meets. Past meetings were not recorded.	As needed for special project review when other boards not reviewing
Birmingham Area Cable Board	Cathy White	https://www.birminghamareacableboard.org/Cable-Board/Meeting-Schedule.aspx	3rd Wednesday of the month 7:45am
Board of Review	Jack Todd	https://us06web.zoom.us/j/92603155672	For dates, visit https://www.bhamgov.org/about_birmingham/city_government/boards_commissions/board_of_review.php
Brownfield Redevelopment Authority	Brooks Cowan	Zoom https://us06web.zoom.us/j/81205527424	Meeting schedule is irregular https://bhamgov.org/about_birmingham/city_government/boards_commissions/brownfield_redvelopment_authority.php
Birmingham Shopping District AKA: Principal Shopping District Board	Sean Kammer	https://us06web.zoom.us/j/83915400165	first Thursday of every month at 8:30 a.m.
Board of Building Trades Appeals	Bruce Johnson	This board seldom meets. Past meetings were not recorded.	As needed
Board of Zoning Appeals	Bruce Johnson	Zoom: https://us06web.zoom.us/j/96343198370 BACB Vimeo: https://vimeo.com/event/3474	Second Tuesday of the month
City Commission	Alexandria Bingham	Zoom: https://zoom.us/j/655079760 BACB Vimeo: https://vimeo.com/showcase/6708293	typically the 2nd and 4th Monday at 7:30pm
Greenwood Cemetery Advisory Board	Alexandria Bingham	Zoom: https://zoom.us/j/98983856041 *Ask staff liason for recording	typically the first Friday of the month at 8:30am
Design Review Board	Nick Dupius	Zoom: https://zoom.us/j/91282479817 Vimeo: https://vimeo.com/event/419991	1st and 3rd Wednesday, 7:15 PM
Ethics Board	Alexandria Bingham	Zoom: https://us06web.zoom.us/j/99656852194 *Ask staff liason for recording	As requested
Housing Board of Appeals	Bruce Johnson	This board seldom meets. Past meetings were not recorded.	As needed
Historic District Commission	Nick Dupuis	Zoom: https://zoom.us/j/91282479817 Vimeo: https://vimeo.com/event/419991	1st and 3rd Wednesday, 7:00 PM
Historic District Study Committee	Nick Dupuis	Zoom: https://zoom.us/j/92668352238	As Needed
Hearing Officer	Jack Todd	https://us06web.zoom.us/j/85413772027	As Needed- 1-2 hearings per year
Library Board	Rebekah Craft	Zoom Meeting: https://us02web.zoom.us/j/88033156263 , www.baldwinlib.org/staff-board for recordings	3rd Monday at 7:30 p.m., except in January
Museum Board	Leslie Pielack	Zoom: https://us06web.zoom.us/j/99524391376 ; please make advance arrangements for recordings	First Thurs of the month, 5 PM
Martha Baldwin Park Board	Lauren Wood		As Needed - Once Per Year Minimum
Multi-Modal Transportation Board	Scott Grewe & Brooks Cowan & Scott Zielinski	Zoom: https://us06web.zoom.us/j/82477954435	First Thurs of the month, 6 PM
Public Arts Board	Brooks Cowan	Zoom: https://zoom.us/j/88378200269	
Planning Board	Nick Dupuis	Zoom: https://zoom.us/j/111656967 Vimeo: https://vimeo.com/event/3472	2nd and 4th Wednesday, 7:30 PM
Parks and Recreation Board	Lauren Wood	https://us06web.zoom.us/j/98191466679	First Tuesday of the month at 6:30 PM, unless on a holiday goes to following Tuesday
Retiree Health Care Fund Investment Committee	Mark Gerber	Live meetings via zoom	Quarterly immediately after the Retirement Board meeting
Retirement Board	Mark Gerber	Live meetings via zoom	Typically, the 2nd Friday in March, June, September, and December at 8:15 am
Retirement Investment Committee	Mark Gerber	Live meetings via zoom	Typically, the Wednesday a week before the Retirement Board meeting at 7:30 am
Storm Water Utility Appeals Board	Engineering	This board seldom meets. Past meetings were not recorded.	as-needed when a property owner appeals a decision by Engineering
Triangle District Corridor Improvement Authority	Brooks Cowan	Zoom https://us06web.zoom.us/j/84780743574	Meeting schedule has been irregular https://bhamgov.org/about_birmingham/city_government/boards_commissions/birmingham_triangle_district_corridor_improvement_authority.php

How to change your name on Zoom before a meeting

There are a few places you can change your name on Zoom: the website, the desktop app, or the mobile app.

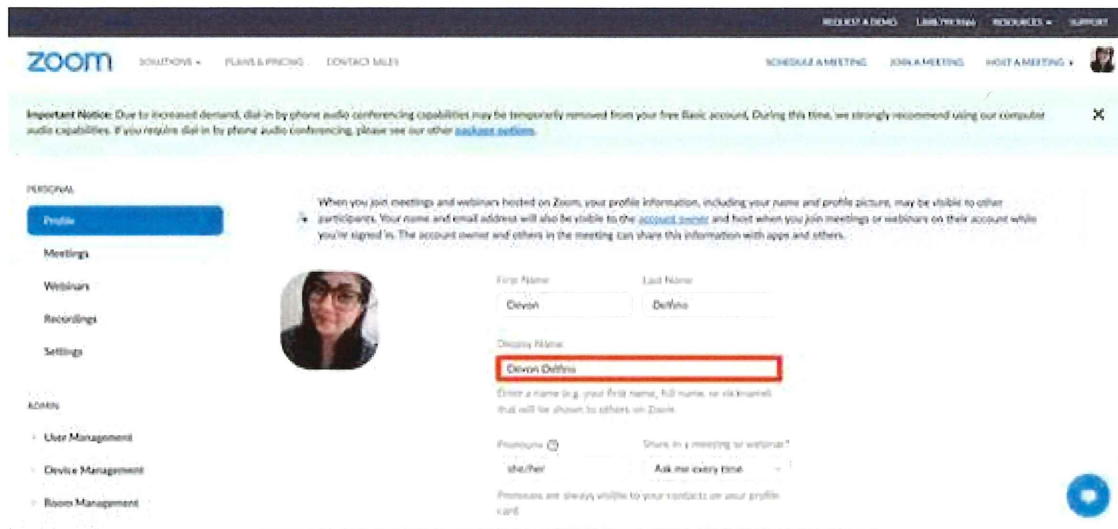
On the Zoom website

1. Sign in to the Zoom web portal.
2. Click **Profile** in the left sidebar.
3. Click **Edit**, located to the right of your name.



"Edit" option to the right of your name on the Profile page. Devon Delfino/Insider

4. Enter your full name and **Display Name**. The latter is what you'll display for other users in a meeting.



The screenshot shows the Zoom web interface. At the top, there's a navigation bar with links like 'REQUEST A DEMO', 'LIBRARY', 'RESOURCES', and 'SUPPORT'. Below this, a 'zoom' logo is followed by 'SOLUTIONS', 'PLANS & PRICING', and 'CONTACT SALES'. On the right, there are links for 'SCHEDULE A MEETING', 'JOIN A MEETING', and 'HOST A MEETING'. A blue banner at the top contains an 'Important Notice' about temporary removal of phone audio conferencing capabilities from free Basic accounts. On the left, a 'PERSONAL' sidebar lists 'Profile', 'Meetings', 'Webinars', 'Recordings', and 'Settings'. The 'Profile' section is active, showing a profile picture of a woman. To the right of the picture, there's a warning about visibility of profile information. Below this, the 'First Name' field contains 'Devon' and the 'Last Name' field contains 'Delfino'. The 'Display Name' field, which is highlighted with a red rectangle, contains 'Devon Delfino'. Below this, there's a note about entering a name (e.g., first name, full name, or nickname) that will be shown to others on Zoom. Further down, there are fields for 'Pronouns' (set to 'she/her') and a toggle for 'Show in a meeting or webinar?' (set to 'Ask me every time'). A blue circular button with a white plus sign is visible on the right side of the page.

zoom SOLUTIONS PLANS & PRICING CONTACT SALES SCHEDULE A MEETING JOIN A MEETING HOST A MEETING

Important Notice: Due to increased demand, dial-in by phone audio conferencing capabilities may be temporarily removed from your free Basic account. During this time, we strongly recommend using our computer audio capabilities. If you require dial-in by phone audio conferencing, please see our other [account options](#).

PERSONAL

Profile

Meetings

Webinars

Recordings

Settings

ADMIN

User Management

Device Management

Room Management

When you join meetings and webinars hosted on Zoom, your profile information, including your name and profile picture, may be visible to other participants. Your name and email address will also be visible to the [account owner](#) and host when you join meetings or webinars on their account while you're signed in. The account owner and others in the meeting can share this information with apps and others.

First Name: Devon Last Name: Delfino

Display Name: **Devon Delfino**

Enter a name (e.g. your first name, full name, or nickname) that will be shown to others on Zoom.

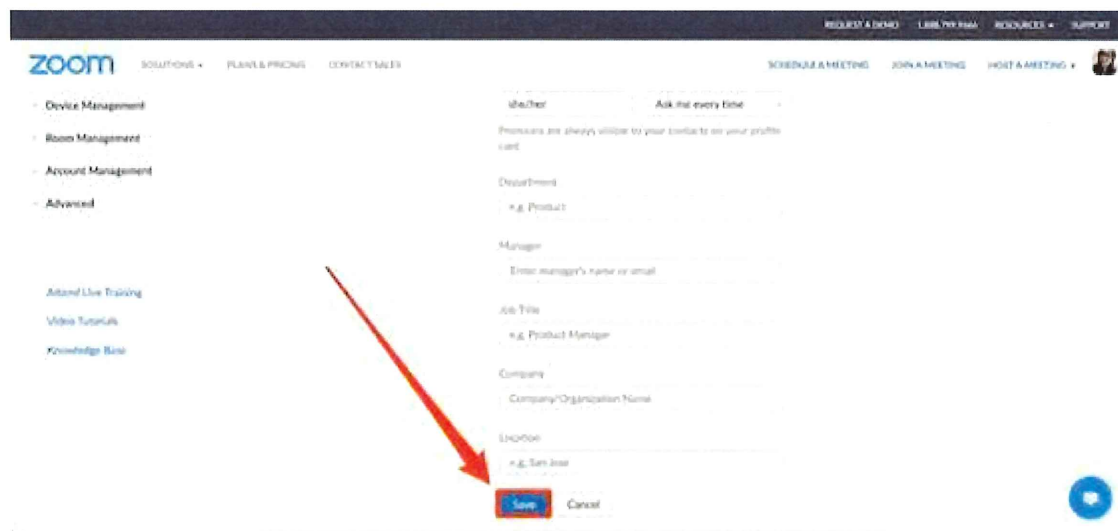
Pronouns: she/her Show in a meeting or webinar? Ask me every time

Pronouns are always visible to your contacts on your profile card.

Your Display Name is what will show up beside you on a call.

Devon Delfino/Insider

5. Scroll down and click **Save**.



This screenshot shows the same Zoom profile page as the previous one, but scrolled down. The 'Pronouns' and 'Show in a meeting or webinar?' fields are visible. Below these, there are fields for 'Department' (e.g. Product), 'Manager' (Enter manager's name or email), 'Job Title' (e.g. Product Manager), 'Company' (Company/Organization Name), and 'Location' (e.g. San Jose). At the bottom of the form, there are two buttons: 'Save' and 'Cancel'. A red arrow points directly to the 'Save' button. The blue circular button with a white plus sign is still visible on the right side of the page.

she/her Ask me every time

Pronouns are always visible to your contacts on your profile card.

Department: e.g. Product

Manager: Enter manager's name or email

Job Title: e.g. Product Manager

Company: Company/Organization Name

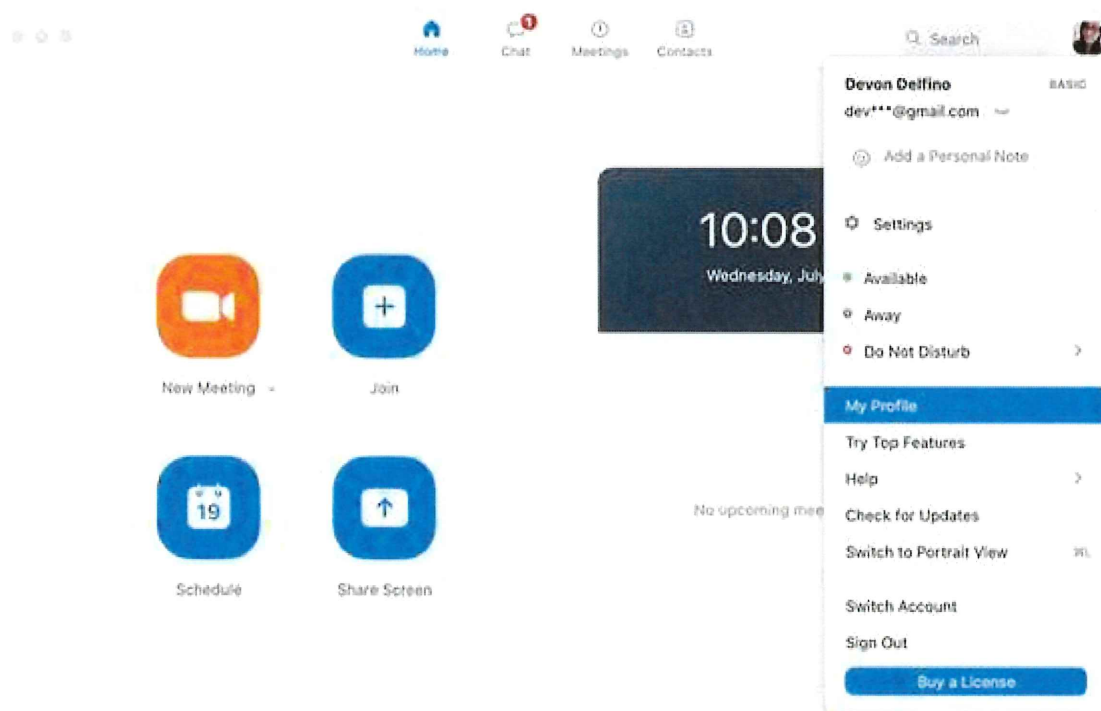
Location: e.g. San Jose

Save Cancel

From the same page, you can also update things like your pronouns, job title, location, and company.

