CITY COMMISSION MEETING AGENDA
JUNE 27, 2016
7:30 PM

Municipal Building, 151 Martin, Birmingham, MI 48009

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BIRMINGHAM CITY COMMISSION AGENDA
JUNE 27, 2016
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Rackeline J. Hoff, Mayor

II. ROLL CALL

Laura M. Pierce, City Clerk

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

Announcements:

- The annual fireworks display will be held on Friday, July 3rd at Lincoln Hills Golf Course. The gates will open at 7:00 PM. The fireworks will begin at dusk, approximately 10:00PM. Rain date is Sunday, July 5th.
- City Offices will be closed on Monday, July 4th in observance of Independence Day.

Introduction of Guest:

- U.S. Congressman Dave Trott

Appointments:

A. Interviews for appointment to the Martha Baldwin Park Board.
   1. Ronald Buchanan, 1280 Suffield
   2. Bob Kenning, 1700 Villa
   3. Linda Forrester, 1252 South Bates

B. To appoint _____ on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2020.

C. To appoint _____ on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2020.

D. To appoint _____ on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2019.

E. Interviews for appointment of the Hearing Officer and Alternate Hearing Officer.
   1. Alexander Stotland, 698 Hanna
   2. Patricia Papadopoulos, 1588 Bennaville (unable to attend)

G. To appoint _____ as the Hearing Officer to serve a three-year term to expire June 30, 2019.

H. To appoint _____ as the alternate Hearing Officer to serve a three-year term to expire June 30, 2018.

I. Administration of oath to the appointed board members.

IV. CONSENT AGENDA

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

of business and considered under the last item of new business.

A. Approval of City Commission minutes of June 6, 2016.

B. Approval of warrant list, including Automated Clearing House payments, of June 8, 2016 in the amount of $900,497.25.

C. Approval of warrant list, including Automated Clearing House payments, of June 15, 2016 in the amount of $1,583,670.79.

D. Approval of warrant list, including Automated Clearing House payments, of June 22, 2016 in the amount of $559,547.20.

E. Resolution approving a request submitted by the Seaholm Cross Country Team to hold Birmingham Harriers 5K Run/Walk on August 7, 2016, contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

F. Resolution approving the purchase of one (1) new Toro Workman MDX Utility Vehicle from Spartan Distributors, through State of Michigan extendable purchasing contract #071B0200329 for a total purchase price not to exceed $11,746.77. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.

G. Resolution awarding the 2016 Asphalt Resurfacing Project, Contract #5-16(P), to Cadillac Asphalt LLC, of Clarkston, MI in the amount of $1,072,270.00 to be charged to the following accounts:

Major Street Fund	202-449.001-981.0100	$219,786.00
Local Street Fund	203-449.001-981.0100	$435,759.00
Sewer Fund	590-536.001-981.0100	$396,340.00
Water Fund	591-537.004-981.0100	$ 20,385.00
TOTAL		$1,072,270.00

And further; approving the appropriation and amendment to the 2016-2017 Major Street Funds, as well as the Sewer Fund budgets as follows:

Major Streets Fund		
Revenues:		
Draw from Fund Balance	202-000.000-400.0000	$ 39,786.00
Total Revenue		$ 39,786.00
Expenditures:		
EPS-Construction/ Public Improvements	202-449.001-981.0100	$ 39,786.00
Total Expenditures		$ 39,786.00
Sewer Fund		
Revenues:		
Draw from Fund Balance	590-000.000-400.0000	$196,340.00
Total Revenue		$196,340.00
Expenditures:		
EPS-Construction/ Public Improvements	590-536.001-981.0100	$196,340.00
Total Expenditures		$196,340.00

H. Resolution approving the appointment of election inspectors for the August 2, 2016 Primary Election pursuant to MCL 168.674(1) and authorizing the City Clerk to make revisions as needed.

I. Resolution approving the Amendment and Resolution to the Tree Care and Removal Agreement with J. H. Hart Urban Forestry that ends on June 30, 2016 and authorizing a sixty (60) day extension with all terms and conditions remaining the same until August

31, 2016. Further, authorizing the Mayor and City Clerk to sign the Agreement upon receipt of all required insurances.

J. Resolution approving the purchase of one (1) new 2016 Case 580SNWT Loader Backhoe from Southeastern Equipment Co., Inc., using National Joint Powers Alliance extendable purchasing pricing for a total expenditure not to exceed $103,798.86. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.

K. Resolution approving the purchase of two (2) Sunray 345 message boards from National Signal Inc. in an amount not to exceed $28,650.00. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.

L. Resolution setting July 25, 2016 as the date of a public hearing to consider the amendments to Chapter 126, Zoning, Article 04, Section 4.90 WN-01 and Article 07, Section 7.05 of the Zoning Ordinance to amend the glazing standards.

M. Resolution approving the 2016-2017 outside agency contracts for Birmingham Bloomfield Community Coalition in the amount of $3,000, Birmingham Youth Assistance in the amount of $18,000, Common Ground in the amount of $1,500, Haven in the amount of $2,000, and, further authorizing and directing the mayor and city clerk to sign the agreements on behalf of the city.

N. Resolution approving the service agreement with Deaf & Hearing Impaired, Inc. in the amount of $2,400.00 for services described in Attachment A of the agreement for fiscal year 2016-2017, account number 101-215.000-811-0000. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.

O. Resolution approving the service agreement with Next in the amount of $99,810 for services described in Attachment A of the agreement for fiscal year 2016- 2017, account number 101-299.000-811.0000, and further directing the Mayor and City Clerk to sign the agreement on behalf of the City.

P. Resolution approving the First Amendment to the Ground Lease Agreement by and between the City of Birmingham and NCWPCS MPL. 23-Year Sites Tower Holdings, LLC and approving the Memorandum of the First Amendment to the Ground Lease and authorizing the Mayor and Clerk to execute the same on behalf of the city.

-OR-

Resolution rejecting the Amendment to the Ground Lease.

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

A. Public Hearing to consider the rezoning of 404 Park Street

1. Resolution approving the rezoning of the property at 404 Park Street, Parcel #1925451021, lots 66 and 67 of Oak Grove Addition from R-2 Single Family Residential to TZ-1 Transitional in accordance with the recommendation of the Planning Board;

-OR-

Resolution denying the rezoning of the property at 404 Park Street, Parcel #1925451021, lots 66 and 67 of Oak Grove Addition from R-2 Single Family Residential to TZ-1 Transitional. (complete resolution in agenda packet)

B. Public Hearing of Necessity for sewer lateral replacement within the Villa Ave. Paving Project

1. Resolution declaring necessity for replacement of sewer laterals within the Villa Ave. Paving Project. The public hearing of confirmation will be held on Monday, July 11, 2016, at 7:30 P.M. (complete resolution in agenda packet)

C. Public Hearing to consider the Final Site Plan and Special Land Use Permit – 100 Townsend - Townsend Hotel (Corner Bar)

1. Resolution approving the Final Site Plan and Special Land Use Permit to allow the Townsend Hotel to convert The Corner Bar into a private reception and special event space. (complete resolution in agenda packet)

D. Public Hearing to consider the Revised Final Site Plan and Temporary Special Land Use Permit Amendment – 835 & 909 Haynes – Lavery Porsche

1. Resolution approving the Revised Final Site Plan and Temporary Special Land Use Permit Amendment of one year for 835 & 909 Haynes – Lavery Porsche with the condition that applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance. (complete resolution in agenda packet)

E. Resolution approving the Amendment to the Interlocal Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT) and Binder Agreement for Interlocal Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT). Further, directing the Mayor and the City Clerk to sign the Amendment to the Interlocal Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT) and Binder Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT).

F. Resolution approving the appropriations and amendments to the fiscal year 2015-2016 budget as follows:

General Fund:

Revenues:		
Intergovernmental	101-000.000-569.0000	$ 150,000
Fines & Forfeitures	101-000.000-657.0000	(170,000)
	101-000.000-656.0000	(80,000)
Other Revenue	101-000.000-678.0000	100,000
Draw from Fund Balance	101-000.000-400.0000	388,000
Total Revenue Adjustments		$ 388,000
Expenditures:		
General Government	101-191.000-702.0001	$ (73,000)
	101-191.000-706.0012	(12,000)
	101-191.000-706.0013	(5,000)
	101-253.000-702.0001	(35,000)
	101-253.000-706.0002	(32,000)
	101-253.000-706.0004	(35,000)
	101-253.000-706.0010	(6,500)
	101-253.000-811.0000	(11,500)
	101-266.000-801.0200	(30,000)
	101-804.002-811.0000	(10,000)
	101-804.002-977.0000	(10,000)
Community Development	101-721.000-811.0000	(75,000)
	101-721.000-825.0100	(25,000)
Transfers Out	101-136.000-999.9999	(235,900)
	101-999.000-999.2430	(11,100)
	101-999.000-999.4010	(5,000)
	101-999.000-999.6770	1,000,000
Total Expenditure Adjustments		$ 388,000

Major Streets Fund:

Expenditures:

Traffic Controls & Engineering	202-303.002-804.0200	$ 60,000
Street Trees	202-449.005-702.0001	12,000
	202-449.005-702.0002	1,000
	202-449.005-706.0002	2,000
	202-449.005-941.0000	15,000
Snow & Ice Control	202-449.006-729.0000	(70,000)
	202-449.006-941.0000	(20,000)
Total Expenditure Adjustments		$ -0-
Local Streets Fund:		
Revenues:		
Intergovernmental	203-000.000-540.0000	$ 80,000
Total Revenue Adjustments		$ 80,000
Expenditures:		
Traffic Controls & Engineering	203-303.001-937.0300	$ 2,000
Street Cleaning	203-449.004-941.0000	10,000
Capital Outlay – Engineering & Construction of Roads	203-449.001-981.0100	100,000
	203-449.001-985.7300	25,000
Snow & Ice Control	203-449.006-702.0001	(7,000)
	203-449.006-729.0000	(40,000)
	203-449.006-941.0000	(10,000)
Total Expenditure Adjustments		$ 80,000
Principal Shopping District:		
Revenues:		
Other Revenue	247-000.000-676.0001	$ 15,000
Draw from Fund Balance	247-000.000-400.0000	55,000
Total Revenue Adjustments		$ 70,000
Expenditures:		
Principal Shopping District	247-441.005-702.0002	$ 15,000
	247-441.005-941.0000	15,000
	247-748.000-811.0000	25,000
	247-748.000-829.0200	(5,000)
	247-748.000-903.0000	(5,000)
	247-748.000-904.0000	10,000
	247-748.000-909.0000	15,000
Total Expenditure Adjustments		$ 70,000

G.. Resolution amending the Schedule of Fees, Charges, Bonds and Insurance, Water and Sewer Service Sections, for changes in water and sewer rates and changes in industrial surcharges and industrial waste control charges to be effective for bills with read dates on or after July 1, 2016.

H. Resolution to meet in closed session to review pending litigation regarding Shellaberger v City of Birmingham pursuant to Section 8(e) of the Open Meetings Act.

I. Resolution to meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

(A roll call vote is required and the vote must be approved by a 2/3 majority of the commission. The commission will adjourn to closed session after all other business has been addressed in open session and reconvene to open session, after the closed session, for

purposes of taking formal action resulting from the closed session and for purposes of adjourning the meeting.)

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

A. Troy & Lisa Testa re: Villa Road paving project
B. Terry Holmes re: Petition for Maddie
C. Robin Smith re: Leash laws

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

X. REPORTS

A. Commissioner Reports
B. Commissioner Comments
C. Advisory Boards, Committees, Commissions' Reports and Agendas
D. Legislation
E. City Staff
    1. Mosquito Control Update, submitted by DPS Director Wood
    2. Greenwood Cemetery Advisory Board Annual Report, submitted by Clerk Pierce
    3. Cemetery Report/Contractor Update, submitted by Clerk Pierce

XI. ADJOURN

INFORMATION ONLY

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
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NOTICE OF INTENTION TO APPOINT TO THE MARTHA BALDWIN PARK BOARD

At the regular meeting of Monday, June 27, 2016 the Birmingham City Commission intends to appoint four members to the Martha Baldwin Park Board: two members to serve four-year terms to expire May 1, 2020 and two members to serve the remainder of a four-year term to expire May 1, 2019. Members must be electors of the City of Birmingham.

Interested citizens may submit an application available at the city clerk's office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the city clerk's office on or before noon on Wednesday, June 22, 2016. These documents will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and vote on appointments.