On the desktop app

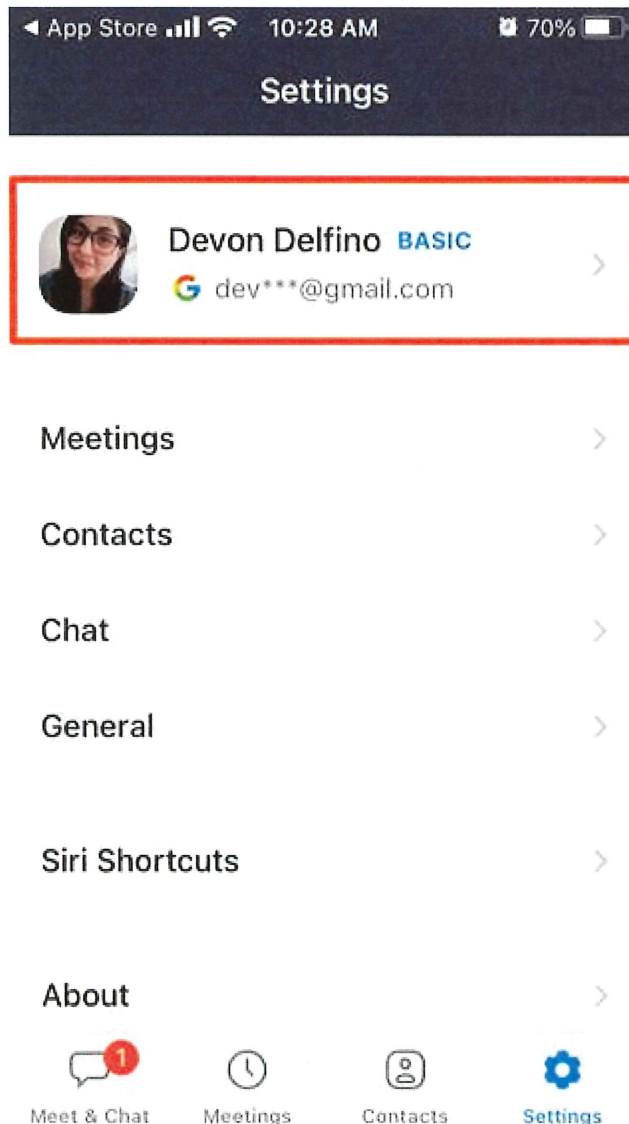
1. Open the app and log into your account, if needed.
2. Click your **profile icon**, located in the top-right corner of the window.
3. Select **My Profile** from the dropdown menu — this will prompt a pop-up window to open.



4. Click **Edit**, located to the right of your name.
5. Enter your desired name.
6. Click **Save**.

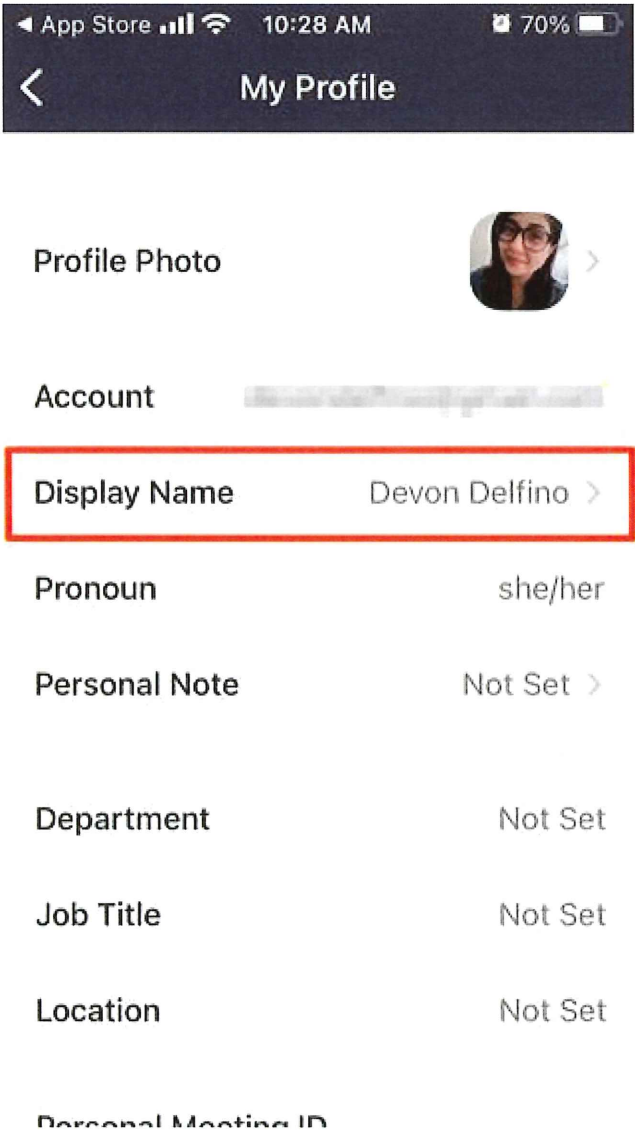
On the mobile app

1. Open the app ([iOS](#), [Android](#)) and log into your account, if needed.
2. Select **Settings**, located on the bottom-right corner of the screen.
3. Select the banner with your name and email address at the top of the screen.



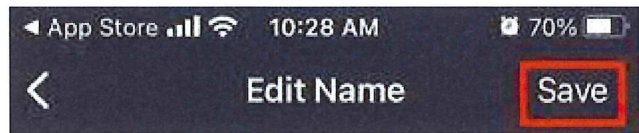
Tap the banner at the top of the page. Devon Delfino/Insider

4. Tap **Display Name**.



Tap "Display Name." Devon Delfino/Insider

5. Enter your desired name and/or display name and tap **Save**.



FIRST NAME

Devon

LAST NAME

Delfino

DISPLAY NAME

Devon Delfino

Enter a name (e.g. your first name, full name, or nickname) that you would like your Zoom contacts to see

Change your name or display name and tap "Save."

MEMORANDUM

DATE: December 13, 2021

TO: Thomas M. Markus, City Manager and City Commission

FROM: Mary M. Kucharek

SUBJECT: National Lawsuit Regarding Opioid Manufacturers and Deliverers

INTRODUCTION:

A national lawsuit was filed on behalf of all states holding accountable four (4) opioid manufacturers and deliverers. A settlement has been reached by each of the 50 states' Attorney General, and the City of Birmingham has been named as a qualifying city that has been affected by the opioid crisis, and may opt in to participate and receive monies for certain preventative and treatment opioid related activities.

BACKGROUND:

Four (4) defendants were named in a national litigation including: Johnson & Johnson (an opioid manufacturer, Amerisource (an opioid distributor), Cardinal (an opioid distributor), and McKesson (an opioid distributor). A settlement has been reached wherein up to twenty-six billion dollars (\$26,000,000,000) is to be paid to state, county and local municipalities over eighteen (18) years as long as maximum participation is obtained. There are two (2) parts to the Settlement Agreement: 1) Injunctive Relief – meaning there are serious consequences for future activity in the opioid market against these four (4) defendants; and, 2) Payments to state and local governments. Johnson & Johnson must discontinue its opioid sales for at least the next ten (10) years, and discontinue lobbying activity concerning opioids. There is also an establishment of a clearing house for distributing opioids.

In Michigan, specifically, the proceeds of the money will be split fifty percent (50%) to local governments and fifty percent (50%) to the State of Michigan. From the fifty percent (50%) that is allocated to local governments, there are deductions for a special circumstance fund that will be created, administrative expenses and attorney fees.

The funds to be received by the City may be used in a number of ways which you will find as an attachment to this memo. The City of Birmingham was listed by the state as an affected city. Each city was determined to have been affected by the opioid crisis by the state, not by the city itself. To become part of this settlement, the City of Birmingham had to register with the state and approve and execute the agreements also attached to this memo. The Agreement must be signed and submitted for participation before January 2, 2022 in order to receive the funds. There will be two (2) payments received by the City of Birmingham. The first payment as early as April of 2022, and the second as early as July of 2022.

LEGAL REVIEW:

If the City of Birmingham agrees to be part of this Settlement Agreement, the City will be agreeing to waive its right to sue any of these drug manufacturers or distributors on its own. I do not believe the City would actively partake in litigation on its own and, therefore, it is my recommendation that the City become a part of the Settlement Agreement.

FISCAL IMPACT:

We are awaiting to learn the amount the City of Birmingham will be receiving in 2022, if it becomes a part of the Settlement Agreement.

PUBLIC COMMUNICATIONS:

The Attorney General's Office has been actively participating in notifying local municipalities of their inclusion in the Settlement Agreement, and there are two (2) websites that we can use to learn more about the settlement: 1) ag-opioidlitigation@michigan.gov; and, 2) <https://nationalopioidsettlement.com>.

SUMMARY:

It is my recommendation that the City of Birmingham sign the attached Agreement and become a part of the national settlement.

ATTACHMENTS:

- Two (2) Settlement Agreements:
 - Janssen Settlement (a/k/a Johnson & Johnson).
 - Distributor Settlement (the other three (3) defendants).
- Exhibits of potential uses for the monies received in the settlement.

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to direct the City Manager to sign the Settlement Agreement on behalf of the City, which will give the City of Birmingham the opportunity to receive monies from the National Opioid Settlement Agreement.

Settlement Participation Form

Governmental Entity: Birmingham city	State: MI
Authorized Signatory: Thomas M. Markus, City Manager	
Address 1: 151 Marting Street	
Address 2:	
City, State, Zip: Birmingham, MI 48009	
Phone: (248) 530-1809	
Email: tmarkus@bhamgov.org	

The governmental entity identified above ("Governmental Entity"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 ("Janssen Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Janssen Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Janssen Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Janssen Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Janssen Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Janssen Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Janssen Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Janssen Settlement.
7. The Governmental Entity has the right to enforce the Janssen Settlement as provided therein.



8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Janssen Settlement, including but not limited to all provisions of Section IV (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Janssen Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Janssen Settlement shall be a complete bar to any Released Claim.
9. In connection with the releases provided for in the Janssen Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Janssen Settlement.

10. Nothing herein is intended to modify in any way the terms of the Janssen Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Janssen Settlement in any respect, the Janssen Settlement controls.



I swear under penalty of perjury that I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



Settlement Participation Form

Governmental Entity: Birmingham city	State: MI
Authorized Signatory: Thomas M. Markus, City Manager	
Address 1: 151 Martin Street	
Address 2:	
City, State, Zip: Birmingham, MI 48009	
Phone: 248-530-1809	
Email: tmarkus@bhamgov.org	

The governmental entity identified above ("Governmental Entity"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 ("Distributor Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Distributor Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Distributor Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Distributor Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Distributor Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Distributor Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Distributor Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Distributor Settlement.
7. The Governmental Entity has the right to enforce the Distributor Settlement as provided therein.



8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Distributor Settlement, including but not limited to all provisions of Part XI, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Distributor Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Distributor Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Distributor Settlement.
10. In connection with the releases provided for in the Distributor Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Distributor Settlement.
11. Nothing herein is intended to modify in any way the terms of the Distributor Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Distributor Settlement in any respect, the Distributor Settlement controls.



I swear under penalty of perjury that I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



Schedule B

Approved Uses

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

PART ONE: TREATMENT

A. TREAT OPIOID USE DISORDER (OUD)

Support treatment of Opioid Use Disorder (“*OUD*”) and any co-occurring Substance Use Disorder or Mental Health (“*SUD/MH*”) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:¹⁵

1. Expand availability of treatment for OUD and any co-occurring SUD/MH conditions, including all forms of Medication-Assisted Treatment (“*MAT*”) approved by the U.S. Food and Drug Administration.
2. Support and reimburse evidence-based services that adhere to the American Society of Addiction Medicine (“*ASAM*”) continuum of care for OUD and any co-occurring SUD/MH conditions.
3. Expand telehealth to increase access to treatment for OUD and any co-occurring SUD/MH conditions, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.
4. Improve oversight of Opioid Treatment Programs (“*OTPs*”) to assure evidence-based or evidence-informed practices such as adequate methadone dosing and low threshold approaches to treatment.
5. Support mobile intervention, treatment, and recovery services, offered by qualified professionals and service providers, such as peer recovery coaches, for persons with OUD and any co-occurring SUD/MH conditions and for persons who have experienced an opioid overdose.
6. Provide treatment of trauma for individuals with OUD (*e.g.*, violence, sexual assault, human trafficking, or adverse childhood experiences) and family members (*e.g.*, surviving family members after an overdose or overdose fatality), and training of health care personnel to identify and address such trauma.
7. Support evidence-based withdrawal management services for people with OUD and any co-occurring mental health conditions.

¹⁵ As used in this Schedule B, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs.

8. Provide training on MAT for health care providers, first responders, students, or other supporting professionals, such as peer recovery coaches or recovery outreach specialists, including telementoring to assist community-based providers in rural or underserved areas.
9. Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions.
10. Offer fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.
11. Offer scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD/MH or mental health conditions, including, but not limited to, training, scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.
12. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 (“*DATA 2000*”) to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.
13. Disseminate of web-based training curricula, such as the American Academy of Addiction Psychiatry’s Provider Clinical Support Service–Opioids web-based training curriculum and motivational interviewing.
14. Develop and disseminate new curricula, such as the American Academy of Addiction Psychiatry’s Provider Clinical Support Service for Medication–Assisted Treatment.

B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY

Support people in recovery from OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the programs or strategies that:

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.
2. Provide the full continuum of care of treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support services and counseling, community navigators, case management, and connections to community-based services.
3. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions.

4. Provide access to housing for people with OUD and any co-occurring SUD/MH conditions, including supportive housing, recovery housing, housing assistance programs, training for housing providers, or recovery housing programs that allow or integrate FDA-approved medication with other support services.
5. Provide community support services, including social and legal services, to assist in deinstitutionalizing persons with OUD and any co-occurring SUD/MH conditions.
6. Support or expand peer-recovery centers, which may include support groups, social events, computer access, or other services for persons with OUD and any co-occurring SUD/MH conditions.
7. Provide or support transportation to treatment or recovery programs or services for persons with OUD and any co-occurring SUD/MH conditions.
8. Provide employment training or educational services for persons in treatment for or recovery from OUD and any co-occurring SUD/MH conditions.
9. Identify successful recovery programs such as physician, pilot, and college recovery programs, and provide support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.
10. Engage non-profits, faith-based communities, and community coalitions to support people in treatment and recovery and to support family members in their efforts to support the person with OUD in the family.
11. Provide training and development of procedures for government staff to appropriately interact and provide social and other services to individuals with or in recovery from OUD, including reducing stigma.
12. Support stigma reduction efforts regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.
13. Create or support culturally appropriate services and programs for persons with OUD and any co-occurring SUD/MH conditions, including new Americans.
14. Create and/or support recovery high schools.
15. Hire or train behavioral health workers to provide or expand any of the services or supports listed above.

C. CONNECT PEOPLE WHO NEED HELP TO THE HELP THEY NEED
(CONNECTIONS TO CARE)

Provide connections to care for people who have—or are at risk of developing—OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OUD treatment.
2. Fund SBIRT programs to reduce the transition from use to disorders, including SBIRT services to pregnant women who are uninsured or not eligible for Medicaid.
3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.
4. Purchase automated versions of SBIRT and support ongoing costs of the technology.
5. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments.
6. Provide training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.
7. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, or persons who have experienced an opioid overdose, into clinically appropriate follow-up care through a bridge clinic or similar approach.
8. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions or persons that have experienced an opioid overdose.
9. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.
10. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions or to persons who have experienced an opioid overdose.
11. Expand warm hand-off services to transition to recovery services.
12. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.
13. Develop and support best practices on addressing OUD in the workplace.