Applicant(s) Presented For City Commission Consideration:

Applicant Name	**Criteria/Qualifications** Applicants must be electors in the City of Birmingham.
Ronald Buchanan	Registered Voter at 1280 Suffield
Bob Kenning	Registered Voter at 1700 Villa
Linda Forrester	Registered Voter at 1252 South Bates

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.

SUGGESTED ACTION:

To appoint _____ on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2020.

To appoint _____ on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2020.

To appoint _____ on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2019.

MARTHA BALDWIN PARK BOARD

Chapter 78 - Section 78-56 Ordinance No. 65, Adopted May 10, 1915
Term: four years
Appointed by the City Commission

Qualifications: The board shall consist of four persons who shall be electors of the city.

Duties: The control and management of the Martha Baldwin Park shall be vested in the Martha Baldwin Park Board. (Section 78-56)

Last Name Home Address	First Name	Home Business Fax E-Mail	Appointed	Term Expires
Buchanan 1280 Suffield	**Ronald**	(248) 646-3297 *rlb4149@yahoo.com*	1/12/2015	5/1/2015
Forrester 1252 S. Bates	**Linda**	248-646-3442 *linozfor@att.net*	7/9/2012	5/1/2015
Kenning 1700 Villa	**Robert**	(248) 642-6161	6/8/1992	5/1/2016
McKee 392 Ferndale	**Jane**	(248) 644-1029	7/10/2000	5/1/2016

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JUN 3 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

OFFICE USE ONLY
Meets Requirements? (Yes) No
Will Attend / Unable to Attend

APPLICATION FOR CITY BOARD OR COMMITTEE

Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at www.bhamgov.org/boardopportunities.

(Please print clearly)

Board/Committee of Interest MARTHA BALDWIN PARK BOARD

Name RONALD J. BUCHANAN

Phone 248-646-3297

Residential Address 1280 SUFFIELD

Email RLB4144@YAHOO.COM

Residential City, Zip BIRMINGHAM, 48009

Length of Residence OVER 60 YEARS

Business Address –

Occupation RETIRED EDUCATOR

Business City, Zip –

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied WITH NUMEROUS TOUR GROUPS THAT I HAVE GUIDED THROUGH GREENWOOD CEMETERY I HAVE DEVELOPED A DEEP APPRECIATION FOR THE LEGACY MARTHA BALDWIN LEFT THIS COMMUNITY AND WILL BE HONORED TO CONTINUE TO SERVE ON A BOARD OF HER CREATION.

List your related employment experience RETIRED HIGH SCHOOL TEACHER – PART TIME TUTOR AT OCC

List your related community activities BALDWIN HOUSE BOARD MEMBER (VICE PRES.) FRIENDS OF B'HAM H.M.&P. – TROY HISTORICAL SOCIETY

List your related educational experience MICHIGAN STATE UNIVERSITY – B.A. WAYNE STATE UNIVERSITY – M.A.

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: NO

Do you currently have a relative serving on the board/committee to which you have applied? NO

Are you an elector (registered voter) in the City of Birmingham? YES

Ronald J. Buchanan
Signature of Applicant

June 4, 2016
Date

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to Lpierce@bhamgov.org or by fax to 248.530.1080.

Updated 04/01/16

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JUN 9 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

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Meets Requirements? Yes No
Will Attend / Unable to Attend

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(Please print clearly)

Board/Committee of Interest: Martha Baldwin Park Board

Name: R.S. Kenning

Phone: 248-642-6161

Residential Address: 1700 Villa

Email: RSKenning@aol.com

Residential City, Zip: Birmingham 48009

Length of Residence: 51

Business Address:

Occupation: Retired

Business City, Zip:

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied: I believe my involvement in the City of Birmingham makes me a proven candidate to fulfill the terms of the deed that transfered the property at the southwest corner of Maple and Southfield to the City of Birmingham.

List your related employment experience: Former City of Birmingham City Manager 1965-1989. CEO of Oakland Housing 1989-2004

List your related community activities: Member of Birmingham YMCA, Rotary; former member of Next

List your related educational experience: BBA and BCE University of Minnesota

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: No

Do you currently have a relative serving on the board/committee to which you have applied? No

Are you an elector (registered voter) in the City of Birmingham? Yes

R.S. Kenning
Signature of Applicant

6/8/16
Date

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to Lpierce@bhamgov.org or by fax to 248.530.1080.

Updated 04/01/16

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JUN 14 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

OFFICE USE ONLY
Meets Requirements? Yes No
Will Attend / Unable to Attend

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Information on various Boards and Committees and a list of current openings can be found on the City website at www.bhamgov.org/boardopportunities.

(Please print clearly)

Board/Committee of Interest MARTHA BALDWIN PARK BOARD

Name LINDA FORRESTER Phone 248-761-2367

Residential Address 1252 S. BATES Email linoz for@att.net

Residential City, Zip BIRMINGHAM 48009 Length of Residence 34 years

Business Address \ Occupation retired

Business City, Zip

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied My husband and I initially planned & planted the Martha Baldwin Park and have participated in all subsequent plans for improvements in the park.

List your related employment experience

List your related community activities I have led volunteer activities in the B'ham parks removing invasives for many years. I was a past garden volunteer at the Detroit Zoo and for 6 leaners.

List your related educational experience None related to Gardening but I have an associates degree.

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain:

Do you currently have a relative serving on the board/committee to which you have applied? NO

Are you an elector (registered voter) in the City of Birmingham? YES

Linda Forrester. 6/14/16

Signature of Applicant Date

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to Lpierce@bhamgov.org or by fax to 248.530.1080.

Updated 04/01/16

NOTICE OF INTENTION TO APPOINT
HEARING OFFICER

At the regular meeting of Monday, May 9, 2016, the Birmingham City Commission intends to appoint the hearing officer to serve a three-year term to expire June 30, 2019 and the alternate hearing officer to serve a two-year term to expire June 30, 2018. The Hearing Officer shall be responsible for hearing disputes to a fee or bill that a property owner or resident of the city shall receive pursuant to the fee collection ordinances (section 1-17).

The hearing officer and alternate shall be residents of the City of Birmingham who have legal, administrative or other desirable qualifications that will aid him or her in the performance of the duties in accordance with provisions of the applicable code. The hearing officer and the alternate hearing office shall serve without compensation.

The hearing officer or alternate shall schedule periodic meetings for hearings as needed.

Interested citizens may submit a form available from the city clerk's office on or before noon on Wednesday, May 4, 2016. These applications will appear in the public agenda for the regular meeting at which time the commission will discuss recommendations, and may make nominations and vote on the appointments.

Applicant(s) Presented For City Commission Consideration:

Applicant Name	**Criteria/Qualifications** Applicants shall be residents of the City who have legal, administrative or other desirable qualifications that will aid him or her in the performance of the duties of the hearing officer.
Alexander Stotland	Resident at 698 Hanna Attorney
Patricia Papadopoulos	Resident at 1588 Bennaville Attorney

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.

SUGGESTED ACTION:

To appoint _____ as the Hearing Officer to serve a three-year term to expire June 30, 2019.

To appoint _____ as the alternate Hearing Officer to serve a three-year term to expire June 30, 2018.

HEARING OFFICER

Ordinance #2178, Adopted March 28, 2106
Term: 3 years
Appointed by the city commission

Qualifications: The hearing officer and alternate shall be residents of Birmingham who have legal, administrative, or other desirable qualifications that will aid him/her in the performance of their duties. The hearing officer and alternate shall serve without compensation and shall not be elected officials or persons appointed to elective office.

Duties: The hearing officer shall be responsible for hearing disputes to a fee or bill that a property owner or resident of the city shall receive pursuant to any of the fee collection ordinances of the code of the City of Birmingham that specifically relate to: returned check fees by real property owners (section 1-15), the removal of debris from a private property upon a public street, alley, sidewalk, or other public place or right-of-way (section 50-27), false alarms (section 74-31), snow removal (section 98-68), sidewalk repair fees (section 98-62), cross connection inspections (section 114-5), and weed cutting (section 118-68). The alternate hearing officer shall be responsible for hearing disputes in the absence of the hearing officer.

Last Name / First Name / Home Address / Home / Business / E-Mail	Appointed	Term Expires
Vacant	ALTERNATE	6/30/2018
Vacant		6/30/2019

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Meets Requirements? (Yes) No
(Will Attend) / Unable to Attend

APPLICATION FOR CITY BOARD OR COMMITTEE

Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at www.bhamgov.org/boardopportunities.

(Please print clearly)

Board/Committee of Interest: Hearing Officer

Name: Alexander Stotland

Phone: 248 636 1545

Residential Address: 698 Hanna St

Email: astotland@hertzschram.com

Residential City, Zip: Birmingham, 48009

Length of Residence: 4 years on Hanna Street, 11 years in Birmingham

Business Address: 1760 S Telegraph Rd

Occupation: Attorney

Business City, Zip: Bloomfield Hills, 48302

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied

I have practiced as an attorney since 1998, and have extensive experience in business, banking and real estate litigation, among other areas. I have participated in dozens of trials, arbitrations and administrative hearings, and would be comfortable interpreting and ruling on applicable law, code, regulation and factual arguments. I have lived in Birmingham since 2005. As a homeowner, avid jogger and dog owner (and walker), I am familiar, interested, and concerned about the condition of Birmingham's sidewalks and properties.

List your related employment experience: Hertz Schram PC, Bloomfield Hills, MI, 2011-2016 (Partner)
Maddin Hauser Wartell Roth & Heller PC, Southfield, Michigan, 2005-2011 (Senior Associate)
Rand Rosenzweig Smith Radley Gordon & Burstein, LLP, NY, NY, 2000-2005 (Associate)

List your related community activities

List your related educational experience: Hofstra University School of Law, JD 1998; Hofstra University School of Business, BBA 1994; Brooklyn Technical High School, Architecture (1990)

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain:

No

Do you currently have a relative serving on the board/committee to which you have applied? No

Are you an elector (registered voter) in the City of Birmingham? Yes

Signature of Applicant

May 19, 2016
Date

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to Lpierce@bhamgov.org or by fax to 248.530.1080.

Updated 04/01/16

City of Birmingham
A Walkable Community

OFFICE USE ONLY
Meets Requirements? (Yes) No
Will Attend / Unable to Attend

APPLICATION FOR CITY BOARD OR COMMITTEE

Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at www.bhamgov.org/boardopportunities.

(Please print clearly)

Board/Committee of Interest: Hearing Officer

Name: Patricia Papadopoulos

Phone: 248.635.9099

Residential Address: 1588 Bennaville

Email: liatty00@yahoo.com

Residential City, Zip: Birmingham, 48009

Length of Residence: 11 years

Business Address: _____

Occupation: Attorney

Business City, Zip: _____

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied

After reading the duties of the Hearing Officer, not only am I drawn to this type of role, but my legal and business-related qualifications complement the position. In order to render a determination that is both fair to a fellow City resident, as well as the City, a Hearing Officer needs to prepare for the hearing, possess critical thinking as well as listening skills, know the relevant City Code, and of course be understanding - acumen that I have honed though the years. I would like to become more involved with our City!

List your related employment experience: During law school, I interned at the State Grievance Dept which hears complaints (mostly ethical) about attorneys. As an attorney, I am an officer of the Court and have heard hundreds of cases through negotiation, mediation, arbitration, hearings, and trials. During my last employment, I served on the company Ethics panel and I have taken continuing education courses.

List your related community activities: Graduate of the inaugural class of the Birmingham Citizens Academy, volunteer at TCH, Pembroke Elementary (notably the Arbor Day celebration leader in partnership with the City & non-profit ReLeaf Michigan), Women Lawyers of Michigan volunteer events, Church community volunteer events.

List your related educational experience: BBA, MBA, JD with internship at the Grievance Dept

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: No

Do you currently have a relative serving on the board/committee to which you have applied? No

Are you an elector (registered voter) in the City of Birmingham? Yes

Signature of Applicant

5-26-16
Date

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to Lpierce@bhamgov.org or by fax to 248.530.1080.

Updated 04/01/16

3E2

BIRMINGHAM CITY COMMISSION MINUTES
JUNE 6, 2016
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mark Nickita, Mayor Pro Tem, called the meeting to order at 7:31 PM.

II. ROLL CALL

ROLL CALL: Present, Mayor Pro Tem Nickita
Commissioner Bordman
Commissioner Boutros
Commissioner DeWeese
Commissioner Harris
Commissioner Sherman
Absent, Mayor Hoff

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, Fire Chief Connaughton, City Engineer O'Meara, City Planner Ecker, Police Chief Clemence, Library Director Koschik, Assistant Library Director Craft

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

06-179-16 APPOINTMENT TO THE BOARD OF ETHICS

MOTION: Motion by Harris, seconded by Bordman:
To appoint James Robb, 1533 Pleasant Ct., to the Ethics Board to serve a three-year term on the Board of Ethics to expire June 30, 2019.

VOTE: Yeas, 6
Absent, 1 (Hoff)

06-180-16 APPOINTMENT TO THE ADVISORY PARKING COMMITTEE

MOTION: Motion by DeWeese:
To appoint Gayle Champagne, 833 Hazel to the Advisory Parking Committee, as the resident shopper member, to serve the remainder of a three year term to expire September 4, 2016.

VOTE: Yeas, 6
Absent, 1 (Hoff)

The Clerk administered the oath to the appointed board members.

IV. CONSENT AGENDA

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a

commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

06-181-16 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item A (City Commission minutes of May 23, 2016) by Commissioner Bordman

MOTION: Motion by Sherman, seconded by DeWeese:

To approve the consent agenda as follows:

B. Approval of warrant list, including Automated Clearing House payments, of May 25, 2016 in the amount of $350,994.04.

C. Approval of warrant list, including Automated Clearing House payments, of June 1, 2016 in the amount of $427,958.08.

D. Resolution setting June 27, 2016 at 7:30 PM for a public hearing to consider approval of the Final Site Plan and Special Land Use Permit of the Townsend Hotel to convert The Corner Bar into a private reception and special event space.

E. Resolution accepting the resignation of Johanna Slanga from the Multi-Modal Transportation Board, thanking Ms. Slanga for her service, and directing the Clerk to begin the process to fill the vacancy.

F. Resolution approving the agreement between the Birmingham Fire Department and Michigan Academy of Emergency Services and Allied Health to allow the Birmingham Fire Department to conduct ACLS training to their paramedics. Further, directing the Mayor to sign the agreement on behalf of the City.

G. Resolution approving the street light agreement between the City of Birmingham and DTE Energy regarding the installation of street lights at 2400 E. Lincoln Ave. Further, directing the Mayor to sign the agreement on behalf of the City. All costs relative to this agreement will be charged to the adjacent owner.

ROLL CALL VOTE:	Yeas,	Commissioner Bordman
		Commissioner Boutros
		Commissioner DeWeese
		Commissioner Harris
		Commissioner Sherman
		Mayor Pro Tem Nickita
	Nays,	None
	Absent,	1 (Hoff)
	Abstention,	None

06-182-16 CITY COMMISSION MINUTES MAY 23, 2016

Commissioner Bordman requested the following additions:

Resolution #05-164-16: Commissioner Bordman pointed out that an elected Commissioner's primary responsibility is to make decisions for the City and only secondarily to participate as an appointed member to an outside board. Therefore, recusal due to a conflict of interest should occur at the appointed board.

Resolution #05-173-16: Commissioner Bordman questioned whether other projects that the City had bid out this year also resulted in vendor bids much higher than expected. Mr. O'Meara responded in the affirmative.

The Commission discussed what should and should not be included in the minutes and whether a correction is necessary to understand the topic.

The Clerk read from the City Commission Rules of Procedure that "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."

MOTION: Motion by Bordman, seconded by DeWeese:
To approve the City Commission minutes of May 23, 2016 as amended.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Hoff)

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

06-183-16 BALDWIN PUBLIC LIBRARY ADULT SERVICES RENOVATION

Library Director Koschik explained that the City Commission received the architecture, mechanical, electrical, and structural drawings along with renderings, elevations, and sections for the Adult Services Renovation. He noted that the previous drawings showed windows all the way along the curve of the wall. He noted that the windows will stop twelve feet short at each end of the curve and a section of limestone will be added. He noted this change balances the design at each end and saves $18,000.00 per end. He noted a minor change to the light fixtures and light bulbs which will improve the lighting.

MOTION: Motion by Sherman, seconded by DeWeese:
To endorse the final plan as of May 17, 2016 for the Baldwin Public Library Adult Services renovation, as developed by Luckenbach Ziegelman Gardner Architects, with the proviso that the plan will be modified solely as to the ballasts used for the lighting in the electrical portion of the plan and to authorize the issuance of a Request for Proposals for construction.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Hoff)

06-184-16 AUTO PARKING SYSTEM CHANGES TO RATES AND POLICIES

City Engineer O'Meara presented the proposed changes to the rates and policies in the auto parking system. He explained that item 1 is to change the daily rate at all five parking garages. Four of the structures have not had a rate change since 1996. The Ad Hoc Parking Development Committee is working on a package for a reconstruction of at least one, if not

two, structures in the future. There would be a lot of potential expenses in the future and there is a large parking demand, which makes it time to increase revenues. This is focused on those who are parking for long periods of time each day. The rates would be doubled from what they are today, but still keep the two-hours free parking package, up to a maximum of $10.00.

In response to a question from Commissioner DeWeese regarding the minimum charge of $5.00 after 10:00 PM, Mr. O'Meara explained that when the rate was increased to $10.00 the employees who left late at night felt they were being unjustly charged because the garage is almost empty. Commissioner Bordman expressed concern with this.

Mr. O'Meara explained that item #2 increases the monthly permit rate. A fixed number of permits are sold in each structure based on previous experiences as to how many that structure can take before it gets too full. All five garages have a waiting list of over a year.

Mr. O'Meara explained that item #3 gives the employers an off-site parking package option. The City would cover the cost of the rental for the spaces in a remote church parking lot. The employers would cover the cost of a carpool or shuttle for their employees. City Manager Valentine explained that the City Manager and BSD Director have been promoting this option. Mr. O'Meara commented that SP+ has also been promoting this option.

Mr. O'Meara explained that item 4 recommends lowering the number of permits sold at the Park Street and North Old Woodward Structures to 750 and 800 as the structures cannot handle the demand.

Mr. O'Meara explained that item 5 is to increase the meters on Chester from $0.50 to $1.00 per hour. He confirmed for Mayor Pro Tem Nickita that approximately two-thirds of the meters are currently $1.00.

Mr. O'Meara explained that item 6 would offer evening employees an evening permit with the provision that they would not arrive until after 4:00 PM and must not leave the car overnight at a cost of $20.00 per month. He confirmed for Commissioner Sherman that the equipment could be programmed to limit entry to after 4:00 PM only.

Commissioner Sherman noted that an average business month is 22 days. In the current fee structure between the hourly and monthly permits, it would take between 11–13 days to break even and the other 9-11 days were the benefit of having the permit. Under the new proposal the breakeven point becomes 7 days and anything after 7 days is a substantial discount to the daily rate. He expressed concern with this.

Commissioner DeWeese stated that he has reservations about the monthly parking rate increase being too low compared to the other rates. He noted that part of the reason for the demand is that it is underpriced. Once the rate is higher, it gives people the incentive to consider parking off-site. He stated that basically the residents are subsidizing the people who are working in the community that do not necessarily live here.

In response to a question from Commissioner Bordman, Mr. O'Meara confirmed that less than 20% of the evening permit parkers are parking at the Park Street and North Old Woodward Structures.

Clinton Baller, 388 Greenwood, stated that the City is subsidizing parking. He stated that the parking problem could be solved if the market rates were charged.

David Bloom noted that the cost to use a structure will be doubled for residents. He suggested residents could be subsidized with free parking.

Bill Serwer, resident at Merrillwood Apts, stated that one cannot compete for parking on Merrill and the top two floors of the structure are empty around 8:00 PM. He stated that he cannot get a parking permit for his street because of the competing interests.

Commissioner DeWeese stated that a more strategic view of the tradeoffs and balances is needed. He suggested that the transient, customer, and visitor base is treated more equally.

Commissioner Harris commented on the Advisory Parking Committee goals and noted that the Commission has been trying to achieve these objectives. Mr. Valentine commented that this could be sent to the Advisory Parking Committee to refine their proposal based on the City Commission input.

Commissioner Boutros commented that the rates need to be increased as they are lower than others and are below market value.

Commissioner Bordman suggested following up on the suggestion to work out an advantageous parking arrangement for residents. City Attorney commented that it would need additional review.

MOTION: Motion by Bordman, seconded by DeWeese:
To adopt the recommendations by the Automobile Parking System Board regarding their recommendations for #3, 4, 5 as stated in the memo:

3. To offer off-site parking to employers within the Central Business District at no cost to the employer, provided the employer finances the cost of transportation through their selected means, such as carpooling, shuttle, or valet, and as documented by separate agreement, with a maximum total value (for all employers) of approximately $30,000 per year.
4. To lower the authorized number of monthly permits at the following parking structures, as follows:

Parking Structure	Current Authorized Permits	Recommended Auth. Permits
Park St.	815	750
N. Old Woodward Ave.	900	800

5. To increase all parking meters on Chester St. currently set at 50¢ per hour to $1 per hour.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Hoff)

City Engineer O'Meara commented that the original motivation to change the daily rate in item 1 was to move some of those all day parkers out of the garage. He questioned whether the Commission wanted to lower the rate based on the discussion. Mayor Pro Tem Nickita noted that the issue with item 1 is not the rate, but the $5.00/$10.00 issue after 10:00 PM. He noted

that this item could move forward if the following language was removed: "The above applies to charges applied prior to 10 PM every evening. Charges after 10 PM will have a maximum value of $5.", and the Advisory Parking Committee could review it and return with a revision.

Commissioner DeWeese commented that he would prefer to take care of the monthly permits first as it is a balance. He does not want to decide on the increase until he sees the increase in the monthly permits. He stated that he will not support either at this time.

MOTION: Motion by Boutros, seconded by Sherman:
To approve the following changes to rates and policies of the Auto Parking System, as recommended by the Advisory Parking Committee:

1. Effective July 1, 2016, to change the daily parking rate at all five parking structures, as follows:

Time	*Existing Rate at Four Structures*	*Existing Rate at Pierce St. Str.*	*Proposed Rate*
Less than 2 hours	*Free*	*Free*	*Free*
Less than 3 hours	*$1*	*$1*	*$2*
Less than 4 hours	*$2*	*$2*	*$4*
Less than 5 hours	*$3*	*$3*	*$6*
Less than 6 hours	*$4*	*$4*	*$8*
Less than 7 hours	*$5*	*$5*	*$10*
Less than 8 hours	*$5*	*$7.50*	*$10*
More than 8 hours	*$5*	*$10*	*$10*

Commissioner Sherman suggested modifying item 6 to allow monthly permits to be sold after 4:00 PM. The three garages where permits are allowed to be sold would be held until additional direction is received from the Advisory Parking Committee.

VOTE: Yeas, 5
Nays, 1 (DeWeese)
Absent, 1 (Hoff)

MOTION: Motion by Sherman, seconded by Bordman:

6. To offer Evening Only Monthly Permits at all five parking structures, allowing unlimited parking to permit holders after 4 PM every day, at a rate discounted by $20 per month over the regular monthly permit rate. Any parkers that currently have a regular permit, if those permits are in Park Street or North Old Woodward, be retired. If they are in any of the other decks, those permits will not be reissued until the Commission receives a report back from the Advisory Parking Committee and takes action.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Hoff)

MOTION: Motion by DeWeese, seconded by Bordman:
To refer Item 2 to the Advisory Parking Committee to evaluate the monthly permit rates in context to the daily rates, look at comparable structures around the country, maintenance and replacement costs, and to evaluate the number of permits in the remaining decks in relation to

the customers (from item 6) and the net effect of the outcome to be more consistent with the express parking system goals of parking first and foremost for customers and visitors of various businesses and residents.

David Bloom stated that there is a rolling schedule to repair the structure and maintenance done on a regular basis. He suggested there be work done to establish an appropriate time period to pay down the cost of a structure and how much money is needed to maintain it, and eventually rebuild the space.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Hoff)

06-185-16 TRANSITIONAL ZONING REFRESHER REGARDING TZ2

City Planner Ecker presented an overview on transitional zoning. She explained that there are several parcels across the City that are on busy commercial streets or next to commercial areas and are next to single family residential areas. The Planning Board wanted to develop a fully integrated mixed use pedestrian oriented environment that would work as a transition between these higher density areas and the lower density areas.