14. Support assistance programs for health care providers with OUD.
15. Engage non-profits and the faith community as a system to support outreach for treatment.
16. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions.

D. ADDRESS THE NEEDS OF CRIMINAL JUSTICE-INVOLVED PERSONS

Address the needs of persons with OUD and any co-occurring SUD/MH conditions who are involved in, are at risk of becoming involved in, or are transitioning out of the criminal justice system through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support pre-arrest or pre-arraignment diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, including established strategies such as:
 1. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (“*PAARI*”);
 2. Active outreach strategies such as the Drug Abuse Response Team (“*DART*”) model;
 3. “Naloxone Plus” strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;
 4. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (“*LEAD*”) model;
 5. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or
 6. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise.
2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.
3. Support treatment and recovery courts that provide evidence-based options for persons with OUD and any co-occurring SUD/MH conditions.

4. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.
5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison or have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.
6. Support critical time interventions (“CTI”), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.
7. Provide training on best practices for addressing the needs of criminal justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, harm reduction, case management, or other services offered in connection with any of the strategies described in this section.

E. ADDRESS THE NEEDS OF PREGNANT OR PARENTING WOMEN AND THEIR FAMILIES, INCLUDING BABIES WITH NEONATAL ABSTINENCE SYNDROME

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, and the needs of their families, including babies with neonatal abstinence syndrome (“NAS”), through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women—or women who could become pregnant—who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.
2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for uninsured women with OUD and any co-occurring SUD/MH conditions for up to 12 months postpartum.
3. Provide training for obstetricians or other healthcare personnel who work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions.
4. Expand comprehensive evidence-based treatment and recovery support for NAS babies; expand services for better continuum of care with infant-parent dyad; and expand long-term treatment and services for medical monitoring of NAS babies and their families.

5. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with NAS get referred to appropriate services and receive a plan of safe care.
6. Provide child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.
7. Provide enhanced family support and child care services for parents with OUD and any co-occurring SUD/MH conditions.
8. Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.
9. Offer home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, including, but not limited to, parent skills training.
10. Provide support for Children's Services—Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO: PREVENTION

F. PREVENT OVER-PRESCRIBING AND ENSURE APPROPRIATE PRESCRIBING AND DISPENSING OF OPIOIDS

Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding medical provider education and outreach regarding best prescribing practices for opioids consistent with the Guidelines for Prescribing Opioids for Chronic Pain from the U.S. Centers for Disease Control and Prevention, including providers at hospitals (academic detailing).
2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.
3. Continuing Medical Education (CME) on appropriate prescribing of opioids.
4. Providing Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Supporting enhancements or improvements to Prescription Drug Monitoring Programs ("PDMPs"), including, but not limited to, improvements that:

1. Increase the number of prescribers using PDMPs;
2. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs, by improving the interface that prescribers use to access PDMP data, or both; or
3. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.
6. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.
7. Increasing electronic prescribing to prevent diversion or forgery.
8. Educating dispensers on appropriate opioid dispensing.

G. PREVENT MISUSE OF OPIOIDS

Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding media campaigns to prevent opioid misuse.
2. Corrective advertising or affirmative public education campaigns based on evidence.
3. Public education relating to drug disposal.
4. Drug take-back disposal or destruction programs.
5. Funding community anti-drug coalitions that engage in drug prevention efforts.
6. Supporting community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction—including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration (“SAMHSA”).
7. Engaging non-profits and faith-based communities as systems to support prevention.

8. Funding evidence-based prevention programs in schools or evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
9. School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.
10. Create or support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions.
11. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other drugs, including emotional modulation and resilience skills.
12. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses, behavioral health workers or other school staff, to address mental health needs in young people that (when not properly addressed) increase the risk of opioid or another drug misuse.

H. PREVENT OVERDOSE DEATHS AND OTHER HARMS (HARM REDUCTION)

Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Increased availability and distribution of naloxone and other drugs that treat overdoses for first responders, overdose patients, individuals with OUD and their friends and family members, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.
2. Public health entities providing free naloxone to anyone in the community.
3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.
4. Enabling school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.
5. Expanding, improving, or developing data tracking software and applications for overdoses/naloxone revivals.
6. Public education relating to emergency responses to overdoses.

7. Public education relating to immunity and Good Samaritan laws.
8. Educating first responders regarding the existence and operation of immunity and Good Samaritan laws.
9. Syringe service programs and other evidence-informed programs to reduce harms associated with intravenous drug use, including supplies, staffing, space, peer support services, referrals to treatment, fentanyl checking, connections to care, and the full range of harm reduction and treatment services provided by these programs.
10. Expanding access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.
11. Supporting mobile units that offer or provide referrals to harm reduction services, treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.
12. Providing training in harm reduction strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions.
13. Supporting screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

I. FIRST RESPONDERS

In addition to items in section C, D and H relating to first responders, support the following:

1. Education of law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.
2. Provision of wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

J. LEADERSHIP, PLANNING AND COORDINATION

Support efforts to provide leadership, planning, coordination, facilitations, training and technical assistance to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Statewide, regional, local or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment

intervention services, and to support training and technical assistance and other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

2. A dashboard to (a) share reports, recommendations, or plans to spend opioid settlement funds; (b) to show how opioid settlement funds have been spent; (c) to report program or strategy outcomes; or (d) to track, share or visualize key opioid- or health-related indicators and supports as identified through collaborative statewide, regional, local or community processes.
3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
4. Provide resources to staff government oversight and management of opioid abatement programs.

K. TRAINING

In addition to the training referred to throughout this document, support training to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, those that:

1. Provide funding for staff training or networking programs and services to improve the capability of government, community, and not-for-profit entities to abate the opioid crisis.
2. Support infrastructure and staffing for collaborative cross-system coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD and any co-occurring SUD/MH conditions, or implement other strategies to abate the opioid epidemic described in this opioid abatement strategy list (*e.g.*, health care, primary care, pharmacies, PDMPs, etc.).

L. RESEARCH

Support opioid abatement research that may include, but is not limited to, the following:

1. Monitoring, surveillance, data collection and evaluation of programs and strategies described in this opioid abatement strategy list.
2. Research non-opioid treatment of chronic pain.
3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.

4. Research on novel harm reduction and prevention efforts such as the provision of fentanyl test strips.
5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (*e.g.*, Hawaii HOPE and Dakota 24/7).
7. Epidemiological surveillance of OUD-related behaviors in critical populations, including individuals entering the criminal justice system, including, but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring (“ADAM”) system.
8. Qualitative and quantitative research regarding public health risks and harm reduction opportunities within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.
9. Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes.

DATE: December 13, 2021

TO: Thomas M. Markus, City Manager

FROM: Scott D. Zielinski, Assistant City Engineer
James J. Surhigh, Consulting City Engineer

SUBJECT: Setting Public Hearing Dates for
Proposed Sidewalk Streetscape Assessment
Maple Road Reconstruction Project

INTRODUCTION:

In 2020, a portion of Maple Road was reconstructed between Chester Street and Pierce Street, and Old Woodward and Woodward, as Phase 2 of the downtown area reconstruction effort that was a continuation of the work completed in 2018 on North Old Woodward and Maple from Pierce to Old Woodward. The Special Assessment District (SAD) associated with the construction of sidewalks and other streetscape improvements as part of the project was not formally established prior to construction. The Engineering Department is requesting Public Hearing Dates for the Sidewalk Streetscape SAD be set.

BACKGROUND:

Part of the Maple Road Reconstruction project, completed in November 2020, from Southfield Road to Pierce Street and Old Woodward to Woodward, included complete replacement of the sidewalks and provided certain landscape enhancements and pedestrian-oriented amenities within the project area. The Maple Road project was a continuation of the downtown area reconstruction work which was completed in 2018, on North Old Woodward and Maple, from Pierce to Old Woodward, where similar streetscape improvements were made (Phase 1). The costs to the City for construction of these improvements in Phase 1 were defrayed by way of Special Assessment to the property owners adjoining that project area. In the same way, the City had intended to assess a portion of the costs for the streetscape improvements that would be constructed with the Maple Road project, however, due to a number of unprecedented pandemic circumstances during 2020, the Special Assessment District was not formally established prior to construction and an out of sequence hearing process has occurred.

On March 9, 2020, the City Commission agreed to enter the construction agreement with the Michigan Department of Transportation (MDOT) for construction of the Maple Road Reconstruction Project by Angelo Iafrate Construction Company, who was the lowest qualified bidder for the project. Within that agreement, unit prices for the proposed streetscape elements to be assessed were established. At that time, based on the estimated quantities of related work that were to be performed, the amount of construction cost that was associated with the Sidewalk SAD was estimated at \$2,282,918.67, and was authorized to be paid out of account number 101-444.001-985.7900. On similar projects of this nature, including the Phase 1 project on Old

Woodward, it has been the City's policy to assess 75% of the costs for the streetscape improvements.

On the Phase 1 project, the public hearings for the Sidewalk Streetscape SAD were held after the construction contract was awarded and unit prices for the related work were established. The City intended to hold the public hearings for the Sidewalk Streetscape SAD in April of 2020. However, with the onset of the COVID-19 pandemic and uncertainty related to holding public meetings, the City Commission was not asked to set the public hearing dates. By the time there was clarity on the issue related to holding public meetings such as this in the pandemic environment, submittal of this request was inadvertently delayed. Furthermore, there were departures in the Engineering Department staff during this period that contributed to this matter not being addressed sooner.

The final payment amount to the contractor has been made by MDOT and based on the final quantities and associated unit prices, the total cost of the sidewalk and streetscape improvements is \$1,978,766.83. In accordance with City policy on similar projects of this nature, the City plans to assess 75% of this cost, or \$1,484,075.12 to the adjoining property owners. Based on the length of the frontages within the special assessment area (2,809.06 feet), the assessment cost per foot of frontage is \$528.32. The attached map and table show the parcels that are part of the proposed Sidewalk Streetscape SAD, and the costs that would be assessed.

LEGAL REVIEW:

Chapter 94 – Special Assessments of the Birmingham City Code outlines the process by which a special assessment is conducted in the City of Birmingham. The Public Hearing of Necessity should have been set sometime in April or May of 2020 to determine the necessity, and then finally the hearing confirming the special assessment roll as it relates to the proposed Sidewalk Streetscape Maple Road Reconstruction project. At two (2) merchant meetings including one (1) of February 28, 2020, the merchants of Maple Road were put on notice that the money needed in order to complete this project would be defrayed by a Special Assessment. While it was clear that a Special Assessment District for the Sidewalk Streetscape project was to be completed prior to the contracting and construction of these improvements, the Special Assessment District was not created as these improvements commenced during the height, panic and chaos of the unprecedented COVID crisis. As a result, this out of sequence hearing process has occurred.

COVID hit, then the height of restrictions were ordered, and more importantly, the domino effect of reactions occurred during March and April of 2020, lasting for months and months. These restrictions, reactions and shutdown of nearly all public services complicated the order of the sequence of the City's hearing processes as it relates to the Sidewalk Streetscape Maple Road Reconstruction project. Despite the fact that the Chief City Engineer retired in January of 2020, an interim engineering staff did the best they could, the hastened project for the least amount of disruption as possible to the merchants was completed by the end of November of 2020. While we somehow managed to have limited Commission meetings during those critical and chaotic summer months, this out of sequence hearing process occurred due to the COVID situation beyond anyone's control during the time that the City was prohibited from conducting in person hearings. Sec. 94-13. – Adjustments and Corrections at (c) Invalid assessments, offers relief for situations such as this.

“(c) Invalid assessments.

- (1) whenever any special assessment shall, in the opinion of the commission, be incorrect or invalid by reason of any irregularity or informality in the proceedings, or if any court or tribunal of competent jurisdiction shall adjudge the assessment to be illegal, the commission may, regardless of whether the improvement has been made or not, or whether any part of the assessment has been paid or not, cause a new assessment to be made for the same purpose for which the former assessment was made.
- (2) All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment.”

With the height of the uncertain COVID restrictions and reactions, including an increase in staff turnover, this out of sequence hearing process has occurred. The improvements that have been completed for the benefit of all property owners on the Maple Road Reconstruction project have been completed and, therefore, the Special Assessment District creation and confirmation of the roll should be completed in order for the Special Assessment District to be assessed.

FISCAL IMPACT:

Revenue generated from the Sidewalk Streetscape SAD for the Maple Road Reconstruction project will defray the costs incurred by the City for construction of these improvements and has been considered as an integral part of the financial forecasting for the General Fund in future years.

PUBLIC COMMUNICATIONS:

Information related to the overall project and Sidewalk Streetscape SAD was presented at two (2) public “Merchant Meetings” held in cooperation with the Birmingham Shopping District on October 23, 2019 and February 28, 2020, for which all affected property owners were invited to attend. The estimated assessment amount was presented at the City Commissioner meeting held on March 9, 2020.

SUMMARY

The Engineering Department recommends that a Public Hearing of Necessity to form a Special Assessment District for the construction of sidewalk and streetscape improvements as part of the Maple Road Reconstruction project be scheduled at the regularly scheduled City Commission meeting on January 24, 2022, followed by a Public Hearing for Confirmation of the Roll on February 14, 2022.