Ms. Ecker explained that the uses, development standards, setbacks, and heights in each district were reviewed. TZ1 is a new residential only zone. TZ2 allowed for a mix of commercial and residential uses, but controlled some of the uses and limited some of the uses. TZ3 were for properties that were on very busy streets and allowed for a few more uses than TZ2 because of the fact they were located on very busy streets. She pointed out that TZ1 and TZ3 were adopted by the City Commission.

Mayor Pro Tem Nickita pointed out that there are gap points in the downtown plans. Most of these leftover areas were zoned in ways that were not in accordance with the way the larger plans were done. The intention of this was to clean up the spots that were left over and in a manner where it was congruent with the now evident policies of walkability, pedestrian oriented, mixed use, certain density and heights, and urban development ideas that are now used as the City's standard.

06-186-16 WOODWARD AVENUE COMPLETE STREETS PLAN

Mayor Pro Tem Nickita disclosed that his firm worked on this project. He noted that his involvement in the project is complete and the firm has been paid in full. He noted that no City funds supported this project.

City Planner Ecker explained that this project was funded by the Federal Highway Administration. The Woodward Avenue Action Association partnered with the Michigan Department of Transportation, the Detroit Department of Transportation, SMART, SEMCOG, Wayne and Oakland Counties and the eleven municipalities along the Woodward Corridor. She explained the RFP process and charrettes held to develop a comprehensive consistent approach for all of Woodward that worked for everyone, but tailored to each community's wants and desires. She explained that draft concept plan was reviewed by the Multi-Modal Steering Committee and the Planning Board. She explained the changes recommended by the Planning Board. She noted that the suggested resolution is accept the 14 Mile to 16 Mile portion of the plan.

Mayor Pro Tem Nickita pointed out that this complete streets plan is congruent with the City's complete streets overall conceptual support and the Multi-Modal Plan.

In response to a question from Commissioner DeWeese, Ms. Ecker confirmed that approving this in concept is to show the Commission's overall support for this type of change and to be consistent along the corridor.

MOTION: Motion by Bordman, seconded by Boutros:
To approve in concept the Woodward Avenue Complete Streets Plan prepared and approved by the Woodward Avenue Action Association in October 2015.

Michael Nummer, 611 Westwood, expressed concern with the spending of money and committing funds to projects. He noted that if the Commission gives its approval of the plan, it reflects that residents are willing to spend the money.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Hoff)

06-187-16 CLOSED SESSION REQUEST
ATTORNEY / CLIENT PRIVILEGE COMMUNICATION

MOTION: Motion by DeWeese, seconded by Sherman:
To meet in Closed Session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

ROLL CALL VOTE:	Yeas,	Commissioner Boutros
		Commissioner DeWeese
		Commissioner Harris
		Commissioner Sherman
		Commissioner Bordman
		Mayor Pro Tem Nickita
	Nays,	None
	Absent,	1 (Hoff)
	Abstention,	None

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

06-188-16 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

The following residents expressed concern with the cost of the Villa Ave Paving Project:

- Laura Johnson, 1735 Villa
- Lisa Testa, 1474 Villa
- Scott Lange, 1235 Villa
- Sharon Sheldon, 1408 Villa

Mayor Pro Tem Nickita noted that a meeting regarding this project will be held with the homeowners later this week.

X. REPORTS

06-189-16 COMMISSIONER REPORTS

The Commission intends to appoint members to the Museum Board, Greenwood Cemetery Advisory Board, and Multi-Modal Transportation Board on July 11, 2016.

06-190-16 COMMISSIONER COMMENTS

Mayor Pro Tem Nickita commented that the Congress for New Urbanism conference is being held this week.

06-191-16 CITY STAFF REPORTS

The Commission received the Hill School Bell Brick Paver Fundraiser update submitted by Museum Director Pielack.

The Commission received the Third Quarter Financial Reports submitted by Finance Director Gerber.

The Commission recessed to closed session at 10:41 PM.
The Commission reconvened in open session at 11:03 PM.

XI. ADJOURN

The meeting adjourned at 11:03 PM.

Laura M. Pierce
City Clerk

City of Birmingham
Warrant List Dated 06/08/2016

Check Number	Early Release	Vendor #	Vendor	Amount
242547	*	000855	48TH DISTRICT COURT	100.00
242548	*	000855	48TH DISTRICT COURT	100.00
242549	*	000855	48TH DISTRICT COURT	200.00
242550	*	000855	48TH DISTRICT COURT	250.00
242551	*	000855	48TH DISTRICT COURT	100.00
242552	*	000855	48TH DISTRICT COURT	272,452.00
242553	*	008096	52-1 DISTRICT COURT	605.00
242554		MISC	ACH DEVELOPMENT LLC	1,400.00
242555		MISC	ACTION FENCE CO OF MICHIGAN	37.50
242556		000157	BOB ADAMS TOWING INC.	836.00
242557		006092	ALLIANCE OF ROUGE COMMUNITIES	3,114.00
242558		007696	AMERICAN CLEANING COMPANY LLC	1,350.00
242559		MISC	ANDY'S LAWN SERVICE LLC	100.00
242560	*	001357	ART/DESIGN GROUP LTD	440.00
242561		000500	ARTECH PRINTING INC	278.00
242562		MISC	ARTESIAN PROPERTIES INC.	500.00
242563		MISC	ARTIL LEO	200.00
242564	*	007216	AT&T	105.00
242565	*	007216	AT&T	145.00
242566		MISC	BABI CONSTRUCTION INC	900.00
242567		003012	BATTERIES PLUS	60.00
242568		MISC	BETTER HOMES INSPECTION AND IMPROVE	100.00
242569		007345	BEVERLY HILLS ACE	30.59
242570	*	001441	BIRMINGHAM CONCERT BAND	250.00
242572	*	001086	CITY OF BIRMINGHAM	164.67
242573	*	001086	CITY OF BIRMINGHAM	826.05
242574		MISC	BLOOMFIELD CONSTRUCTION CO	200.00
242575		MISC	BUILDING DETAIL INC	200.00
242576		MISC	C & C CUSTOM BUILDERS LTD	125.00
242578		MISC	CALANDRA & SONS CONSTRUCTION CO	100.00
242580		000603	CHEMCO PRODUCTS INC	232.00
242581		MISC	CHRISTINE DALTON	100.00
242582	*	008003	CINIUM RISK MANAGEMENT, LLC	8,000.00
242583		000605	CINTAS CORPORATION	166.20
242584		001054	CITY OF TROY	370.63
242585		002234	CMP DISTRIBUTORS INC	682.00
242586	*	007625	COMCAST	340.47
242587	*	007774	COMCAST BUSINESS	654.65
242589	*	000626	J. M. CONNAUGHTON	94.34
242591		MISC	CREGGER MECHANICAL SYSTEMS INC	889.21
242592		MISC	CREGGER SERVICES INC	600.00
242593		000574	CULTURAL COUNCIL OF	3,400.00
242594		MISC	CURRY, DENNIS N	500.00

City of Birmingham
Warrant List Dated 06/08/2016

Meeting of 06/27/2016

Check Number	Early Release	Vendor #	Vendor	Amount
242595		MISC	DALEY, JASON A	100.00
242596		MISC	DAVID PAUL FORCE	1,000.00
242597		MISC	DAVID RONALD HOLMAN	100.00
242598		008005	DE LAGE LANDEN FINANCIAL SERVICES	182.44
242599		MISC	DECRA-SCAPE INC	100.00
242600		MISC	DEROCHER INC.	1,250.00
242601	*	000847	DETROIT SALT COMPANY	45,267.18
242602		MISC	DJL3 LLC	900.00
242603		MISC	DOMENICO BRICK PAVING	100.00
242604		000565	DORNBOS SIGN & SAFETY INC	207.95
242605		000190	DOWNRIVER REFRIGERATION	286.38
242607		MISC	DOYLE W MOSHER	200.00
242609	*	000179	DTE ENERGY	6,362.16
242610		007505	EAGLE LANDSCAPING & SUPPLY	378.00
242611		000198	H.D. EDWARDS	1,750.00
242612	*	MISC	EILEEN KOZY	100.00
242613		000196	EJ USA, INC.	2,099.38
242614		004671	ELDER FORD	123.12
242615		MISC	ELLIOTT, BRIAN	10,000.00
242618		000207	EZELL SUPPLY CORPORATION	456.20
242619		MISC	FALENDYSZ, JEREMY	200.00
242622	*	007234	FIBERLINK COMMUNICATIONS CORP.	2,232.00
242624		000213	FIRE DEFENSE EQUIP CO INC	46.56
242625		007314	FLEIS AND VANDENBRINK ENG. INC	6,143.98
242626		000217	FOUR SEASON RADIATOR SERVICE INC	350.55
242627		MISC	G & M GUTTER COMPANY INC	200.00
242628		MISC	G J PERELLI COMPANY	200.00
242629		001056	GALLS, LLC	25.81
242630		007172	GARY KNUREK INC	633.97
242631		MISC	GBD RESIDENCES	1,900.00
242632	*	002528	GARY GEMMELL	57.21
242633		002814	GENERAL CASTER SERVICE INC	448.96
242634		MISC	GILLETTE BROTHERS POOL & SPA	200.00
242635		MISC	GLOBAL SIGNS & AWNINGS	200.00
242636		005395	GOOSE BUSTERS!	160.00
242637		000243	GRAINGER	660.72
242638		MISC	GREAT LAKES CUSTOM BUILDER LLC	1,400.00
242639	*	008007	GREAT LAKES WATER AUTHORITY	6,212.25
242640		MISC	GREGORY C & KELLY M BELL	500.00
242642	*	007473	DONALD GRIER	341.28
242643		001531	GUNNERS METER & PARTS INC	375.00
242644		MISC	HABITAT ENHANCERS LLC	200.00
242645		MISC	HANSONS ADMINISTRATIVE GROUP LLC	100.00

City of Birmingham
Warrant List Dated 06/08/2016

Meeting of 06/27/2016

Check Number	Early Release	Vendor #	Vendor	Amount
242646		MISC	HM HOMES LLC	1,900.00
242647		MISC	HOME RENEWAL SYSTEMS LLC	2,500.00
242649		000948	HYDROCORP	1,315.00
242653		MISC	INGRAM ROOFING INC	200.00
242654		MISC	J A N DEVELOPMENT CO	506.00
242655		MISC	J F B CONSTRUCTION CO INC	100.00
242656		MISC	JAMES R VERVISCH	1,000.00
242657		003458	JOE'S AUTO PARTS, INC.	271.91
242658		MISC	JOHN FLOYD MILLER JR	500.00
242659		MISC	JOHN HENNIG CARPENTRY INC	100.00
242660		MISC	JOHN MCCARTER CONSTRUCTION LLC	200.00
242662		008080	JONES & BARTLETT LEARNING, LLC	196.50
242663		MISC	K CUSTOM HOME	300.00
242664		007423	K/E ELECTRIC SUPPLY	156.00
242665		MISC	KELLY BUILDING & DEVELOPMENT CO LLC	10,000.00
242666		MISC	KELLY BUILDING AND DEVELOPMENT COMP	700.00
242667		MISC	KENNETH JOHN PETERSON	750.00
242668		MISC	KEVIN MCLELLAN	200.00
242669		004085	KONE INC	1,029.12
242671		MISC	KROLL CONSTRUCTION CO	200.00
242672		MISC	LANDMARK COMPANIES INC	100.00
242673		005550	LEE & ASSOCIATES CO., INC.	627.84
242674		MISC	LEWAND CONSTRUCTION CO LLC	1,000.00
242675		MISC	LEWAND CUSTOM HOMES LLC	500.00
242676		004498	LIFELOC TECHNOLOGIES, INC.	520.00
242677		MISC	LIVE WELL CUSTOM HOMES LLC	14,400.00
242678		MISC	LMB PROPERTIES LLC	250.00
242679		MISC	LPI-335 E MAPLE LLC	5,000.00
242680		MISC	LUNNEY, CLIFFORD W	1,000.00
242681		MISC	LUTZ ROOFING COMPANY INC	500.00
242682		MISC	MAC CONSTRUCTION, INC.	2,900.00
242683		MISC	MANSFIELD CONSTRUCTION GROUP LLC	100.00
242684	*	MISC	MARK E BAUGHMAN REVOCABLE TRUST	914.79
242685		MISC	MATINA, ANTONINO	1,700.00
242686		MISC	MATINA, DOMENICO	300.00
242688		MISC	METROPOLITAN CONCRETE CORP	100.00
242689		MISC	MG CONSTRUCTION PROS LLC	200.00
242690		MISC	MICHIGAN TENT & AWNING	100.00
242691	*	007494	BRUCE MILLER	82.98
242692		MISC	MILO BUILDING CO	100.00
242694		MISC	MONIGOLD, JOHN	500.00
242695		000972	MOORE MEDICAL LLC	244.51
242696		MISC	NELSON WOODWORKING INC	500.00

City of Birmingham
Warrant List Dated 06/08/2016

Meeting of 06/27/2016

Check Number	Early Release	Vendor #	Vendor	Amount
242697		006723	NEWMIND GROUP, INC	10,150.00
242698		006359	NYE UNIFORM COMPANY	944.20
242699		MISC	OAKFORD CAPITAL LLC	2,400.00
242700	*	004110	OAKLAND COMMUNITY COLLEGE	300.00
242701	*	000477	OAKLAND COUNTY	196,461.32
242703	*	000481	OFFICE DEPOT INC	2,895.97
242704		006625	PACIFIC TELEMANAGEMENT SERVICES	78.00
242705		MISC	PERSPECTIVES CUSTOM CABINETRY INC	200.00
242706		MISC	PETERSON, WIAND, BOES & COMPANY	4,000.00
242707	*	007775	THE PGA OF AMERICA	559.00
242708		000487	POM INC	2,385.60
242709		MISC	POWER HOME REMODELING GROUP	200.00
242710		MISC	PRM CUSTOM BUILDERS LLC	900.00
242711		MISC	R. CHRISTIE CONSTRUCTION CO.	300.00
242712		006497	R.N.A. JANITORIAL, INC	2,580.00
242713		MISC	RANCILIO CONSTRUCTION SERVICES INC	500.00
242714		MISC	RANDALL J FENTON	500.00
242715		001334	RECIPROCAL ELEC COUNCIL INC	50.00
242717		MISC	RICHARD KASTLER	500.00
242718		MISC	ROYAL OAK AWNING	200.00
242719		MISC	RYAN CONSTRUCTION INC	100.00
242720		MISC	SALON LEGATO	300.00
242721		MISC	SAS SERVICES INC	100.00
242723		007142	SHERWIN-WILLIAMS COMPANY	59.61
242724	*	003895	SHAWN SHILLING	81.98
242725		MISC	SIGNAL RESTORATION SERVICES	200.00
242726	*	003785	SIGNS-N-DESIGNS INC	156.00
242727	*	001097	SOCWA	167,147.79
242728		005731	SOUTHEASTERN MICHIGAN SEALANTS INC.	300.00
242730		MISC	STRASBERG, ROBERT A	200.00
242731		MISC	STRICTLAND HOMES INC	200.00
242732		MISC	TECH HOME BUILDING	900.00
242733		006802	TECH MECHANICAL, INC.	8,692.50
242734		MISC	THE DESIGN & CONSTRUCTION GROUP	100.00
242736		MISC	THOMLIN CONSTRUCTION LLC	500.00
242737	*	007456	TLIC WORLDWIDE, INC	3,122.90
242738		MISC	TOWN BUILDING	500.00
242739		MISC	TOWN BUILDING COMPANY	400.00
242740		MISC	TRADEMARK CONSTRUCTION SERVICES	200.00
242742	*	000158	VERIZON WIRELESS	100.94
242744	*	000158	VERIZON WIRELESS	2,750.65
242745		MISC	VERVISCH HOMES	2,000.00
242746		MISC	VICTORS ROOFING	100.00

Meeting of 06/27/2016

City of Birmingham
Warrant List Dated 06/08/2016

Check Number	Early Release	Vendor #	Vendor	Amount
242747		000279	VIP TRUCK CENTER LLC	975.02
242748		MISC	WALLSIDE INC	200.00
242749		MISC	WARREN WOODS EXTERIORS INC	100.00
242750		MISC	WESLEY KARL GILLETTE	400.00
242751		MISC	WILLIAM COLOMBO REVOC LVNG TRUST	100.00
242752		MISC	WILLIAM ORIN MILLER	100.00
242754		000306	WOLVERINE CONTRACTORS INC	1,695.00
242755		004512	WOLVERINE POWER SYSTEMS	699.00
242757		007083	XEROX CORPORATION	593.56
			Sub Total Checks:	$867,993.10
			Sub Total ACH:	$32,504.15
			Grand Total:	$900,497.25

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.

City of Birmingham
6/8/2016

Vendor Name	Transfer Date	Transfer Amount
Automated Benefit Services, Inc.	6/6/2016	32,504.15
	TOTAL	32,504.15

City of Birmingham
Warrant List Dated 06/15/2016

Check Number	Early Release	Vendor #	Vendor	Amount
242758	*	000855	48TH DISTRICT COURT	200.00
242759	*	000855	48TH DISTRICT COURT	475.00
242760	*	000855	48TH DISTRICT COURT	100.00
242761	*	006965	7UP DETROIT	274.00
242762		008112	ABC WAREHOUSE	496.60
242763		002284	ABEL ELECTRONICS INC	978.39
242764		008106	ACUSHNET COMPANY	596.65
242766		005795	ALLIE BROTHERS, INC	419.94
242767		008046	ANTIGUA	68.63
242768		000881	APWA	720.00
242769		006639	ARC	89.70
242770		002229	ART VAN FURNITURE	492.44
242771		000500	ARTECH PRINTING INC	79.00
242772		007479	ASB DISTRIBUTORS	95.34
242773		002342	ASTREIN'S	350.00
242774	*	006759	AT&T	93.70
242775	*	006759	AT&T	159.38
242776		002702	B & B GREASE TRAP & DRAIN	115.00
242777		001103	BCI ADMINISTRATORS INC	5,798.50
242778		000517	BEIER HOWLETT P.C.	12,000.00
242779		000517	BEIER HOWLETT P.C.	19,648.15
242780		002231	BILLINGS LAWN EQUIPMENT	18.07
242781		008064	CITY OF BIRMINGHAM #217	53,097.71
242782		008095	BIRMINGHAM BLOOMFIELD ART CENTER	600.00
242783		007624	BIRMINGHAM OIL CHANGE CENTER, LLC	30.72
242784	*	001086	CITY OF BIRMINGHAM	853.10
242785		006966	BRIDGESTONE GOLF, INC	859.70
242786		006679	BURCO PROMOTIONAL PRINTING	507.00
242787	*	001137	KATHRYN BURRICK	76.36
242788		000605	CINTAS CORPORATION	79.01
242789		008044	CLUB PROPHET	295.00
242790	*	007625	COMCAST	322.48
242791		000956	DELTA TEMP INC	452.50
242792		000177	DELWOOD SUPPLY	416.50
242794	*	008107	DEZURIK, INC.	5,779.00
242795		000565	DORNBOS SIGN & SAFETY INC	782.93
242796		001035	DOUGLASS SAFETY SYSTEMS LLC	286.40
242797	*	000179	DTE ENERGY	43.07
242798	*	008104	DTE ENERGY	957.78
242799		007505	EAGLE LANDSCAPING & SUPPLY	283.50
242800		007702	EASY PICKER GOLF PRODUCTS, INC	441.29
242801		007538	EGANIX, INC.	720.00
242802		000196	EJ USA, INC.	1,205.47

City of Birmingham
Warrant List Dated 06/15/2016

Meeting of 06/27/2016

Check Number	Early Release	Vendor #	Vendor	Amount
242803		004671	ELDER FORD	1,321.43
242804	*	007448	EPIC CLEANING SERVICES INC	1,900.00
242805		001495	ETNA SUPPLY	1,950.00
242806		000207	EZELL SUPPLY CORPORATION	419.56
242807	*	006689	F.D.M. CONTRACTING INC.	284,670.82
242808		001972	FARO SCREEN PROCESS	1,005.00
242809		007172	GARY KNUREK INC	118.00
242810		000592	GAYLORD BROS., INC	268.14
242811		001233	GCSAA	375.00
242812		006699	GEAR FOR SPORTS, INC	299.66
242813		005347	GMIS	375.00
242814		008108	GOOD GUYS PAINTING	5,400.00
242815		004604	GORDON FOOD	967.38
242816		004878	GOVERNMENT FINANCE OFFICERS	190.00
242817		000243	GRAINGER	156.20
242818		007099	GRANICUS, INC.	1,737.00
242820		000249	GUARDIAN ALARM	224.03
242821		001531	GUNNERS METER & PARTS INC	875.00
242822		007342	H2A ARCHITECTS, INC.	1,028.00
242823		000261	J.H. HART URBAN FORESTRY	16,756.72
242824		001672	HAYES GRINDING	61.00
242825	*	003960	RICHARD DON HOBSON	375.00
242826		000331	HUBBELL ROTH & CLARK INC	6,643.21
242827		000342	INTERSTATE BATTERY SYSTEM	66.95
242828	*	007889	YACOUB ISEID	148.40
242829	*	007973	J.B. CONTRACTORS INC.	155,161.85
242830		007870	J.C. EHRLICH CO. INC.	38.00
242831		000344	J.T. EXPRESS, LTD.	6,331.67
242832	*	002576	JAX KAR WASH	136.83
242833		003823	JAY'S SEPTIC TANK SERVICE	655.00
242834		MISC	JENNIFER ANDERSON	71.15
242835		003458	JOE'S AUTO PARTS, INC.	912.16
242836		000891	KELLER THOMA	1,981.20
242837		004088	KGM DISTRIBUTORS INC	233.00
242838		004085	KONE INC	1,953.95
242839		004904	KONICA MINOLTA-ALBIN	139.44
242840		005876	KROPF MECHANICAL SERVICE COMPANY	875.00
242841	*	006661	ROGER LAWRENCE	93.71
242842	*	008103	SUSAN J. MARSH-HATTY	2,000.00
242844		001423	MICHIGAN PORTABLE TOILETS, INC	250.00
242845	*	007010	STATE OF MICHIGAN	2,066.85
242846		002671	MMA	100.00
242847		007163	MOBILE HEALTH RESOURCES	1,771.59

City of Birmingham
Warrant List Dated 06/15/2016

Meeting of 06/27/2016

Check Number	Early Release	Vendor #	Vendor	Amount
242848		001194	NELSON BROTHERS SEWER	1,776.00
242849		007755	NETWORK SERVICES COMPANY	1,009.15
242850		001864	NOWAK & FRAUS ENGINEERS	35,505.78
242851		006359	NYE UNIFORM COMPANY	917.62
242852	*	000477	OAKLAND COUNTY	657,712.43
242853		003461	OBSERVER & ECCENTRIC	532.14
242854		004370	OCCUPATIONAL HEALTH CENTERS	1,156.00
242855		000481	OFFICE DEPOT INC	1,231.42
242856		006027	PENCHURA, LLC	30,070.30
242857	*	001753	PEPSI COLA	445.92
242858		001277	PHYSIO-CONTROL CORP.	150.00
242859	*	003352	JAMIE CATHERINE PILLOW	522.00
242860		000487	POM INC	419.60
242861	*	000801	POSTMASTER	610.00
242862	*	000801	POSTMASTER	300.00
242863		000897	PRINTING SYSTEMS INC	677.98
242864		003447	RAFT	1,200.00
242865		002134	RED HOLMAN PONTIAC GMC	29,852.00
242866		007305	REFRIGERATION SERVICE PLUS	617.00
242868		002566	REYNOLDS WATER	74.20
242870	*	001181	ROSE PEST SOLUTIONS	70.00
242871	*	002806	SAM'S CLUB/SYNCHRONY BANK	565.71
242872		000230	MIKE SAVOIE CHEVROLET INC	158.69
242873		007142	SHERWIN-WILLIAMS COMPANY	7.39
242874		004202	SHRED-IT USA	95.91
242875		003785	SIGNS-N-DESIGNS INC	60.00
242876	*	000254	SOCRRA	59,075.00
242877	*	007738	SOLOMON DIVING, INC.	5,990.00
242879		000260	SPARTAN DISTRIBUTORS INC	1,012.22
242880		000275	TIRE WHOLESALERS CO INC	169.74
242881		003760	UNUM LIFE INSURANCE CO. OF AMERICA	26,080.06
242882		007226	VALLEY CITY LINEN	279.35
242883		000293	VAN DYKE GAS CO.	140.95
242884	*	000158	VERIZON WIRELESS	930.86
242885	*	000158	VERIZON WIRELESS	123.86
242886	*	000158	VERIZON WIRELESS	151.89
242887	*	000158	VERIZON WIRELESS	200.45
242888	*	000158	VERIZON WIRELESS	76.02
242889	*	000158	VERIZON WIRELESS	553.05
242890		004497	WATERFORD TWP FIRE DEPT.	100.00
242891		008101	DAVID GERALD	800.00
242892		007278	WHITLOCK BUSINESS SYSTEMS, INC.	1,974.45
242893		007083	XEROX CORPORATION	568.83

City of Birmingham
Warrant List Dated 06/15/2016

Meeting of 06/27/2016

Check Number	Early Release	Vendor #	Vendor	Amount

Sub Total Checks:	$1,477,424.88
Sub Total ACH:	$106,245.91
Grand Total:	$1,583,670.79

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.