ATTACHMENTS:

- Map of proposed Sidewalk Streetscape SAD
- Table listing parcels included in proposed Sidewalk Streetscape SAD
- Presentation Slides from 2/28/2020 Merchant Meeting
- Sign-in Sheets for 10/23/2019 and 2/28/2020 Merchant Meetings

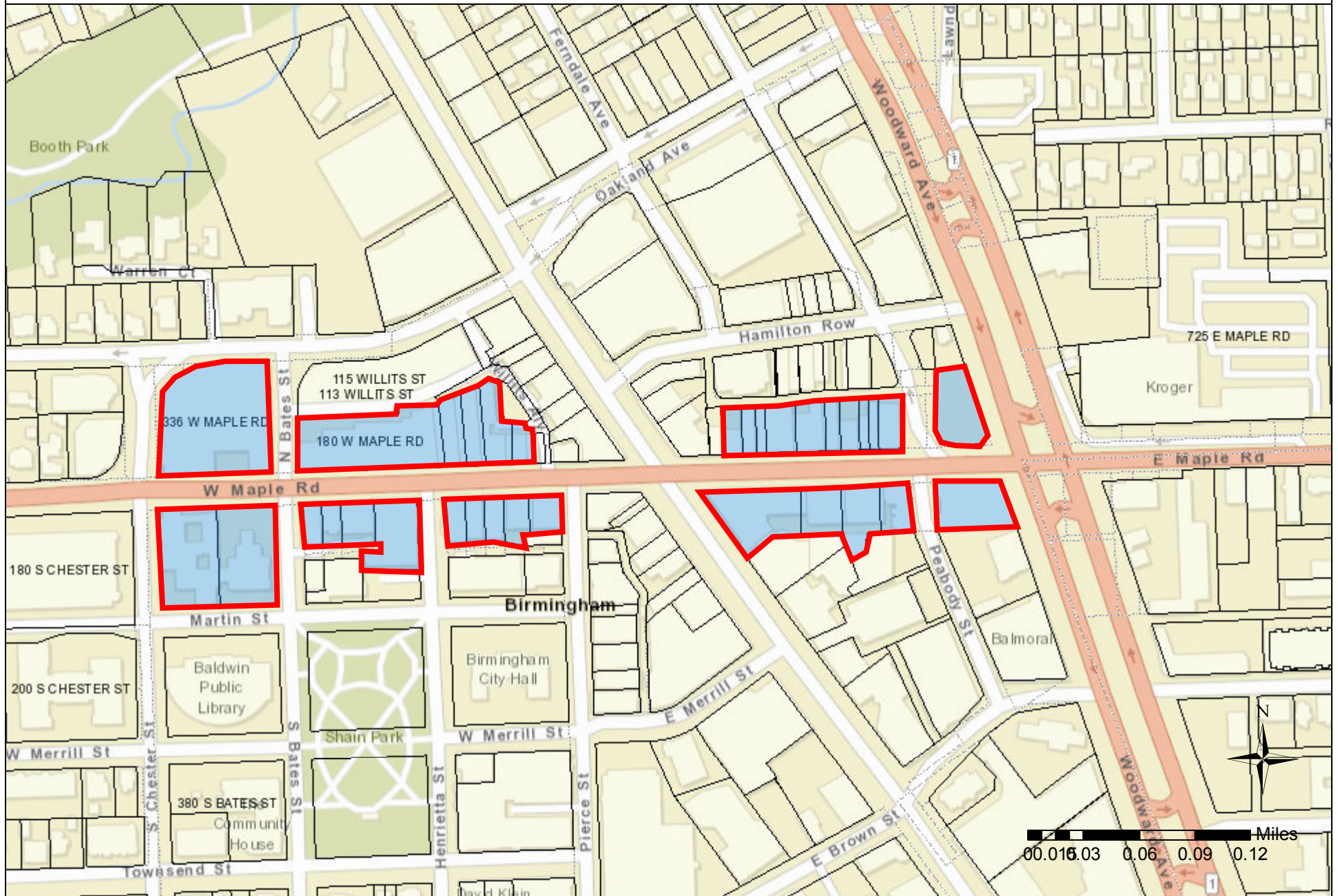
SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to set the Public Hearing of Necessity for the construction of sidewalk and streetscape improvements adjacent to all properties within the project area on Maple Road, between Chester Street and Pierce Street, and between Old Woodward Avenue and Woodward Avenue on Monday, January 24, 2022 at 7:30 P.M. for the purpose of conducting; and

If necessity is determined on January 24, 2022, to meet on Monday, February 14, 2022 at 7:30 P.M. for the purpose of conducting the Public Hearing to Confirm the Assessment Roll for the construction of sidewalk and streetscape improvements adjacent to all properties within project area on Maple Road, between Chester Street and Pierce Street, and between Old Woodward Avenue and Woodward Avenue.

Total Assessable Street Scape SAD		City Cost 25% of Total SAD	Assessable Total 75% Of Total SAD
\$1,978,766.83		\$494,691.71	\$1,484,075.12
Total Assessable Frontage (ft)		Price Per Linear Foot	
2809.06		\$528.32	
Address	Property Tax ID	Total Assessable Frontage	SAD Cost Per Property
336 W Maple	19-25-377-006	291	\$153,740.35
180 W Maple	19-25-378-023	327.53	\$173,039.78
168 W Maple	19-25-378-008	44.95	\$23,747.86
166 W Maple	19-25-378-009	40	\$21,132.69
150 W Maple	19-25-378-010	56.23	\$29,707.28
142 W Maple	19-25-378-011	44	\$23,245.96
203 E Maple	19-25-456-018	33.5	\$17,698.63
225 E Maple	19-25-456-018	29.78	\$15,733.29
261 E Maple	19-25-456-035	62.5	\$33,019.83
323 E Maple	19-25-456-023	62.5	\$33,019.83
335 E Maple	19-25-456-024	30.31	\$16,013.30
355 E Maple	19-25-456-034	40	\$21,132.69
361 E Maple	19-25-456-027	20	\$10,566.35
369 E Maple	19-25-456-050	20	\$10,566.35
395 E Maple	19-25-456-029	99.98	\$52,821.17
35001 Woodward	19-25-456-037	195.43	\$103,249.06
34977 Woodward	19-36-207-001	214.5	\$113,324.07
378 E Maple	19-36-206-018	101.6	\$53,677.04
344 E Maple	19-36-206-020	80.5	\$42,529.55
300 E Maple	19-36-206-002	84.5	\$44,642.82
288 E Maple	19-36-206-001	44.5	\$23,510.12
102 Pierce	19-36-129-005	67	\$35,397.26
137 W Maple	19-36-129-004	53	\$28,000.82
163 W Maple	19-36-129-003	40	\$21,132.69
175 W Maple	19-36-129-002	40	\$21,132.69
195 W Maple	19-36-129-001	70	\$36,982.21
211 W Maple	19-36-128-004	112	\$59,171.54
247 W Maple	19-36-128-003	70	\$36,982.21
299 W Maple	19-36-128-002	40	\$21,132.69
299 W Maple	19-36-128-001	59.5	\$31,434.88
320 Martin	19-36-127-004	132.5	\$70,002.05
355 W Maple	19-36-127-001	146	\$77,134.33
180 W Maple	19-25-378-023	55.75	\$29,453.69
Assessable Total 75% Of Total SAD		2809.06	\$1,484,075.12

Maple Road SAD Properties

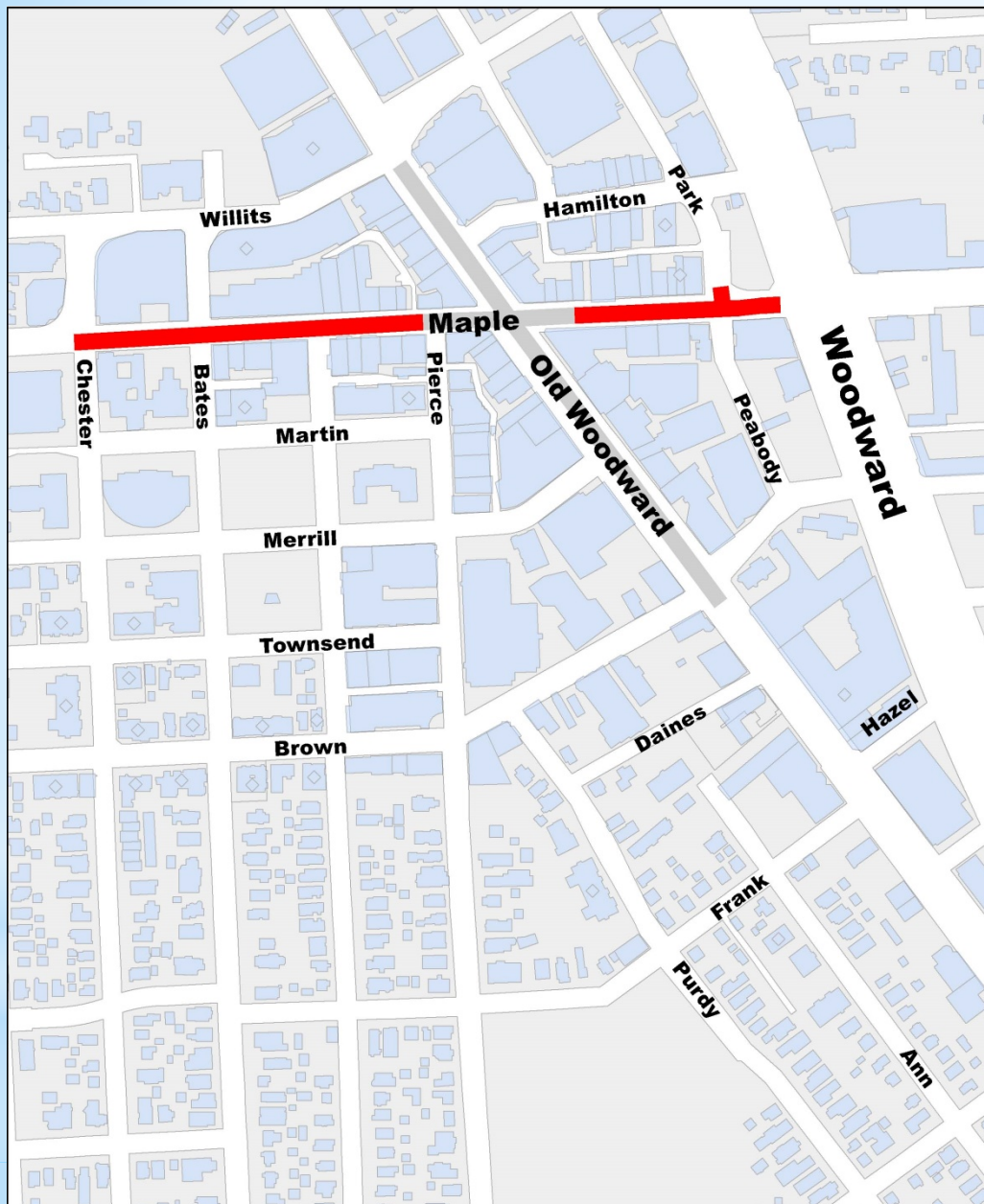




Merchant Meeting

February 28, 2020

Dick O'Dows



Maple Road Reconstruction Phase II

Construction in

2020

(MDOT Project)

CITY / FEDERAL FUNDED

- * Public Sewers & Public Water Mains / Hydrants
- * New Mid-Block Crossing
- * Street Pavement
- * Mast Arm Traffic Signals
- * Street Lights
- * City Trees w/Irrigation
- * Communication Conduit
- * Granite Benches / USB Charging Stations
- * Signs / Parking Meters
- * Bike Racks

Mid-Block Crossing - Bet. Old Woodward & Peabody



W. Maple & Henrietta Intersection



SPECIAL ASSESSMENT DISTRICT (SAD)

- * Sidewalk & Streetscape Amenities (75% assessed)
 - * Includes Tree Wells, Irrigation, Plantings, Benches, etc...
- * Sewer Lateral Replacement (100% assessed)
 - * Laterals 50 years or older
- * Water Service Replacement (100% assessed)
 - * Replace $\frac{3}{4}$ " Services

Public Hearings will be held for all Special Assessment Districts

- * It is anticipated these will occur sometime in April

BIRMINGHAM'S 6-POINT LOGISTICS PLAN

1. Keep Project Moving Quickly
2. Keep Sidewalks Open & Front Doors Accessible
3. Keep Traffic Flowing
4. Keep Communications Flowing
5. Keep Public Parking Easy and Accessible
6. BSD Promotional Activities

1. Keep Project Moving Quickly

PROJECT INITIATION

1. City Commission Authorization (Anticipated - March 9th)
2. Pre-Project Preparation (Anticipated to occur in March)
Tree, Streetlight, Parking Meter Removals
3. Pre-Construction Meeting (Anticipated to occur in Late March)
4. Contractor Mobilization / Traffic Control (Anticipated Early April)

CONSTRUCTION PROCESS

Start - Early April

Anticipated Construction Time Frame - 3 ½ to 4 months

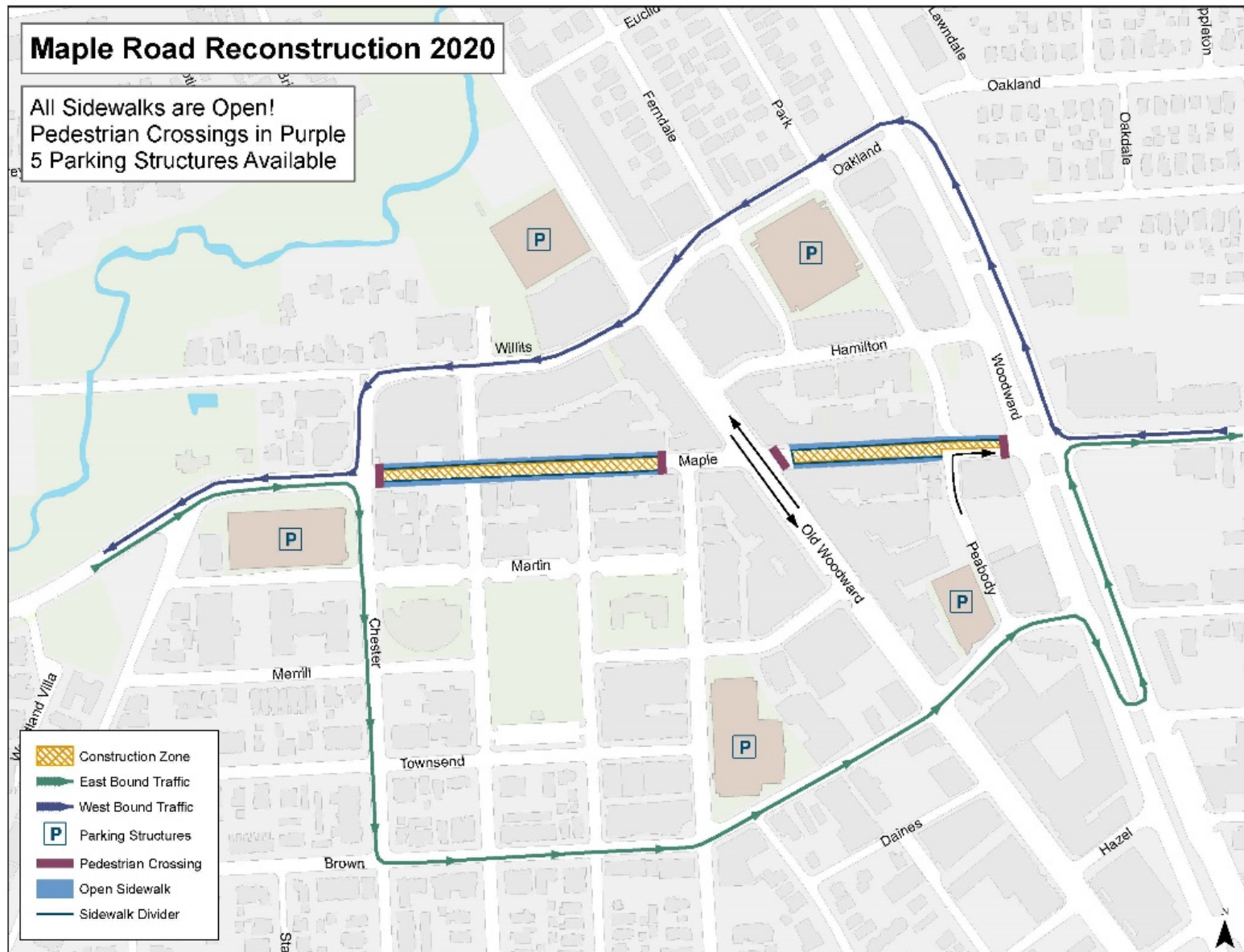
- * Hire Contractor with Experience
- * Expand Available Work Hours (7am - 10pm - Sunday Work Allowed)
- * Bonus/Penalty Clause (Early / Delayed Project Completion)
- * Encourage Multiple Crews

2. Keep Sidewalks Open and Front Doors Accessible



Exceptions - During Water Service, Sewer Lead & Sidewalk Installation

3. Keep Traffic Flowing



4. Keep Communications Flowing

- * Flyers & Weekly Updates
- * Constant Contact by Email:
www.bit.ly/bhamnews
www.bhamgov.org/enotify
- * City of Birmingham Website
www.bhamgov.org/maplereconstruction
- * BSD/City Social Media –
Facebook, Twitter, Next Door
- * Digital and Print Newsletters

Frequently Asked Questions

Q: Why is Maple between Southfield and Woodward being reconstructed?