City of Birmingham
ACH Warrant List Dated 6/15/2016

Vendor Name	Transfer Date	Transfer Amount
Comerica	*	1,131.45
Automated Benefit Services, Inc.	6/14/2016	105,114.46
	TOTAL	106,245.91

*In October 2015, the City Manager's credit card company was changed from Bank of America to Comerica Bank. Comerica Bank requires payment by ACH.

City of Birmingham
Warrant List Dated 06/22/2016

Check Number	Early Release	Vendor #	Vendor	Amount
242896	*	005430	21ST CENTURY MEDIA- MICHIGAN	889.30
242897	*	000855	48TH DISTRICT COURT	100.00
242898	*	000855	48TH DISTRICT COURT	100.00
242899	*	000855	48TH DISTRICT COURT	100.00
242900	*	000855	48TH DISTRICT COURT	100.00
242901	*	000855	48TH DISTRICT COURT	100.00
242902	*	000855	48TH DISTRICT COURT	100.00
242903	*	006965	7UP DETROIT	211.60
242905		007288	ABC HARLEY-DAVIDSON INC.	3,553.77
242906		002284	ABEL ELECTRONICS INC	2,513.74
242908		000394	AERO FILTER INC	165.00
242909		007266	AETNA BEHAVIORAL HEALTH LLC	439.53
242911		003708	AIRGAS GREAT LAKES	159.13
242912		004657	AKT PEERLESS	2,010.00
242913		007745	ALL COVERED	3,994.00
242914		002679	ANCHOR WIPING CLOTH CO	171.00
242915		MISC	ANDREA E DELLA TORRE	100.00
242916	*	006759	AT&T	600.00
242917	*	006759	AT&T	735.11
242918	*	006759	AT&T	97.52
242919	*	006759	AT&T	108.03
242920		004027	AUTOMATED BENEFIT SVCS INC	7,746.70
242924		MISC	BECK, CHRISTINE	100.00
242925		007345	BEVERLY HILLS ACE	59.45
242926		002231	BILLINGS LAWN EQUIPMENT	57.98
242927		008113	BINCOR ENVIRONMENTAL SERVICES	300.00
242928	*	008064	CITY OF BIRMINGHAM #217	18,140.21
242929	*	008078	CITY OF BIRMINGHAM #219	34,957.50
242930		007624	BIRMINGHAM OIL CHANGE CENTER, LLC	31.97
242934	*	006177	BULLSEYE TELECOM	32.23
242935		MISC	BUZCO CONSTRUCTION, INC.	100.00
242936		MISC	C & L WARD BROS CO	100.00
242937		000569	JOEL CAMPBELL	75.00
242939		000571	CAR TRUCKING INC	3,687.50
242941		007710	CINTAS CORP	94.14
242943		008044	CLUB PROPHET	590.00
242944	*	004188	COFFEE BREAK SERVICE, INC.	120.73
242945		004026	COFINITY	1,323.00
242946	*	000627	CONSUMERS ENERGY	2,549.98
242947		MISC	CONSUMERS ENERGY	50.00
242948		MISC	CORAZON DULAY	108.00
242950		MISC	CREATIVE MOBILITY GROUP	75.00
242951		004386	CYNERGY WIRELESS	833.79

City of Birmingham
Warrant List Dated 06/22/2016

Meeting of 06/27/2016

Check Number	Early Release	Vendor #	Vendor	Amount
242952	*	004386	CYNERGY WIRELESS	404.82
242954		MISC	DAWN STAGNER	90.00
242957		006907	DENTEMAX, LLC	138.60
242958		002719	DES MOINES STAMP	53.95
242959		MISC	DESIGNER HOMES INC	200.00
242960		001035	DOUGLASS SAFETY SYSTEMS LLC	324.13
242961	*	000180	DTE ENERGY	5,962.77
242962	*	000196	EJ USA, INC.	3,385.94
242963		004671	ELDER FORD	32.00
242964		MISC	EVER-DRY OF SOUTHEASTERN MI	200.00
242965		000936	FEDEX	94.88
242967		000213	FIRE DEFENSE EQUIP CO INC	136.64
242968		006181	FIRST CHOICE COFFEE SERV	89.95
242969		007314	FLEIS AND VANDENBRINK ENG. INC	4,611.35
242970		007212	FOSTER BLUE WATER OIL	1,136.42
242971		MISC	FOUR SEASONS GARDEN CENTER	100.00
242972		000223	GASOW VETERINARY	238.50
242973		004604	GORDON FOOD	1,360.38
242974		000243	GRAINGER	97.50
242975	*	008119	GRAND TRUNK WESTERN RAILROAD CO	750.00
242977		MISC	GREAT LAKES CUSTOM BUILDER LLC	1,000.00
242978		MISC	GREENLEAF HOME SERVICES, LLC	200.00
242982		001531	GUNNERS METER & PARTS INC	335.00
242983		006346	HARRELL'S LLC	138.68
242984		006153	HARRY'S ARMY SURPLUS	65.00
242985	*	003938	HART PAVEMENT STRIPING CORP	37,900.00
242986		007458	HERITAGE - CRYSTAL CLEAN, LLC	135.00
242989	*	001956	HOME DEPOT CREDIT SERVICES	1,709.57
242990		001415	HORNUNG'S PRO GOLF SALES INC	111.19
242991		001204	ICMA	200.00
242992		000340	INDUSTRIAL BROOM & BRUSH	661.30
242993		007035	INNOVATIVE OFFICE TECHNOLOGY GROUP	118.80
242995		002407	J & B MEDICAL SUPPLY	784.90
242996		007870	J.C. EHRLICH CO. INC.	93.00
242997		MISC	JOHN GRAHAM TOTAL CONSTRUCTION, INC	200.00
242998		000347	JOHN R. SPRING & TIRE CENTER INC.	1,564.39
242999		MISC	KAREN TOOR	500.00
243000		001309	KENNEDY INDUSTRIES INC	1,303.50
243001		006982	KEVIN N. RIZE	500.00
243002		004088	KGM DISTRIBUTORS INC	202.00
243003		000362	KROGER COMPANY	32.25
243004		008115	LANDMARK SYSTEMS	175.00
243005		002767	OSCAR W. LARSON CO.	212.58

City of Birmingham
Warrant List Dated 06/22/2016

Meeting of 06/27/2016

Check Number	Early Release	Vendor #	Vendor	Amount
243006		005550	LEE & ASSOCIATES CO., INC.	1,560.00
243008		MISC	LIVE WELL CUSTOM HOMES LLC	900.00
243010		MISC	MAC CONCRETE DEMOLITION, INC	200.00
243011		MISC	MAC'S CONSTRUCTION	500.00
243012		004484	MACOMB COMMUNITY COLLEGE	330.00
243013		002648	MARC DUTTON IRRIGATION INC	620.00
243014		000888	MCKENNA ASSOCIATES INC	19,592.50
243015		MISC	MCLEAN CONSTRUCTION CO	100.00
243016		000369	MCMI	1,050.00
243017		007833	MICHIGAN ASSOCIATION OF PLANNING	60.00
243018		003860	MICHIGAN CHANDELIER - SF	226.32
243019	*	001387	MICHIGAN MUNICIPAL LEAGUE	227,040.00
243023		MISC	MYO REMODELING	100.00
243024		006289	NATIONAL ELEVATOR CONSULTANTS, INC.	2,000.00
243026		003567	NFPA	285.95
243027		001864	NOWAK & FRAUS ENGINEERS	19,866.62
243028		006359	NYE UNIFORM COMPANY	483.50
243029	*	000477	OAKLAND COUNTY	5,700.75
243030		008118	OAKLAND COUNTY	20.00
243031		004370	OCCUPATIONAL HEALTH CENTERS	452.50
243033		000481	OFFICE DEPOT INC	432.08
243035	*	005794	PAETEC	681.08
243037	*	001753	PEPSI COLA	385.92
243039		MISC	PLATINUM MOTOR CARS DETROIT	200.00
243040		006497	R.N.A. JANITORIAL, INC	350.00
243042		003554	RKA PETROLEUM	1,388.41
243043		000478	ROAD COMM FOR OAKLAND CO	8,352.39
243044		000495	ROCHESTER LAWN EQUIPMENT CENTER INC	2.24
243045		MISC	ROOF-RITE, INC.	200.00
243047		007921	ROYAL TRUCK & TRAILER SALES &	1,466.21
243050		008020	SELLINGER ASSOCIATES	3,150.00
243052		003483	SHERWIN WILLIAMS COMPANY	37.74
243053		007142	SHERWIN-WILLIAMS COMPANY	54.96
243055		003785	SIGNS-N-DESIGNS INC	83.00
243056		008073	SITEONE LANDSCAPE SUPPLY, INC	99.84
243058		001369	SPEEDWAY SUPERAMERICA LLC	211.14
243059		MISC	STERLING DEVELOPMENT CORP	700.00
243060		MISC	STEVE YALDO	100.00
243061		001065	SUNSHINE MEDICAL SUPPLY, INC.	106.95
243062		004355	SYMETRA LIFE INSURANCE COMPANY	32,836.96
243063		MISC	TECH HOME BUILDING	900.00
243064		000273	TERMINAL SUPPLY CO.	1,171.67
243065		MISC	TOWER CONSTRUCTION LLC	11,200.00

Meeting of 06/27/2016

City of Birmingham
Warrant List Dated 06/22/2016

Check Number	Early Release	Vendor #	Vendor	Amount
243066		000278	TROY AUTO GLASS CO INC	275.00
243067		004379	TURNER SANITATION, INC	95.00
243071		007226	VALLEY CITY LINEN	72.85
243072	*	000158	VERIZON WIRELESS	105.12
243073	*	000158	VERIZON WIRELESS	61.35
243074		MISC	WALLSIDE INC	200.00
243076		MISC	WHITE'S HOME IMPROVEMENTS INC.	100.00
243077	*	008101	DAVID GERALD WHITE	800.00
243079		000306	WOLVERINE CONTRACTORS INC	4,426.80
			Sub Total Checks:	$506,365.75
			Sub Total ACH:	$53,181.45
			Grand Total:	$559,547.20

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.

City of Birmingham
ACH Warrant List Dated 6/22/2016

Vendor Name	Transfer Date	Transfer Amount
Cutwater Asset Management-February	**	3,096.20
Automated Benefit Services, Inc.	6/17/2016	50,085.25
	TOTAL	53,181.45

**Awaiting approval from Commission.
Cutwater Asset Management provides advisory and reporting services for the City's general investments. It was acquired by Bank of New York Mellon, N.A. in January 2015. As a result of the acquisition, they no longer accept checks as payment for services. Once the Commission approves this warrant list, the City will electronically transmit payment. These invoices will start appearing once a month on the ACH Warrant List.

City of Birmingham
A Walkable Community

MEMORANDUM

City Clerk's Office

DATE: **June 17, 2016**

TO: **Joseph A. Valentine, City Manager**

FROM: **Laura M. Pierce, City Clerk**

SUBJECT: **Special Event Request**
Birmingham Harriers 5K Run/Walk

Attached is a special event application submitted by the Seaholm Cross Country Team requesting permission to hold Birmingham Harriers 5K Run/Walk on August 7, 2016.

The application was received within the 90-day application deadline. The 90-day requirement was waived as there was a change in event organizers this year. The application has been circulated to the affected departments and approvals and comments have been noted.

The following events have been approved by the Commission to be held August. These events do not pose a conflict with the proposed event.