A: The downtown core has the oldest known underground infrastructure in the City. The City's comprehensive plan will replace this tired infrastructure with a new water main, sewer lines, an electrical system and much more. In addition, the plan includes the transformation of the above ground streetscape with wider sidewalks, ADA compliant curbs, and mid-block crossings along Maple. The enhancements will improve the functionality and aesthetic look of downtown Birmingham for years to come.

Q: How long will the reconstruction of Maple Road last?

A: The City, working with its contractors, is anticipating the project will take about **four months**.

Q: Is downtown Birmingham open for business?

A: Yes! The City, in conjunction with the Birmingham Shopping District (BSD), is providing free two-hour valet parking service at three (3) locations near the work zone. The BSD also has its incentive program, **Birmingham Bonus Bucks**, to entice visitors and shoppers to downtown during construction. More information on Birmingham Bonus Bucks and other BSD led initiatives can be found on the back of the flyer.

Q: Where can I get information on the progress of the project?

A: You can go to the City website, www.bhamgov.org/maplereconstruction for regular updates on construction, parking options, the BSD's Pave the Way initiative and other elements of the project that you need to know. Get real time updates by email or text through the City's enotify alert system. Sign up for enotify at: www.bhamgov.org/enotify and scroll down to construction projects. If you have a question or concern and wish to speak to someone, please call the Engineering Dept. at (248) 530-1840.

Paving the Way to a More Beautiful Downtown

We're paving the way to a more beautiful downtown! While Maple Road receives important infrastructure upgrades this summer, the Birmingham Shopping District wants to make sure it's "business as usual" by offering the following great perks:

FREE Two-Hour Valet Parking (then \$5 for each additional hour) at three (3) locations: Henrietta near Martin, S. Old Woodward near Brown, & Hamilton Row near Ferndale.

Birmingham Bonus Bucks

\$10 in Birmingham Bonus Bucks will be awarded to shoppers for every \$100 spent at BSD retailers, and for every \$200 spent at BSD restaurants during construction until the promotion maximum has been reached. Visit www.ALLINBirmingham.com/BBB for promotion details and the submission form.

Birmingham Construction Art Contest

Local artists are invited to paint/decorate/enhance approximately 2,600 feet of barricades that will be erected during the project. Winning art will be selected by public jury. Each space will be approximately 8' wide by 4' high. The theme is "Pave the Way" which can be interpreted, in many ways, at the discretion of the artist. Learn more and download the application form at www.ALLINBirmingham.com/artcontest.



City of Birmingham

Maple Road Reconstruction Project

Spring 2020

Replacing and Improving the Infrastructure

Transforming the Streetscape

Enhancing Mobility and Walkability

Questions?

Merchant Mtg 10/23/19

Name	Store	Phone	Email
ARA DARAKSIAN	DARAKSIAN JEWELERS		
Lisa Hamill	Harps		
Armen Daralyan	Darmanian Dumbum		
Jessica Lundberg	Jessica@rivage day spa.com		
KAREN DASKAS	KAREN@TENDERBIRMINGHAM.COM		
Cheryl Daskas	Cheryl@tenderbirmingham.com		
SUZANNE HAGOPIAN	SUZANNEH@ORIGINALHAGOPIAN.COM		
Samantha Michalak	Birmingham-Bloom. Chamber	samantha@BBCC.COM	
Gail Wachler	Wachler Estate Collection	248-224-1305	Wachler Estate@gmail.com
Carlie Overada	Supernatural	248 192 74 33	Carlie@supernaturallingerie.com
Lori Regimbal	This Girl Beauty Spa	214-916-2008	thisgirltori@yahoo.com
Glenn Ceresnie	Ceresnie & Offen Furs	214-642-1690	Ceresnieandoffenfurs@gmail.com
Maisha Kovacs	Flemings Prime Steakhouse	248-723-0134	pdbirmingham@flemingssteakhouse.com
Melissa Helfman	WEST ELM	2-593-9200	mhelfman@W90C.COM
JOE AIGG	OPTIK BIRMINGHAM	248 646 6699	optikbirmingham@yahoo.com
Jill Harris	Union Barber Shop	248-480-8041	info@unionbarber.com
Kate Miltz	Gazelle Sports	248-282-4874	Kmiltz@gazellesports.com
RICHARD ASTREIN	ASTREINS	248 644-1651	Richard@Astreins.com
Kathy Zanolli	Nina McEmore	248-430-4365	Kathy2@ninamcmore.com

2/28/2020 Merchant Mtg

Name	Store	Phone	Email
BARB EMLAW	TRIPLE NICKEL	248 885-0314	BARB.EMLOW@GMAIL.COM
DAVID HENDERSON	DOWNTOWN NEWS & GAZETTE		
STEVE Quintal	BSD	248-642-0024	
MARK GRABLOWSKI	DOWNTOWN PUBLICATIONS	586-579-4424	
Kelly McLeod	Gazelle Sports	248 497-7071	KMcLeod@gazellesports.com
Chris Lampen-Crowell	Gazelle Sports	269 569 5996	ccrowell@gazellesports.com
Glenn Ceresnie	Ceresnie & Offen	248-642-1690	Ceresnieandoffenfuse@gmail.com
Nathy Zarrilli	Nina McHenry	248-430-4365	Birmingham@ninamcHenry.com
CHRISTINE JACKSON	SCANDIA	248 649 7673	SCANDIAMIONLINE@GMAIL
JULIE SLOAN	SHOPLOYAL	877 612 1554	julie@shoployal.com
Karlyn Cassidy	Legato Salon & Spa	248 385 1166	info@salonlegato.com
Tom DUREN	Chief Financial	248-253-7931	TDuren@Ck2online.com
Doug LEWTON	Adventures In Toys	248-646-5550	adventuresintoyz@yahoo
CARIE SOFIKITIS	fab'rik	248-376-0791	carrie.sofikitis@fabrikstyle.com

2/28/2020 Merchant Mtg

Name	Store	Phone	Email
Pam Voss - PAGE	BLOG OWNER	248-563-0462	pgvp@sc5Today.org
Allan Motes	BLOG OWNER	248-828-6661	amotes12@gmail.com
JJBENICERT	CLAYMORE SHOP	248-642-7790	JJB@CLAYMORESHOP.COM
Heather Lorincz	EVEREVE	248-846-1120	Heather.Lorincz@evereve.com
Sandra McElroy	CRIMSON ROSE	248-203-2950	smcelroy2@comcast.net
Victoria Knight	ST CROIX	248-8161350	brmmyhuma@stcroixshop.com
Michael Hill	ST CROIX	"	"
Lindsay Waff	Chief Financial Credit Union	248-897-3082	LindsayW@chiefonline.com
Sara Allingham	manager - Paper Source	248-594-4954	Birminghammi@paper-source.com
SCOTT GREENE	CITY / BIRMINGHAM	"	SGREENE@BHAM601.ORG
AUSTIN FLETCHER	"	248-530-1839	A.FLETCHER@BHAM601.ORG
RICHARD ASTREIN	ASTREINS	248-644-1651	RICHARD@ASTREINS.COM
DESSI SALZMAN	DESSI'S	248-635-4621	dessi.kissi@gmail.com
Ashley Bhambers	Chief Financial Credit Union	248-253-7953	AshleyB@chiefonline.com
Cheryl Daskas	Tender	248-258-0212	Cheryl@tenderbirmingham.com
Holly Anselmi	THE ITALIAN DISH	(248) 593-8299	SAGES@thetalandsh.com
Jill Harris	Union Barber Shop	(248) 480-8811	jill@unionbarber.com
Carrie Martin	Petite Cabane	248-492-7979	



CITY MANAGER'S REPORT

December 2021

Baldwin Public Library

Phase 3: Front Entrance and Circulation Area Project

The Library Board's Building Committee continues to meet with Merritt Cieslak Design to plan the Phase 3: Front entrance and Circulation area project. The public is welcome to view renderings of the exterior and interior, view floor plans, and read meeting minutes online at <https://www.baldwinlib.org/renovation/>. The project will be presented to the City Commission at the long range planning meeting on January 22, 2022.

Library Board Update

At their November meeting, the Library Board voted to elect Frank Pisano as President, Jennifer Wheeler as Vice President, and Karen Rock as Secretary. The Library Board will meet on December 20 and will be voting to approve updates to four policies: Collection Development Policy, Social Media Policy, Staff Development Policy, Meeting Room Policy. The policies can be viewed at <https://www.baldwinlib.org/mission/>. The Library will be closed from Friday, December 24 through Sunday, December 26.

The Birmingham Museum

Birmingham Museum-Heritage Zone Enhancements Update

Construction of the museum's Phase I Heritage Zone project is now complete, with the installation of the new signage in the plaza area. The total project cost came in under budget at \$32,600. Approximately half (\$16,500) of the cost of fence improvements, new trees, and signage installation was covered by private donations. Furthermore, the garden bed surrounding the sign will be the site of a community-sourced heirloom perennial garden, with plants reflecting the 1920s being contributed by the public. The museum is planning a public event in the spring with a plant exchange and donation of perennials from Birmingham gardeners, and will be utilizing Engage Birmingham to promote the project and the event.



Birmingham Shopping District (BSD)

New Businesses

The BSD is pleased to welcome State & Liberty and Mare Mediterranean to the Shopping District!

The BSD was thrilled to see a story in dbusiness titled "Downtown Birmingham Draws Multiple Retailers and Restaurants." The article was another positive news story that originated with a press release written by the Shopping District.

Holiday Promotional Video

The holiday promotional video is completed and being promoted online and on social media. The BSD's Advertising Committee worked very hard on this project and is proud of the final result. The [30-second](#) and [60-second](#) versions of the video can be viewed on the [Shopping District's YouTube channel](#).

Shopping District Events

2021 saw another amazing Winter Markt. Special thanks to our many event sponsors, 50+ vendors, DPS, and the police and fire departments for being such great partners.

The BSD is transitioning into promoting the 2022 Restaurant Week and will be organizing restaurant owners for a planning session. Restaurant Week is scheduled to run from January 24th to February 4th.

Marketing Materials

Be on the lookout for revised marketing materials from the Shopping District! The BSD has worked to align many of our print and digital materials with the new brand developed for the [ALLINBirmingham website](#). This consistent look will better help to strengthen our brand identity throughout the region.

Tenant Mix Analysis

The BSD is also working on developing a tenant mix analysis for the shopping district. This analysis will help identify market saturation of particular industries, as well as opportunities to better diversify our downtown economy.

Building Department

Monthly Report

The [Building Department's monthly report](#) provides an update on the following construction activity: building permits issued, building inspections conducted, trades permits issued and trades inspections conducted. In November, we processed 341 online permit applications, bringing our total to 3,912 online permits for 2021.

Plan Review Time Concerns Update

In response to the panel discussion held in September to address plan review time concerns, the Building and Engineering Departments are evaluating each step in our review processes. The Building Department is defining target timelines, refining our

methodologies and assessing areas for increased efficiencies. All of these improvements will be incorporated into the development of an electronic plan review procedure that will be implemented next year. Additionally, based on the feedback, HRC has made additional resources and staff available for Site Evaluation and As-Built reviews. Though plan review timeframes can vary depending on the scope of work, we have been meeting our target review times for the majority of projects since the September meeting.

City Clerk's Office

City Commission election results stand after recount

A Nov. 30 recount of the 2021 Birmingham City Commission election by the Oakland County Board of Canvassers found that challenger Anthony Long received five fewer votes than candidate Andrew Haig, a change of one vote from Haig's original 6-vote lead. County election officials certified the results at the recount's completion, confirming that the original winners of three city commission seats remain the same:

- Katie Schafer, with 3,084 votes
- Elaine McLain with 2,372 votes
- Andrew Haig, with 2,340 votes

The new commissioners were sworn in and began their 4-year terms at the [Nov. 8 City Commission meeting](#) . Learn more about them [here](#).

Lessons learned from the November 2021 Election and Recount

- Near the end of the night on Election Day, there were several ballots turned in that were not sealed in their assigned green return envelopes. The City Clerk's Office encourages voters to carefully read and follow all instructions, allowing enough time to understand the directions and deliver your ballot to the Clerk's Office or official drop boxes before the deadline. If you are ever unsure, please ask our office - we want to make sure every vote counts!
- During the recount several issues were discovered:



- White Out
 - The use of white-out caused several ballots to be flagged for possible errors.
 - If you make an error, we strongly recommend that you spoil your ballot and obtain a new ballot if there is time. If a voter's intent is confusing or unclear, an adjudication process may determine how to allocate their votes.



- Sometimes ballots get wet!
 - Ballots can and do get wet in the mail-carrying process. We strongly caution voters against using pens or markers that may bleed if saturated by rain.



- Rips and tears.
 - In one case, a voter may have unintentionally ripped a hole in their ballot when trying to scratch out a candidate. If you ever have a rip, hole, or tear in your ballot please get a new ballot from the Clerk's Office.
- Attend to the limits.
 - Be sure to read the headings. Make sure that you don't "over vote" or choose too many candidates for a given race.

City General Election
City
Commissioner Vote for not more than 3

- Mark your ballot properly.
 - Every absentee ballot includes ballot-marking instructions on the yellow secrecy sleeves that clearly direct voters to completely darken the box opposite each choice (see below) Birmingham's recent recount found where a voter made x's. Making light marks with a pencil could cause the tabulator to not be able to properly read the voter's marks.
 - Use blue or black ballpoint pen only.

GENERAL ELECTION BALLOT MARKING INSTRUCTIONS	
<p>TO VOTE: Completely darken the box opposite each choice as shown.</p> <p>IMPORTANT: To mark your ballot, use only a black or blue ink pen. DO NOT USE ANY OTHER INK COLOR!</p> <p>PARTISAN SECTION: To vote the partisan section of the ballot, you may cast a "straight ticket," a "split ticket," or a "mixed ticket." Straight Ticket: Vote the party of your choice. Nothing further need be done in the partisan section. Split Ticket: You may vote a straight ticket AND vote for individual candidates of your choice. Mixed Ticket: Vote for the individual candidates of your choice in each office.</p> <p>NONPARTISAN and PROPOSAL SECTIONS of the ballot (if any) must be voted separately.</p> <p>DO NOT vote for more candidates than indicated under each office title.</p> <p>WRITE-IN CANDIDATES: To vote for a candidate whose name is not printed on the ballot, write or place the name of that candidate in the blank space provided and completely darken the voting target area. This must be done even if you cast a straight party vote. Do not cast a write-in vote for a candidate whose name is already printed on the ballot for that office.</p> <p>CHECK BOTH SIDES OF BALLOT: This ballot may have two sides. Be certain to check the reverse side of the ballot.</p> <p>WHEN YOU HAVE COMPLETED VOTING: Place the ballot in the secrecy sleeve so that votes cannot be seen and the numbered stub is visible. Return the ballot to the election official stationed at the tabulator. (If voting by absentee ballot, follow the instructions provided by the clerk for returning the ballot.)</p> <p>NOTE: If you make a mistake, return your ballot to the election official and obtain a new ballot. Do not attempt to erase or correct any marks made in error.</p>	
<p>www.PrintingSystems.us (800) 95-12345 (01/19) FORM #455-B</p>	

County Commissioner Districts Change

Newly redrawn Oakland County Commission district boundaries will split Birmingham into two county commission districts in 2022. Voters in precincts 3 and 9, the city's easternmost precincts, become part of Oakland County Commission district 1. Birmingham's other precincts become part of county district 19.

In November, the Oakland County Board of Commissioners approved the new commission district map for 2022-2031, which decreases the total number of county districts from 21 to 19. The map was redrawn to reflect population changes documented in the final 2020 U.S. Census data. State law requires the county's reapportionment committee to redraw district lines every 10 years within 60 days after publication of the final census numbers. Learn more about this [here](#).

Updated voter ID cards

The clerk's office will print and mail updated voter ID cards reflecting the new county districts to all of Birmingham's nearly 18,700 voters in the spring of 2022.

Open board and commission seats

These boards have current or upcoming [available positions](#):

- [Advisory Parking Committee](#)
- [Birmingham Area Cable Board](#)
- Alternate [Hearing Officer](#)
- [Multi-Modal Transportation Board](#)
- [Public Arts Board](#)
- [Storm Water Utilities Board](#)
- [Triangle District Corridor Improvement Authority](#)

Learn more about Birmingham boards and commissions [here](#).

Greenwood Cemetery Advisory Board

Future Agenda Topics for GCAB

January 7, 2022 - Meeting in-person at City Hall

- Continued discussion on updating the rules and regulations for Greenwood Cemetery
- Continued discussion on a policy for installing monuments in recognition of a person of historical significance

February 4, 2022 - Meeting in-person at City Hall

- Topics to be determined

City Manager's Office

Communications

2022 City Calendar

Residents and businesses should receive the 2022 city calendar during the week of December 13th. Keep an eye out for it in your mailbox soon!

Engage Birmingham

Thanks to an Engage Birmingham survey in which nearly 200 people participated, Birmingham's Street Sweepers have new names. Meet "Sweeping Beauty" and "Meryl Sweep"! Keep an eye out for them around town with their brand new names featured on the vehicles.



Website Calendar

Communications team members trained the Clerk's Office on how to enter meetings and events on the new website calendar. The web team will crosscheck all events before the end of the year.

Human Resources

Employment Update

The HR Generalist recruitment was unable to pull a list of qualified candidates, and an HR Assistant posting has since been made. A full-time vacancy in Police Dispatch has been internally filled, and a recruitment for a part-time Dispatcher has subsequently opened. One vacancy for Streets/Sewer/Water Assistant Foreman has been internally filled, as well as another vacancy in the same department at the Operator level. Interviews are upcoming for the positions of Accounting Administrator and IT Intern.

City Staff Vaccination Update

Vaccination Card Tracking			
Department	# Received	Total Staff	Percentage
City Staff	182	214	85%
IT	4	4	100%
BSD	4	5	80%
Community Development	28	31	90%
Fire Dept	36	39	92%
Clerks	4	4	100%
Finance/Treasurer	11	12	92%
Building/Maintenance	2	2	100%
Museum	3	3	100%
Police Dept (w/o crossing guards)	45	58	78%
CM/HR	5	5	100%
DPS (w/o summer seasonals)	40	51	78%

Department of Public Services

Ice Arena

Project close out items continue at the Birmingham Ice Arena between the City of Birmingham and C.E. Gleeson, the Contractor. Planning is underway for a ribbon-cutting Grand Opening celebration for some time during the first quarter of 2022. This is due to us completing the finishing touches prior to this event, but also because we are very cognizant of the rise in COVID-19 cases and want to include all necessary safety precautions.

Pickleball 2.0

The Parks and Recreation Board reviewed the final three locations at their December 7, 2021 Board meeting and made a recommendation for the top Pickleball location (Kenning Park corner of S. Eton/E. Lincoln), based upon survey input on Engage Birmingham, numerous public meetings, emails and various site selection criteria. While not contiguous this site is included as part of the Kenning Park Master Plan.

Next steps will be to continue with Foresite Design, a professional firm specializing in the design and implementation of athletic and recreational facilities. They will proceed with updating a site assessment and possible designs for the Kenning Park corner. Services will also include preparing bid specifications to bid out the construction of the new

Pickleball courts. This information will be routed for administrative review to City departments for comment. This item will come before the City Commission during a meeting in January 2022.

Woodward Avenue Update

Pedestrian traffic control flags placed on street signs along Woodward Avenue at Forest/Brown crossing were removed from the MDOT signs by DPS. The department is proactive, as per usual course, to remove any such materials attached to signs or general items placed along roadways, in public areas. We have given this location more attention as other items continue to be placed out on the ground/posts/signs including American flags with graffiti marked on them etc. requiring more review and removal by DPS.

This department does consist of a sign shop and is actively involved with traffic control device installations throughout the City in coordination and cooperation with the Police Department.

The good news is we (DPS) have the flags and containers.

Finance Department

A Message from Mark Gerber, Finance Director/Treasurer

At a recent commission meeting after the audit presentation, resident Paul Regan asked about the City's replacement ratio with the system. At the time, I did not know what a replacement ratio was. After doing some research, I discovered that the term replacement ratio is used to describe a person's post-retirement income compared to their pre-retirement income. It is a measure used by retirement planners to determine whether an individual has sufficient funding to retire. For example, if an individual's retirement income from a pension and other retirement savings is \$70,000 and their salary before retirement was \$100,000, the individual would have a replacement ratio of 70%.

Most financial planners typically say that a person should have a replacement ratio of 70-85%. Employees in the City's defined benefit plan typically work 25-30 years which provides them 62.5% - 90% of their pre-retirement income. The City also offers a 457 plan where employees can save additional pre-tax funds to meet their retirement goals. For employees in the City's defined contribution retirement plan, it is impossible to provide the replacement ratio for these individuals, because the employee can select from any number of investment options based on their risk tolerance. However, the funding provided for the defined contribution employees is similar to what the actuary recommends for employees in the defined benefit system. Therefore, if the investments that an employee selects earns a similar rate of return as the pension system, they should end up with a very similar replacement ratio as those in the pension system.

The replacement ratio is really used in individual retirement planning and not used to measure the health of the City's retirement and retiree health care plans. However, it could possibly be used to gauge the quality of the retirement options offered by the City and the City's ability to retain its employees long-term.

Fire Department

Monoclonal Antibody Infusions

Residents continue to be grateful for Monoclonal Antibody Infusions administered by the Fire Department. Chief Wells recently received the following letter:

Chief Paul Wells:

Late afternoon on Monday November 15th I noticed I had a fever of 99.5. I went to Beaumont urgent care at 13 and Woodward and after a 2 hour wait got a PCR test and it proved positive. The doctor at Beaumont Urgent Care immediately wrote me a script for monoclonal antibodies. He instructed me to call the infusion center at Beaumont the next day Tuesday, November 16th. When I called Beaumont Infusion center they said they were very busy and would get back to me. One of the mandates for mitigating severe COVID was to get the monoclonal antibodies as soon as possible. Obviously, I was concerned. Now witness the forthcoming miracle.

On Tuesday morning, November 16th I got a call from the Assistant Fire Chief Matthew Bartalino from the Birmingham Fire Department. At first, I thought it was a fund-raising call and when he asked me how I was I said I had COVID. He said he knew because Beaumont informs the Birmingham fire department when residents of Birmingham get COVID. His team of EMS Staff was authorized to administer the infusion of monoclonal antibodies and they could be over at my home at 1:30pm. I checked with my doctor, and he said OK.

The team of three EMS Fire Department personnel, Trevor Baker, Ryan Neville and Marshal Crawford arrived right on time. They hooked me up to the IV and it took about 20 minutes to infuse the antibodies. Then Michael Crawford stayed in his car outside and came in every 15 minutes for one hour to make sure I had no bad reactions. Talk about concierge service. He said I should feel better in about 6 hours and in 24 hours significant improvement. That has been their experience with about 20 others they serviced. All this is proving accurate. The team executed flawlessly with care and concern.

It is difficult to convey the feelings of anxiety I had when I learned I tested positive, the overwhelming surprise and relief for the offer of service when I got the call and finally my deep, deep gratitude for the service provided by the Fire Department, the support of Birmingham City government and for having been fortunate enough to be a Birmingham resident for the last 4 years and the benefits provided.

Merry Christmas, Happy New Year, Happy Holidays, and my eternal thanks for all your help. My family thanks you too.

Thomas December

Planning Department

Residential Units & Neighborhoods

Senior Planner Brooks Cowan prepared a report about Birmingham's residential units and neighborhoods. The report provides the number of single-family homes and multi-family units in the downtown area and other neighborhoods throughout the city. Cowan also addresses neighborhood fabric and identity. Download the [full report here](#).

Master Plan 2040

The Planning Board will be continuing its thorough review of the second draft through the next couple of months. The presentation slides used by the consultant for their presentations will be available on www.thebirminghamplan.com, along with all documents relating to the 2040 Master Plan. You can also watch a recording of each meeting on the [City of Birmingham website](#). As a reminder, you can still submit comments directly to the consultant team through the aforementioned 2040 Plan website, and can also submit comments directly to the Planning Division to be placed in the next available agenda of the Planning Board.

Planning Board

Moving into the holidays, the Planning Board is poised to finalize the dual outdoor dining reviews that have been the subject of conversation for many months. The City Commission should expect to see proposed ordinance language for both in early 2022. In terms of site plan reviews, the Planning Board will be reviewing applications for the following developments in the near future:

- 460 N. Old Woodward – A new 3-story mixed-use development with ground floor retail, second floor office, and two residential units on the third floor with a rooftop use located above. The site currently contains the former Junior League of Birmingham building and associated off-street parking. The Planning Board will be reviewing the Final Site Plan and Design Review on December 16, 2021.
- 325 S. Eton St. – Phase 3 of the District Lofts development will contain first floor commercial space and 50 residential units ranging from 596 to 1,072 square feet. With the addition of this final piece, the site itself will also receive an upgrade in circulation and pedestrian movement in the rear, as well as new plaza space and significant landscaping. Final Site Plan and Design Review for this project is scheduled on December 16, 2021.
- 211 Hamilton Row – A new restaurant serving alcoholic liquors for on premise consumption is proposed in an existing tenant space in the Palladium building. The restaurant is proposed with little to no exterior building changes, but will include the addition of a small dining patio along Hamilton Row. The Special Land Use Permit, Final Site Plan and Design Review application will be reviewed by the Planning Board on December 16, 2021. After a recommendation is made by the Planning Board, the application will be forwarded to the City Commission for final approval.

- 100 Townsend – The Townsend Hotel has submitted an application for a new outdoor dining platform adjacent to the hotel and Rugby Grille on Townsend St. The Special Land Use Permit, Final Site Plan and Design Review application review is scheduled for the Planning Board's second meeting in January, and will be forwarded to the City Commission for final approval after receiving a recommendation from the Planning Board.

Historic Preservation

The Historic District Commission will be wrapping up 2021 with an intense plan of action for historic preservation in 2022, which includes the adoption of historic design guidelines, a general preservation master plan, and a signage/wayfinding plan for the Bates St. Historic District. Additionally, the Historic District Study Committee has been given the green light by the City Commission to continue its important work of updating the 1992 Wallace Frost report titled "Wallace Frost: His Architecture in Birmingham, MI." as well as developing a proposal to reinvigorate the Heritage Home program. The first meeting is expected to be held at the start of the new year.

Public Art

The Public Arts Board is working to build on its successful 2021 call for entries program by finalizing its 2022 call for entries. The program affords an opportunity for six artists to receive a small grant to provide public art in the City of Birmingham. Along with the call for entries program, the Public Arts Board continues to field donation requests and is working with the Planning Board and Design Review Board to pass new ordinance language to allow wall art in the City.

Multi-Modal Transportation Board

The Multi-Modal Transportation Board (MMTB) has taken on the valiant but challenging task that is improving the Woodward corridor. At present, the MMTB will be seeking a resolution from the City Commission to move forward with the Woodward Avenue Road Diet Checklist, and will be studying various other improvements for Woodward.

Police Department

The police department has filled three police officer openings:

1. Ofc. Michael Pranger - Ofc. Pranger previously worked as a police officer in the City of Taylor for the past six years. Ofc. Pranger is also a trained accident investigator. Ofc. Pranger is married to his wife Chelsea and they are expecting their first child in April of 2022.
2. Ofc. Lisa Wayner - Ofc. Wayner graduated on Friday, December 3, 2021 from the 121st class of the Oakland Police Academy. Ofc. Wayner received several honors for her performance at the academy, including earning the top academic performer out of her class of 45. Ofc. Wayner is married to her husband Paul and together they have two young children.
3. Ofc. Nicole Cordero - Ofc. Cordero graduated from the Detroit Police Academy in July of 2021 and spent the past six months as an officer for the City of Detroit. Ofc. Cordero previously worked for the past ten years for the State of Arizona Department of

Corrections as a psychology associate. Ofc. Codero was recently married in September of 2021 to her husband, Jose.

Parking Systems Update

Parking Structure Repairs

North Old Woodward construction has stopped for the year due to inclement weather. Construction will resume in the spring of 2022.

Construction is ongoing at the Chester Structure and will continue as weather permits.

Monthly Parking

The Advisory Parking Committee approved to increase the authorized monthly permit sales by the following:

	Currently Authorized Sales	Proposed Sales Increase	Total
Chester Garage	1218	150	1368
Old Woodward	881	100	981
Park Garage	845	100	945
Peabody Garage	486	50	536
Pierce Garage	676	75	751

Structure Capacities

Below are capacities for each structure for the month of November. Numbers are based on counts at 10 a.m. and 2 p.m. each day Monday through Saturday.

<u>November</u>	
Chester Garage	33%
Old Woodward	49%
Park Garage	47%
Peabody Garage	25%
Pierce Garage	67%

Future Agenda Items

Download a summary of [future agenda items](#).

Future Workshop Items

Download a summary of [future workshop items](#).



Alex Bingham <abingham@bhamgov.org>

Re: Master plan questions & observations

Tom Markus <tmarkus@bhamgov.org>

Thu, Dec 9, 2021 at 3:14 PM

To: Andrew Haig <ahaig@bhamgov.org>

Cc: DepartmentHeads <departmentheads@bhamgov.org>, City Commission <city-commission@bhamgov.org>

Andrew,

Please find my responses to your questions raised in your email dated 12/8/21.