Event Name	Date	Location
Farmers Market	Every Sunday May - October	Lot 6 (North Old Woodward)
In the Park Concerts	June – August (Wednesdays)	Shain Park
Movie Night	June 24, July 15, August 12	Booth Park
Birmingham Cruise Event	August 20	South Old Woodward

SUGGESTED RESOLUTION:
To approve a request submitted by the Seaholm Cross Country Team to hold Birmingham Harriers 5K Run/Walk on August 7, 2016, contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

16-0001031

CITY OF BIRMINGHAM
APPLICATION FOR SPECIAL EVENT PERMIT
PARKS AND PUBLIC SPACES

I. EVENT DETAILS

- Incomplete applications will not be accepted.
- Changes in this information must be submitted to the City Clerk, in writing, at least three weeks prior to the event

RECEIVED BY
MAY 26 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

FEES: **FIRST TIME EVENT:** **$200.00**
ANNUAL APPLICATION FEE: **$165.00**

(Please print clearly or type)

Date of Application May 18, 2016

Name of Event Birmingham Harriers Race

Detailed Description of Event (attach additional sheet if necessary) This event is a 5K run/walk to raise money for the Seaholm Cross Country Team. It will take place at Seaholm, but also use roads around the school. (see course map for details)

Location Seaholm High School

Date(s) of Event August 7, 2016 Hours of Event 8-11am (race @ 9am)

Date(s) of Set-up Same day Hours of Set-up 7-8 am

Date(s) of Tear-down Same day Hours of Tear-down 11-12

Organization Sponsoring Event Birmingham Harriers Seaholm Cross Country Team

Organization Address 2436 W. Lincoln St., Birmingham, MI 48009

Organization Phone 248-203-3702

Contact Person	Terri McCardell	Carl Rundell
Contact Phone	734-358-4110	248-254-9452
Contact Email	terrimccardell@gmail.com	Carl_Rundell@yahoo.com

Please send mail to 675 Yarmouth Bloomfield Twp 48301
734-358-4110

ABOUT FUNDRAISER

The beneficiary of the fundraiser is the Seaholm Cross Country Boosters Club.

The money will be used for:

- Purchase of Equipment
- Transportation To/From Competition
- Purchase of Training/Competition Gear
- Cross-Country Camp
- Support Those Not Able to Afford the Sport

II. EVENT INFORMATION

1. Organization Type High School Athletic Team, Community Group
(city, non-profit, community group, etc.)

2. Additional Sponsors or Participants (Provide name, address, contact person, status, etc. for all additional organizations sponsoring your event.) _____

3. Is the event a fundraiser? ☑ YES ☐ NO
List beneficiary Scholm cross country Team / Birmingham Harriers
List expected income $8,000
Attach information about the beneficiary.

4. First time event in Birmingham? ☐ YES ☑ NO
If no, describe This event has been hosted annually since 2013

5. Total number of people expected to attend per day 500

6. The event will be held on the following City property: (Please list)
☑ Street(s) Lincoln, Shirley, Arlington, Brandon Hawthorne
☑ Sidewalk(s) Maple sidewalk, from Hawthorne to Arlington
☐ Park(s) _____

7. Will street closures be required? ☑ YES ☐ NO

8. What parking arrangements will be necessary to accommodate attendance? The participants will be able to park in the Scholm parking lot.

9. Will staff be provided to assist with safety, security and maintenance? ☑ YES ☐ NO

Describe Athletes and parents of Seaholm's Cross Country team will be volunteer staff

10. Will the event require safety personnel (police, fire, paramedics)? ☑ YES ☐ NO

Describe Police will be required for safety at main intersections during the race

11. Will alcoholic beverages be served? ☐ YES ☑ NO

If yes, additional approval by the City Commission is required, as well as the Michigan Liquor Control Commission.

12. Will music be provided? ☑ YES ☐ NO

☐ Live ☐ Amplification ☐ Recorded ☑ Loudspeakers

Time music will begin 9 am

Time music will end 11 am

Location of live band, DJ, loudspeakers, equipment must be shown on the layout map.

13. Will there be signage in the area of the event? ☑ YES ☐ NO

Number of signs/banners 12 (mile markers, start/finish line)

Size of signs/banners signs - 2 x 2, banner 3 x 8

Submit a photo/drawing of the sign(s). A sign permit is required. Signs on school property also

14. Will food/beverages/merchandise be sold? ☐ YES ☑ NO

- Peddler/vendor permits must be submitted to the Clerk's Office, at least two weeks prior to the event.
- All food/beverage vendors must have Oakland County Health Department approval.
- Attach copy of Health Dept approval.
- There is a $50.00 application fee for all vendors and peddlers, in addition to the $10.00 daily fee, per location. A background check must be submitted for each employee participating at the event.

LIST OF VENDORS/PEDDLERS N/A

(attach additional sheet if necessary)

VENDOR NAME	GOODS TO BE SOLD	WATER HOOK-UP REQUIRED?	ELECTRIC REQUIRED?

III. EVENT LAYOUT N/A

- Include a map showing the park set up, street closures, and location of each item listed in this section.
- Include a map and written description of run/walk route and the start/finish area

1. Will the event require the use of any of the following municipal equipment? *(show location of each on map)*

EQUIPMENT	QUANTITY	COST	NOTES
Picnic Tables		6 for $200.00	A request for more than six tables will be evaluated based on availability.
Trash Receptacles		$4.00 each	Trash box placement and removal of trash is the responsibility of the event. Additional cost could occur if DPS is to perform this work.
Dumpsters		$200.00 per day	Includes emptying the dumpster one time per day. The City may determine the need for additional dumpsters based on event requirements.
Utilities (electric)	____ # of vendors requiring utilities	Varies	Charges according to final requirements of event.
Water/Fire Hydrant		Contact the Fire Department.	Applicant must supply their own means of disposal for all sanitary waste water. Waste water is NOT allowed to be poured into the street or on the grass.
Audio System		$200.00 per day	Must meet with City representative.
Meter Bags / Traffic Cones / Barricades	# to be determined by the Police Department.		

2. Will the following be constructed or located in the area of the event ☐ YES ☑ NO
(show location of each on map) NOTE: Stakes are not allowed.

TYPE	QUANTITY	SIZE
Tents/Canopies/Awnings (A permit is required for tents over 120 sq ft)		
Portable Toilets		
Rides		
Displays		
Vendors		
Temporary Structure (must attach a photo)		
Other (describe)		

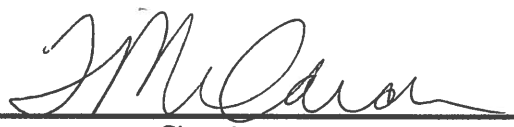
SIGNATURE OF APPLICANT REQUIRED

EVENT NAME Birmingham Harriers Race

EVENT DATE August 7, 2016

The Birmingham City Commission shall have sole and complete discretion in deciding whether to issue a permit. Nothing contained in the City Code shall be construed to require the City Commission to issue a permit to an applicant and no applicant shall have any interest or right to receive a permit merely because the applicant has received a permit in the past.

As the authorized agent of the sponsoring organization, I hereby agree that this organization shall abide by all conditions and restrictions specific to this special event as determined by the City administration and will comply with all local, state and federal rules, regulations and laws.



Signature

5-26-16

Date

IV. SAMPLE LETTER TO NOTIFY ANY AFFECTED PROPERTY/BUSINESS OWNERS

- Organizer must notify all potentially affected residential property and business owners of the date and time this application will be considered by the City Commission. *(Sample letter attached to this application.)*

- Attach a copy of the proposed letter to this application. The letter will be reviewed and approved by the Clerk's Office. The letter must be distributed at least two weeks prior to the Commission meeting.

- A copy of the letter and the distribution list must be submitted to the Clerk's Office at least two weeks prior to the Commission meeting.

- If street closures are necessary, a map must be included with the letter to the affected property/business owners.

SEAHOLM HIGH SCHOOL ATHLETIC DEPARTMENT

Aaron Frank, Athletic Director • af02bps@birmingham.k12.mi.us
2436 W. Lincoln • Birmingham, MI 48009 • Phone (248) 203-3773 • Fax (248) 203-3713

May 27, 2016

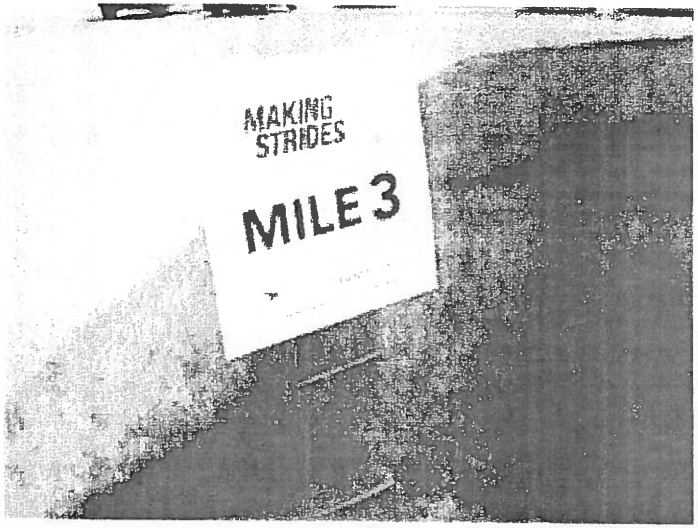
HOLD HARMLESS AGREEMENT

To the fullest extent permitted by law, the Birmingham Public Schools and any entity or person for whom the Birmingham Public Schools is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected officials, employees and the volunteers and others working on the behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs in reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and\or property damage, including loss or use thereof, which arises out of or is in any way connected or associated with this activity/event. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of the City of Birmingham, it's elected or appointed officials, employees, volunteers or others working on behalf of the half city of Birmingham.

Sincerely,

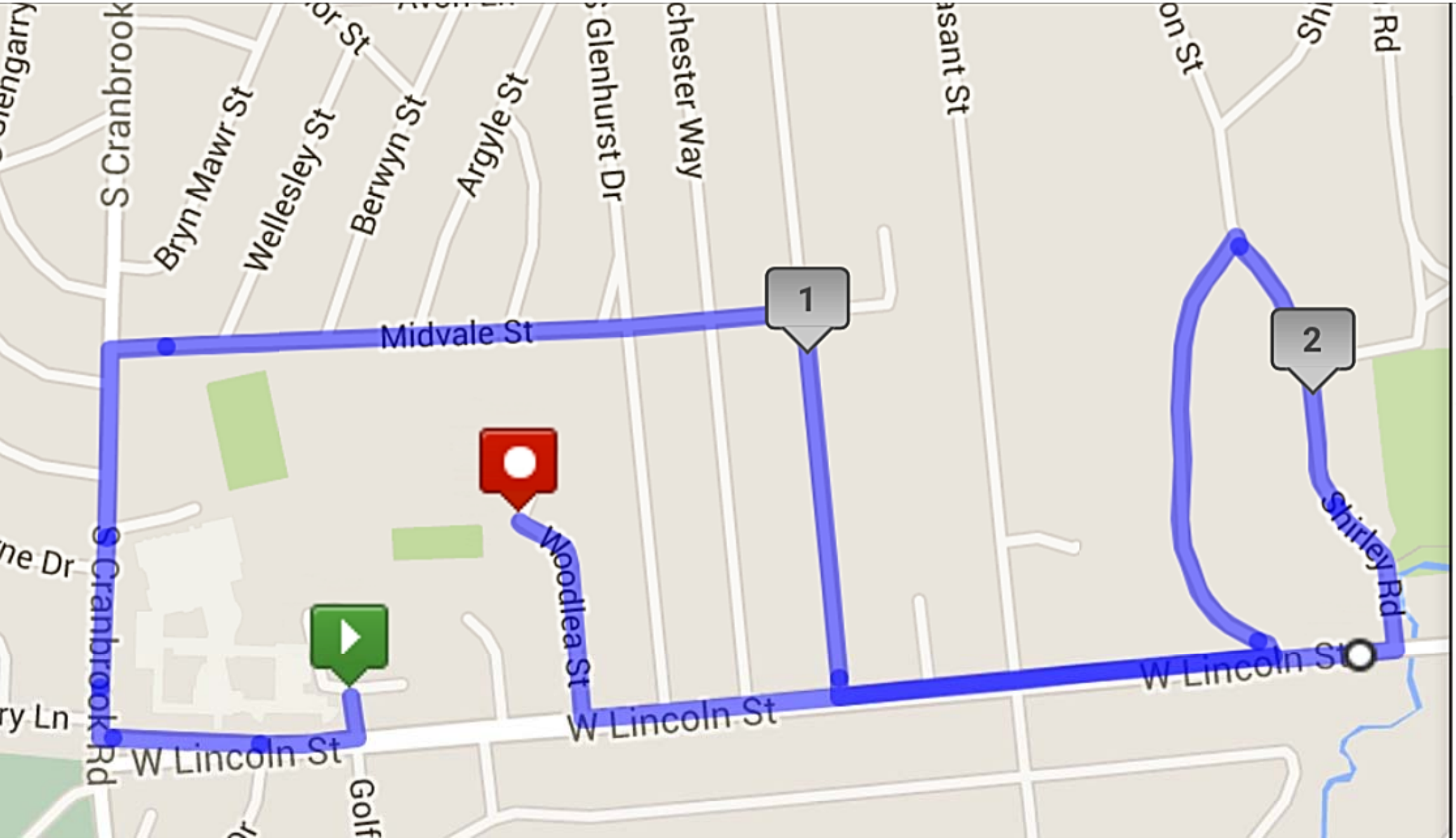
Aaron Frank, CAA
Athletic Director
Seaholm High School
Birmingham Public Schools

Signage



Mile Markers

Start/Finish


S Cranbrook
Bryn Mawr St
Wellesley St
Berwyn St
Argyle St
Glenhurst Dr
chester Way
asant St
on St
Sh
Rd
1
2
Midvale St
Woodlea St
Shirley Rd
W Lincoln St
S Cranbrook Rd
W Lincoln St
Golf
ne Dr
ry Ln

SPECIAL EVENT REQUEST NOTIFICATION LETTER

DATE: June 13, 2016
TO: Property Owner
1234 Lincoln Street
Birmingham, MI 48009

The Birmingham City Code requires that we receive approval from the Birmingham City Commission to hold the following special event. The code further requires that we notify any property owners or business owners that may be affected by the special event of the date and time that the City commission will consider our request so that an opportunity exists for comments prior to this approval.