- In the previous and the latest Planning board meetings there were presentations with supplemental documentation shown by the Consultant that clarified certain points, none of these additional files have been made public information, please can they be? Even if labeled "For reference only"?

Supplemental documentation is included in the Planning Board agenda packet on the City's website, presentation materials are posted on the project website at www.thebirminghamplan.com.

- Many questions from the board about clarifying color codes and what seams/zoning actually means - if the board is less than 100% clear on these items, then no one is 100% clear and we will need more clarity or explanations.

Although there is no question posed here, please note that the color choices used on the maps in the 2040 Plan have been discussed, and the Planning Board has provided direction to the consultant to alter the presentation of the maps for ease of reading and interpretation.

- Redline copy, I had asked for it in my (pre election) letter to the board, it was discussed by several board members for its usefulness, given that there were additional changes already made and there were a couple of other corrections found, please can we seriously consider this?

Preparation of a red line copy of each of the draft versions of the 2040 Plan were not included within the scope of the contract with our consultant. However, preparation of a red line version of changes from draft 1 to draft 2 would not be an efficient use of time or money. Draft 1 was 236 pages long, and was significantly reduced to 93 pages by draft 2. A red line copy would not be useful given the extensive redaction and complete reorganization that was done between draft 1 and 2. In any event, no direction has been provided to date to add the preparation of a red line copy to the scope of work in our contract with the consultant.

- The note about Greenwood being labeled a park and not a cemetery, led me to look into the green space at Lincoln & Eton, which was called a park in the plan, but is not listed on the city parks list. Can the definition of this space be cleared up please? Plus can we refer back to the motion by former Commissioner Nickita in October 28th 2019 City Commission meeting minutes to review the exclusion of this space from SLUP zoning to see if it is even currently zoned for development, or if it will require a rezoning as it's general status as it is not clear?

The green space at the corner of Lincoln and S. Eton is part of Kenning Park. Any change to the use of this green space will be brought forward to the City Commission for review. The City Commission will ultimately decide any future use.

- This was brought up in the latest meeting by Larry Bertolinni and Brooks mentioned that Parks & Rec are recommending pickleball courts there. There is a lot of resident support for that green space as it is heavily used by families and yoga classes.

The green space at the corner of Lincoln and S. Eton is part of Kenning Park. Any change to the use of this green space will be brought forward to the City Commission for review. The City Commission will ultimately decide any future use.

- Connector loop - figure 24, was talked about as being more intended for bikes and walking, but figure 27 where it shows transit stops was not discussed to explain what they are and what they are meant to be used for. Can this

also be clarified as to their interaction to the connector loop?

Please be more specific with your question.

- Rail district public parking. Where and what is the ultimate purpose of this parking, is it going to be a multi level deck?

The purpose is to provide parking based on projected needs. Parking needs are not currently under review as there are no specific parking projects proposed at this time.

- “Establish permanent unbundled residential parking as municipal garages are built”
 - What new municipal garages? We need to understand the post Covid parking landscape before we look at any incremental garages. Every time I have been to downtown at any time of day or night, I have found ample available parking. Is this not an agenda item for the various boards to be looking at already? Should this be removed or set aside until we have any final feedback from those boards?

Any additional parking facilities, including any parking decks, would be based on projected need. Clearly, no parking structures are proposed at this time. Past, current and future parking data and needs will be reviewed when a specific proposal is under consideration, whether in Downtown, the Triangle District and/or the Rail District.

- Triangle deck recommendation – same question, where is the need coming from post Covid, need to see data supporting this significant increase in actual demand.

Any additional parking facilities, including any parking decks, would be based on projected need. Clearly, no parking structures are proposed at this time. Past, current and future parking data and needs will be reviewed when a specific proposal is under consideration, whether in Downtown, the Triangle District and/or the Rail District.

- Population growth data – please can we get the source data for all the growth that is predicted because the public domain data for the entire region does not show any support for any of the growth that is discussed.
 - <https://semcog.org/Community-Profiles> Use the drop down menu to drill down to Birmingham
 - SE MI shows a net growth of 274k people, Oakland county 39k people and Birmingham is only ~448 people in the period from 2020 census data & 2040, no major difference by 2045 (limit of their data).
 - Also indicates that currently ~10% of our houses are vacant, 448 people would not even fill half of those houses assuming they were all single persons.
 - Increase in housing density along seams to enable families, again SEMCOG data indicates minimal population growth (recovery from the 2015-2018 loss) in the school district between 2018 & 2040. It did show approx -20% reduction in school population from 2015 to 2018. It also indicated Oakland county wide has an 8% reduction in school population from 2015 to 2040, Birmingham is one of the largest reductions of any district.
 - <https://semcog.org/desktopmodules/SEMCOG.Publications/GetFile.ashx?filename=QuickFactsSEMCOGs2045ForecastOfSchoolAgePopulationOctober2018.pdf>
 - Page 12 gives specifics for Oakland County school populations
 - MI school report data supports the loss in schoolchildren:
 - https://www.mischooldata.org/student-enrollment-counts-report?Common_Locations=1-A,0,0,0~2-A,0,0,0&Common_SchoolYear=22&Common_LocationIncludeComparison=False&Portal_InquiryDisplayType=Snapshot&Common_Subgroup_StudentCountFact2=AllStudents&Common_Grade=AllGrades&Common_CrossTab=

All source data is referenced on the project website at www.thebirminghamplan.com in the Documents section under the heading Master Plan Background Analysis Reports.

- Also can we see the causal data driving the need to add ADU's and multi family housing? When we compare our housing type demographics with adjacent cities and Oakland County, we find that Birmingham's ratio of single family residential to multi family is statistically aligned with the region (approx. ¾ to ¼). If we are matching the regional data, why are we looking to add?

All source data is referenced on the project website at www.thebirminghamplan.com in the Documents section under the heading Master Plan Background Analysis Reports.

- Residential density is also concerning for the proposed density increased in the appropriate zoned area's. Birmingham has 2100 residents per square mile, but Troy has 1000, Beverly Hills has 1100, Bloomfield Hills has 320. Please can we get more data on why we are increasing resident density when our neighbors currently have significantly more space to expand compared to us.

The character of Birmingham is and has historically been different, the cultural character, the physical character, density and mix of uses are all different than the suburb communities of Bloomfield Hills, Troy and others.

- Senior housing needs are not yet discussed.

Senior housing issues are addressed in multiple places in the draft 2040 Plan, including pages 5, 6, 28, 40, 49, 51, 82 and 90.

- Why is there no discussion about the schools in the Master plan, when the Planning board Chair, Mr Clein's company (Giffels Webster), is running the Clawson Master plan right now and it is being significantly driven by the massive reduction in the Clawson school district, the schools that needed to be closed & the land that has to be used (please note the date of this file - 9/2021).
 - o <https://giffelswebster.sharefile.com/share/view/saa39f14354db41cd92410faa88468bb1>
 - The Clawson plan has a lot of data we need to study as they see some of the same issues and are taking a different tack.

Schools are addressed in multiple places in the draft 2040 Plan, including pages 2, 4, 15, 21, 37, 39, 40, 41, 50, 56, 58, and 61.

You advised that you directed this email and your comments therein to the City Manager's office, based on a conversation with City Attorney Kucharek. However, the City Commission just discussed this very issue at the meeting this past Monday, and the City Attorney advised the City Commission, in writing, as follows:

"...we must be cognizant of not only impressions and unattended consequences of the presence of commissioners, but the Open Meetings Act as well. Keeping in mind that the basic intent of the Open Meetings Act is to require commissioners to be transparent while conducting business at open meetings of the City Commission."

This is true whether through your appearance at City meetings or through memos such as this one, the same risk of impropriety or the perception of impropriety exists. Your personal comments about the Chair of the Planning Board by name, as well as comments about his firm and their business in other communities is exactly what is inappropriate. This commentary and behavior could be interpreted as duress or undue pressure as you go to great lengths to identify Mr. Clein and put pressure on him and others by potentially compromising his professional reputation. This is exactly the appearance that the City Attorney has advised all City Commissioners to avoid.

- Troy Master plan is under revision as well, they issued a city wide questionnaire looking for input which gave key indicators of similar themes we have in our plan, with very different answers from the population compared to our plan which was described by a couple of board members as "prescribed".
- <https://cms6.revize.com/revize/troy/Departments/Planning/Troy%20Master%20Plan%20Survey%202021.pdf>

Both Troy and Clawson are entirely different than Birmingham, and I am certain their residents have different perspectives as well. There has been extensive public engagement throughout the process to update our master plan, and residents have been encouraged to participate every step of the way. It is up to our City Commission to adopt our own plan with input from our residents. Ultimately, you will be 1 of 7 City Commissioners deciding on the final vision contained within the 2040 Master Plan.

- The residential survey of needs is remarkably similar to Clawson, but somehow different to what is being proposed for Birmingham.

Clawson is an entirely different community than Birmingham, thus different approaches are to be expected.

- The commercial developments in parks, It was discussed a couple of times about them & making structures, why do we not use these as the test sites for the Food Trucks that we are still scheduled to discuss again, with the support of the resident who offered his experience as a food truck owner?

You are encouraged to bring your suggestion to test food trucks in City parks to the City Commission and determine if a majority of the City Commission wishes to discuss this at a future meeting.

On Wed, Dec 8, 2021 at 11:04 PM Andrew Haig <ahaig@bhamgov.org> wrote:

It was how I understood the answer from Mary Kucharek when I was chatting with her recently, so that I would not be directly asking questions of the board(s) and would not fall into OMA issues by trying to copy them all on the email myself. This way any question I have is directed to one person and then distributed so that all commissioners are able to see the questions and answers equally.

I tried asking Nick DuPuis directly a couple of weeks ago via email and copied Jana as they were related to her previous position and received no response at all, so I figured that was also the indication that I was not following the correct pathway to ask and get answers to the items that I wanted to know more about.

Tonight's information workshop meeting just raised a few more questions that I am not permitted to ask the board in public comments.

Andrew

Ethermail

On Dec 8, 2021, at 22:10, Tom Markus <tmarkus@bhamgov.org> wrote:

While I ponder your comments I would ask you; Who advised you to pass any questions thru me? Did the person(s) who advised you, provide you with any basis/justification for following their advice?

On Wed, Dec 8, 2021 at 9:05 PM Andrew Haig <ahaig@bhamgov.org> wrote:

Tom, I was advised to pass any questions through you so that they can be distributed to the rest of the Commission and Planning board appropriately to avoid any OMA issues.

I have watched the last 2 meetings (Vimeo feed tonight) and I have a number of questions that I would like to get answered please.

- In the previous and the latest Planning board meetings there were presentations with supplemental documentation shown by the Consultant that clarified certain points, none of these additional files have been made public information, please can they be? Even if labeled "For reference only"?
- Many questions from the board about clarifying color codes and what seams/zoning actually means - if the board is less than 100% clear on these items, then no one is 100% clear and we will need more clarity or explanations.
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 - The Clawson plan has a lot of data we need to study as they see some of the same issues and are taking a different tack.
- Troy Master plan is under revision as well, they issued a city wide questionnaire looking for input which gave key indicators of similar themes we have in our plan, with very different answers from the population compared to our plan which was described by a couple of board members as "prescribed".
- <https://cms6.revize.com/revize/troymi/Departments/Planning/Troy%20Master%20Plan%20Survey%202021.pdf>

- The residential survey of needs is remarkably similar to Clawson, but somehow different to what is being proposed for Birmingham.
- The commercial developments in parks, It was discussed a couple of times about them & making structures, why do we not use these as the test sites for the Food Trucks that we are still scheduled to discuss again, with the support of the resident who offered his experience as a food truck owner?

Thanks,

Andrew

--

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REPORT

DATE: December 13, 2021
TO: Thomas M. Markus, City Manager and City Commission
FROM: Mary M. Kucharek
SUBJECT: Identifying Pending Litigation

As you may recall, at the December 6, 2021 Commission meeting, I requested to meet in closed session to discuss pending litigation pursuant to MCL 15.268(e) of the Open Meetings Act. Pursuant to *Anklam v Delta College Board of Trustees* (2018), we should have listed the particular pending litigation by name in our motion. The pending litigation was involving Daniel and Jola Forthoffer (110 Baldwin Road) (*City of Birmingham v Daniel Forthoffer and Jola Forthoffer*; Oakland County Circuit Court Case No.: 2021-188981-CH) and Anthony and Paula Beshouri (122 Baldwin Road) (*City of Birmingham v Anthony Beshouri and Paula Beshouri*; Oakland County Circuit Court Case No: Case No. 2021-188983-CH).

The minutes should be reflected to show that the pending litigation in question was:

City of Birmingham v Daniel Forthoffer and Jola Forthoffer;
Oakland County Circuit Court Case No.: 2021-188981-CH
Hon. Victoria Valentine

AND

City of Birmingham v Anthony Beshouri and Paula Beshouri;
Oakland County Circuit Court Case No: Case No. 2021-188983-CH
Hon. Cheryl A. Matthews



NOTICE

South Evergreen Interceptor Rehabilitation Project

December 7, 2021

Dear Village of Beverly Hills Resident:

The Oakland County's Water Resources' Commissioner's Office (WRC) will commence construction in your area as part of the South Evergreen Interceptor Rehabilitation Project. The work includes conducting preventative maintenance repairs within the 54-inch diameter Interceptor located beneath Evergreen Road between 14 Mile Road and Village Drive.

In order to complete this project, Evergreen Road will be closed from just north of Village Drive to 14 Mile Road for the duration of the project. Additionally, all roadways that connect to Evergreen Road between Village Drive and 14 Mile Road will be closed from access to Evergreen Road for the duration of the project. Refer to the attached Map for a general overview of the proposed traffic control.

The project is expected to begin on January 3, 2022 and the work is expected to take approximately 4 to 5 months to complete, weather permitting. A brief presentation to review the traffic control plan for the project will be provided at the December 21, 2021 Village of Beverly Hills Council Meeting. The virtual meeting information is located below;

Join Zoom Meeting

Zoom link: <https://us02web.zoom.us/j/89921163907>

Meeting ID: 899 2116 3907

Dial in: 1 646 876 9923 (US)

Thank you in advance for your patience during this important infrastructure improvement project.

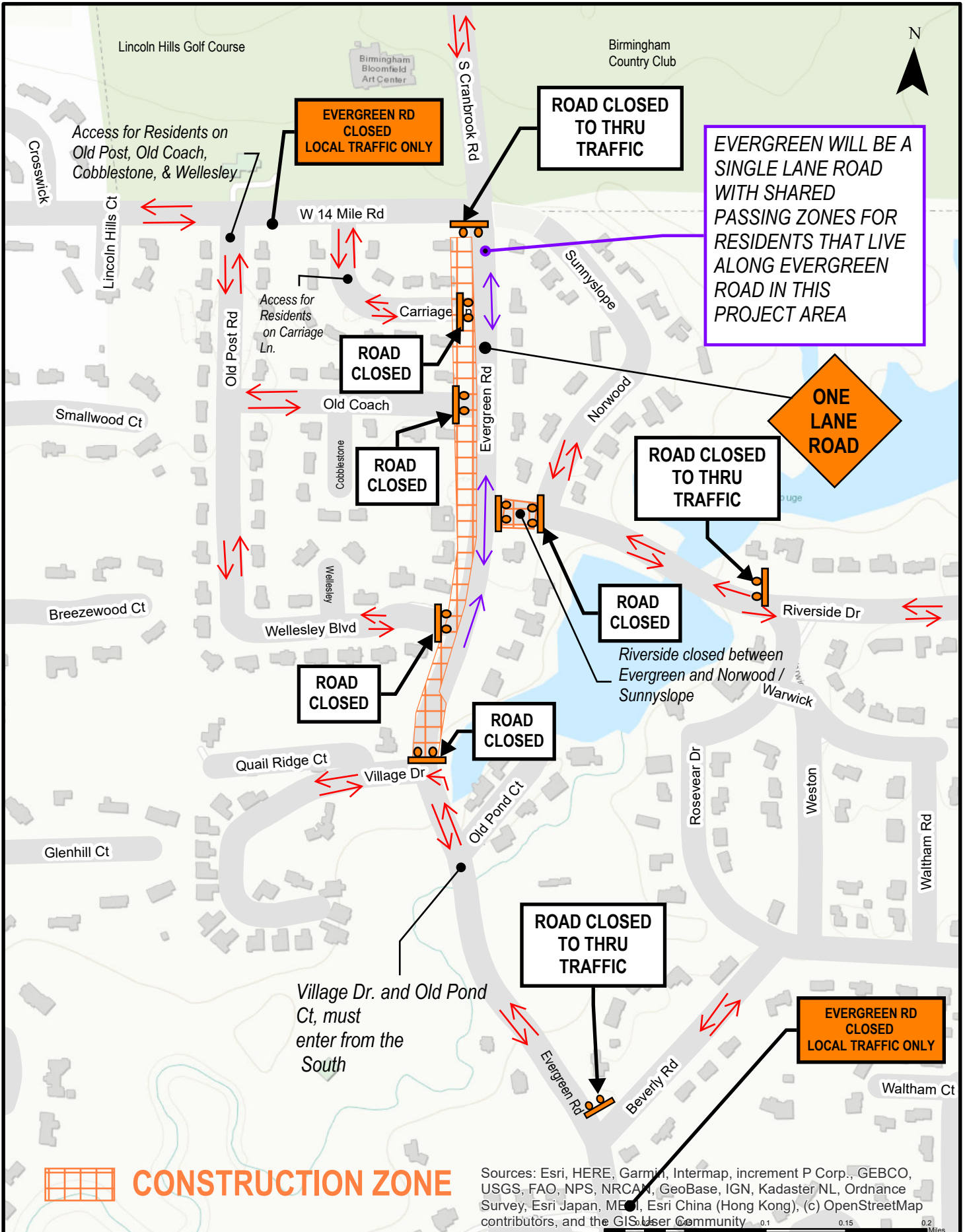
South Evergreen Interceptor Rehabilitation Project Team,

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Surgeon General Advisory Raises Alarm on Youth Mental Health

The COVID-19 pandemic has ‘exacerbated the unprecedented stresses young people already faced,’ Surgeon General Vivek Murthy says in a new report.



By [Steven Ross Johnson](#)

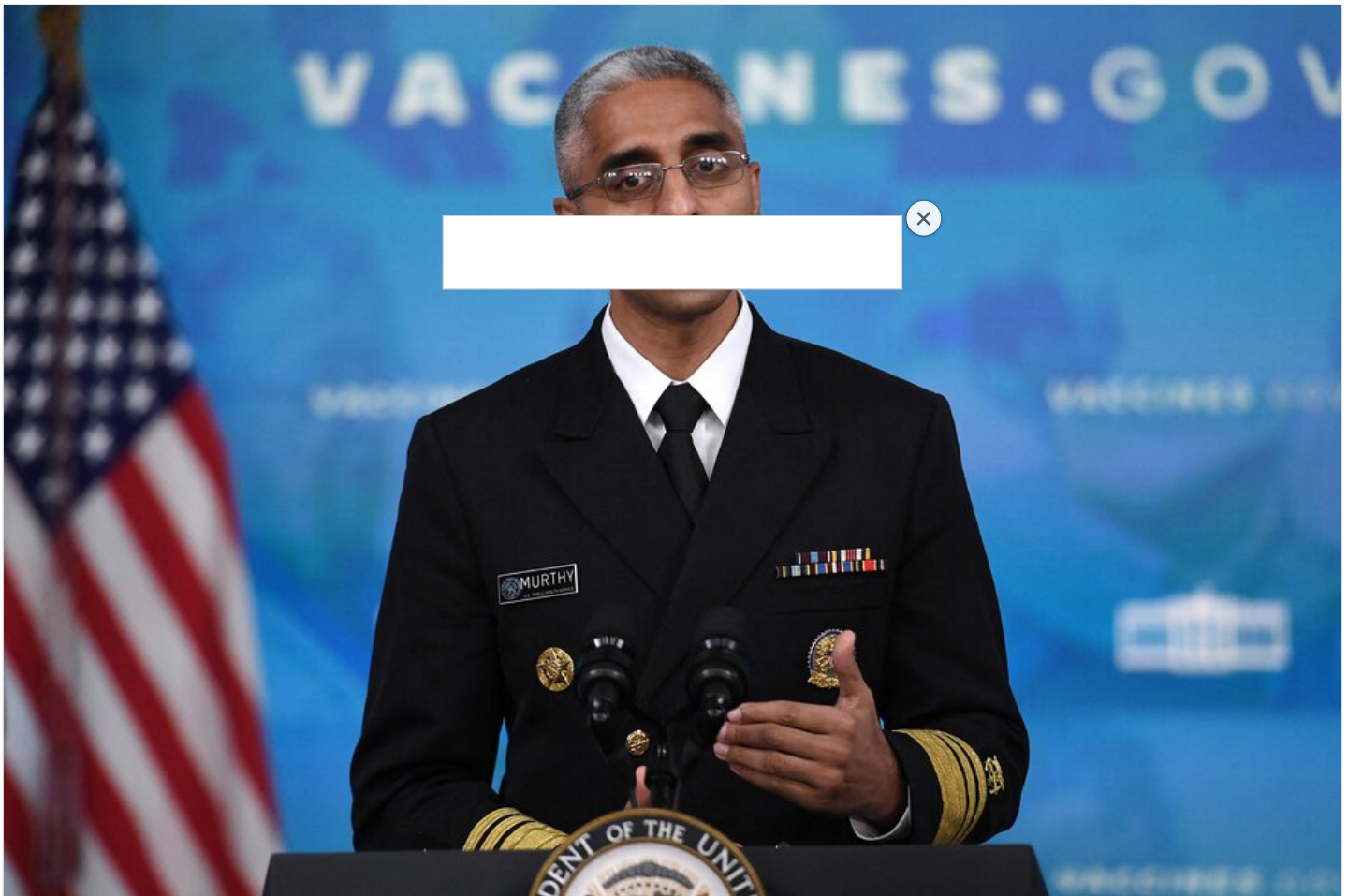
Dec. 7, 2021

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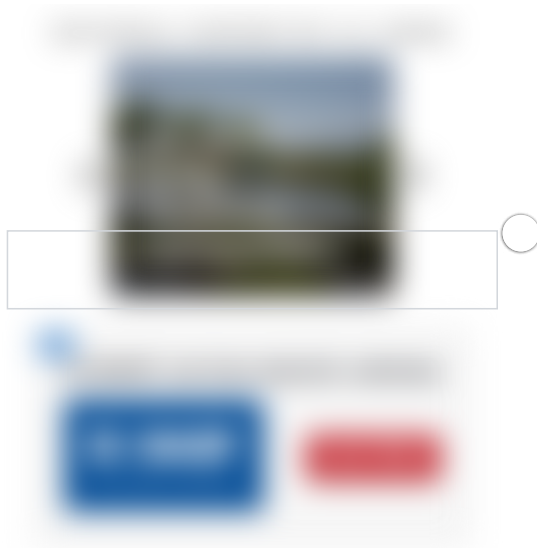


Surgeon General Vivek Murthy speaks about equitable health care during the COVID-19 pandemic, Nov. 22, 2021, in Washington, D.C. (OLIVIER DOULIERY/AFP/GETTY IMAGES)

U.S. Surgeon General Vivek Murthy has issued an advisory calling for swift action to respond to a growing mental health crisis among youth that has worsened due to stressors related to the [COVID-19](#) pandemic.

[**READ:** [Fix the COVID-Exposed Problems in Mental Health Care](#)]

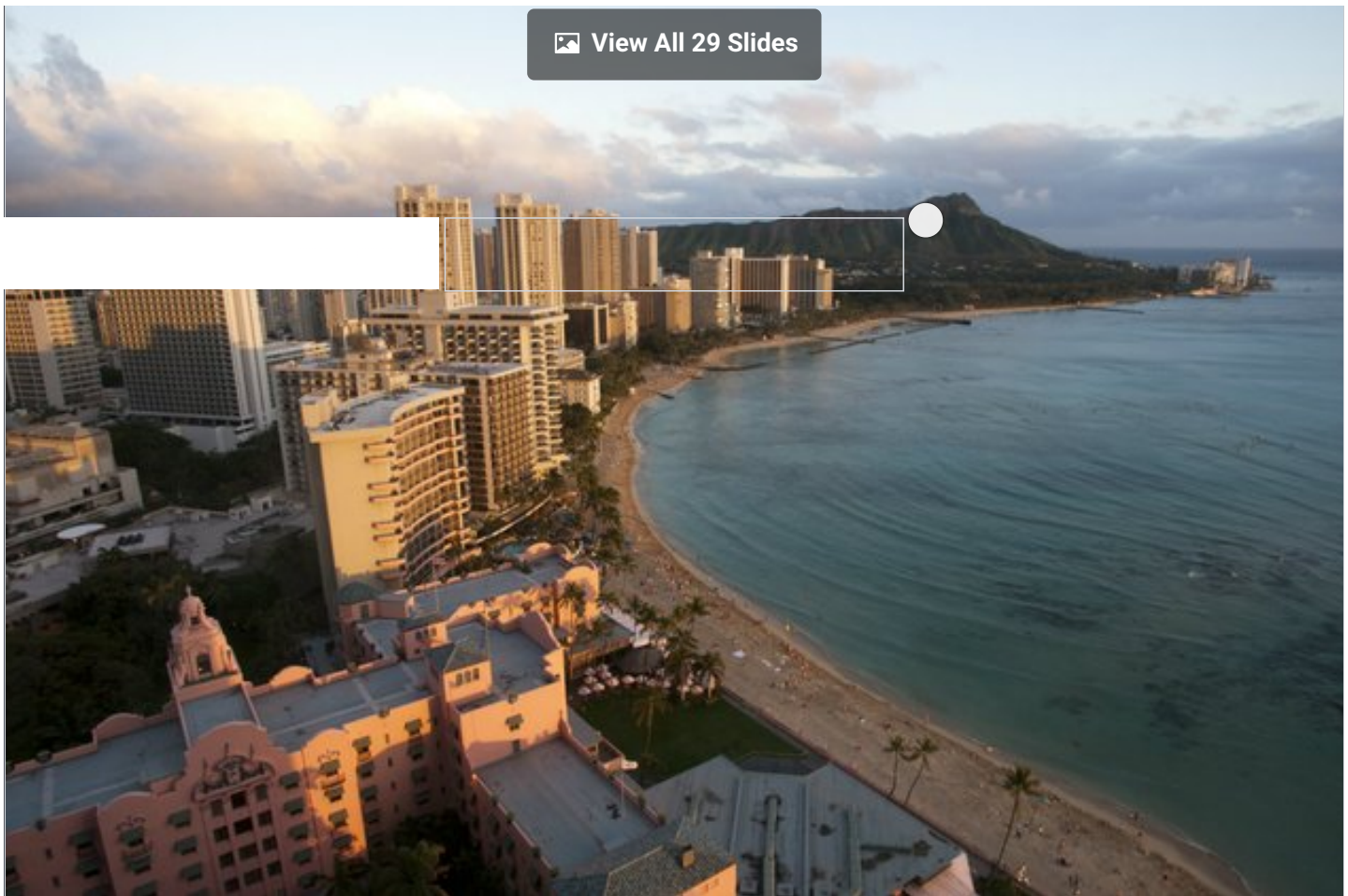
“It would be a tragedy if we beat back one public health crisis only to allow another to grow in its place,” Murthy wrote in the introduction to the new [advisory](#), released on Tuesday and titled “Protecting Youth Mental Health.” “Mental health challenges in children, adolescents, and young adults are real, and they are widespread. But most importantly, they are treatable, and often preventable.”



Research and data point to the mental health challenges youth have been facing even before the pandemic. The percentage of adolescents ages 12 to 17 who had a major depressive episode in the past year, for instance, increased from an estimated 8% in 2010 to 15.7% in 2019, according to data from the [Substance Abuse and Mental Health Services Administration](#). And the percentage of high school students who seriously contemplated suicide increased from 13.8% in 2009 to 18.8% in 2019, according to an October 2020 [Centers for Disease Control and Prevention report](#).

Murthy's advisory, meanwhile, cites [early estimates](#) that suggest more than 6,600 deaths by suicide occurred among the 10-24 age group in 2020.

Best Counties for Mental Health in the U.S.



Concerns about youth mental health have only increased during the pandemic, as months of social isolation, school closures and other pandemic-related difficulties are believed to have fueled increased levels of anxiety and depression. The advisory cites [research](#) indicating a quarter of youth globally are experiencing clinically elevated depressive symptoms, while 20% are experiencing clinically elevated symptoms of anxiety.



Among the advisory's recommendations to improve youth mental health are calls to expand access to behavioral and mental health care services for children, including through telehealth and expanding the school-based mental health workforce. The advocacy organization [Mental Health America](#) estimates less than 30% of the more than 2 million children in the U.S. who suffer from severe depression receive consistent mental health treatment.

The advisory also delves into the topic of social media, noting that young people's [screen time](#) not tied to school has increased during the pandemic and that some research has linked social media use and mental health challenges.

[**MORE:** [Mental Health Help and COVID-19](#)]

The advisory marks Murthy's [second](#) as surgeon general in the Biden administration, following the July release of an advisory about [confronting health misinformation](#). Such reports are [relatively rare](#), as they're "reserved for significant public health challenges that need the nation's immediate awareness and action," according to the document released Tuesday.

Mental Health America President and CEO Schroeder Stribling lauded Murthy for raising awareness about the problem with youth mental health, and said increased funding should be directed toward supporting prevention and early intervention strategies and improving mental health care services in community settings like schools and pediatric medical practices.

"At the same time, the administration and Congress must also work to address the economic and social barriers that contribute to poor mental health, including child poverty, early childhood education, access to healthy food, affordable health care, stable housing, and safe neighborhoods," Stribling said in [a statement](#). "We must not wait to take action. Our youth need help now."

Tags: [mental health](#), [coronavirus](#), [pandemic](#), [teens](#), [United States](#)

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