EVENT NAME: Birmingham Harriers 5K Run/Walk

LOCATION: Course Start and Finish will be at Seaholm High School. The course will include the following streets: Lincoln Street, Cranbrook Road, Midvale Street, Larchlea Street, Arlington Street, Shirley Street, Lincoln Street, and Woodlea Court. Although not included as part of the course, Maplewood Road would be affected at the start of the race, until all participants cross the start line, approximately 9AM until 9:15 AM.

DATE OF EVENT: Sunday, August 7, 2016

HOURS OF EVENT: Race start 9AM. The last participant done by 10:30 AM.

DESCRIPTION: This is a 5K (3.1 mile) road running race to raise money for the Birmingham Harriers, which supports Seaholm Running Programs. The event will take place at Seaholm High School, but includes the use of roads around the school. Please find enclosed the course map, which shows approximate closure times.

TIME OF SET-UP: 6:00 AM to 8:00 AM

TIME OF TEAR DOWN: 10:30 AM to 1PM

DATE OF CITY COMMISSION MEETING: Monday, June 27, 2016

The City commission meets in room 205 of the Municipal Building at 151 Martin at 7:30PM. **A complete copy of the application to hold this special event is available for your review at the City Clerk's Office (248/530-1880)**.

EVENT ORGANIZER: Birmingham Harriers/Seaholm Cross Country, represented by Teresa McCardell

ADDRESS: 675 Yarmouth, Bloomfield Township, 48301 PHONE: 734-358-4110

DEPARTMENT APPROVALS

EVENT NAME Birmingham Harrier's Race

LICENSE NUMBER #16-00010731

COMMISSION HEARING DATE JUNE 27, 2016

NOTE TO STAFF: Please submit approval by **JUNE 16, 2016**

DATE OF EVENT August 7, 2016

DEPARTMENT	APPROVED	COMMENTS	PERMITS REQUIRED (Must be obtained directly from individual departments)	ESTIMATED COSTS (Must be paid two weeks prior to the event. License will not be issued if unpaid.)	ACTUAL COSTS (Event will be invoiced by the Clerk's office after the event)
BUILDING **101-000.000.634.0005** 248.530.1850		Pending approval			
FIRE **101-000.000-634.0004** 248.530.1900		Pending approval			
POLICE **101-000.000.634.0003** 248.530.1870	SG	Personnel and Barricades		$1,150.00	
PUBLIC SERVICES **101-000.000-634.0002** 248.530.1642	Carrie Laird	Barricade placement must done by DPS, not high school athletic team. Cost includes road closure on Maple Rd.		1,000	
ENGINEERING **101-000.000.634.0002** 248.530.1839	A.F.	No Comments	None	$0	
INSURANCE 248.530.1807	CA	On file	None	0	0
CLERK **101-000.000-614.0000** 248.530.1803	LP	Notification letters distributed by applicant on **6/13/16**. Notification addresses on file in the Clerk's Office. Evidence of required insurance on file with the Clerk's Office. Applicant	Applications for vendors license must be submitted no later than N/A.	$165 (Pd)	

		advised on 5/31/16 that an alternate route is needed due to Maple Rd. construction. Rec'd alternate route on 6/3/16; distributed to Engineering and PD same day. 2nd alternate route rec'd 6/13/16; ok'd by PD.			
		City Manager's authorization to waive deadline included.		**TOTAL DEPOSIT REQUIRED**	**ACTUAL COST**

FOR CLERK'S OFFICE USE

Deposit paid _____

Actual Cost _____

Due/Refund_____

City of Birmingham
A Walkable Community

Laura Pierce <lpierce@bhamgov.org>

Re: Birmingham Harriers Race

1 message

cheryl arft <carft@bhamgov.org> Thu, May 26, 2016 at 10:29 AM
To: Joe Valentine <jvalentine@bhamgov.org>
Cc: Laura Pierce <lpierce@bhamgov.org>

Thanks! We'll get going on it as soon as it arrives.

Cheryl Arft, CMC, CMMC
Deputy Clerk
City of Birmingham
151 Martin Street
Birmingham, MI 48009

248-530-1803
248-530-1080

carft@bhamgov.org

On Thu, May 26, 2016 at 10:16 AM, Joe Valentine <jvalentine@bhamgov.org> wrote:

> Terri will be in today to drop off her application for the annual Seaholm Harrier's Run event. Because of the changes in organizers this year, I will allow the acceptance of their application within the 90 day time frame for processing.
>
> If you have any questions, just let me know.
>
> ------- Forwarded message ------
> From: **Teresa McCardell** <terrimccardell@gmail.com>
> Date: Wed, May 25, 2016 at 6:31 PM
> Subject: Birmingham Harriers Race
> To: Joe Valentine <jvalentine@bhamgov.org>
>
> Mr. Valentine,
> Thank you so much for considering our application for our annual 5k race. We hope to hold the race on August 7. I will personally be involved in every step of the race.
> Please let me know how to get the application to you. I have a paper copy and can drop it off to you at your convenience.
> Thank you again,
> Terri McCardell
> 734-358-4110
>
> Sent from my iPhone
>
> –
> **Joseph A. Valentine**
> City Manager
> City of Birmingham
> 151 Martin Street

Birmingham, MI 48009
(248) 530-1809 Office Direct
(248) 530-1109 Fax
jvalentine@bhamgov.org

Get the latest news from the City of Birmingham delivered to your inbox.
Visit www.bhamgov.org/aroundtown to sign up.

City of Birmingham
A Walkable Community

MEMORANDUM

Department of Public Services

DATE: June 16, 2016

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services

SUBJECT: DPS VEHICLE #102 REPLACEMENT

DPS vehicle #102 is a 2009 Toro Workman 2110 Utility Vehicle is in need of replacement due to age and condition. This vehicle is used by the Parks Department to water flowers, maintain ball diamonds, treat catch basins, remove snow from sidewalks and a wide variety of other duties. It has a dump bed as well and is used to haul topsoil, landscape mulch and other materials to areas where it is difficult to maneuver a truck.

The Department of Public Services recommends replacing this vehicle with one (1) new Toro Workman MDX Utility Vehicle. Once the order is placed for the replacement vehicle, it will take approximately 10-12 weeks for delivery. Upon delivery, the 2009 Toro Workman 2110 Utility Vehicle (#102) will be placed on the Michigan Inter-governmental Trade Network for re-sale.

State of Michigan extended purchasing contract #071B0200329 is available for the Toro Workman MDX Utility Vehicle. Spartan Distributors is the exclusive dealer for this contract and was contacted for pricing. The price of this vehicle is $11,746.77. The 2015-2016 Equipment Fund has dollars available to use to fund this purchase. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.

SUGGESTED RESOLUTION:
To approve the purchase of one (1) new Toro Workman MDX Utility Vehicle from Spartan Distributors, through State of Michigan extendable purchasing contract #071B0200329 for a total purchase price not to exceed $11,746.77. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.

City of Birmingham
A Walkable Community

MEMORANDUM

Engineering Dept.

DATE: **June 16, 2016**

TO: **Joseph Valentine, City Manager**

FROM: **Paul T. O'Meara, City Engineer**

SUBJECT: **2016 Asphalt Resurfacing Program**
Contract #5-16(P)

Each year, the Engineering Dept. puts together a project to extend the life of its permanent asphalt pavements. This year's work focuses on asphalt resurfacing several streets in the southeast corner of the City, as well as more extensive work on a segment of Brown St.

Below is a description work to be performed this year is as follows (from west to east):

1. **W. Brown St. – Southfield Rd. to Chester St.**

The existing curbs were replaced in 1994, but the pavement is older and at the end of its service life. Since the pavement needs to be replaced, the existing sewer capacity issues will be addressed with all new public sewers, as well as a new asphalt surface between the existing curbs.

2. **Melton Rd. – Eton Rd. to 14 Mile Rd.**

A new ¾" asphalt microsurface will be installed as a waterproofing layer over the existing pavement.

3. **Sheffield Rd. – Eton Rd. to Cheltenham Rd.**
4. **Cheltenham Rd. – Sheffield Rd. to Dunstable Rd.**
5. **Dunstable Rd. – Melton Rd. to Cheltenham Rd.**
6. **Bradford Rd. – Eton Rd. to Melton Rd.**

The existing asphalt surface will be milled off, and replaced with a new 1½" to 2½" asphalt surface.

7. **Mansfield Rd. – Sheffield Rd. to 14 Mile Rd.**

Existing concrete curbs will be replaced where needed to address grade issues, then the entire concrete surface will be resurfaced for the first time.

The attached map shows the streets included in this project.

As is now required by federal law, all streets will have their handicap ramps updated to current standards in those areas where the adjacent asphalt is being replaced. In addition, a new crosswalk will be constructed at the intersection of Dunstable Rd. and Cheltenham Rd., in accordance with previous discussions with the Multi-Modal Transportation Board.

<u>Bidding & Project Schedule</u>

On June 15, 2015, the Engineering Dept. opened bids from contractors to perform the work on this project. A summary of the bid results is attached. Three companies submitted bids for this project. The low bidder was Pamar Enterprises, of New Haven, MI with their bid of $1,072,270.

The Engineer's estimate was $950,000, and the total amount budgeted for this project was $976,000. The City has worked with Pamar Enterprises on many projects over the past twenty years. Most of them were larger and more complex than this one. The majority of the intense excavation work is on only a short segment of Brown St. Given the difference in cost with the second low bidder, and the overall good track record of this company, we are confident that they are qualified to perform satisfactorily on this contract.

It is expected that the work on this project will be completed this fall (October). The contractor is anticipating approximately 65 working days to complete the work on this project.

Funding for this project will be split into two accounts, with Brown St. representing the Major Street portion of the contract:

Major Street Fund	202-449.001-981.0100	$219,786.00
Local Street Fund	203-449.001-981.0100	$435,759.00
Sewer Fund	590-536.001-981.0100	$396,340.00
Water Fund	591-537.004-981.0100	$ 20,385.00
TOTAL		$1,072,270.00

As has been seen with other projects this year, the low bidder's prices are coming in higher in some funds than what was budgeted. A major part of the reason that the sewer price is much higher than originally budgeted is that the final sewer design resulted in the requirement to install two parallel sewers on this street, when only one was originally contemplated. This has to do with the unique sewer outlets present at the downstream end of this project, and the limited amounts of flow that could be directed to each of them.

As is required for all of the City's construction projects, Pamar Enterprises has submitted a 5% bid security with their bid which will be forfeited if they do not provide the signed contracts and required bonds and insurance required by the contract following the award by the City Commission.

It is recommended that the 2016 Asphalt Resurfacing Project, Contract #5-16(P), be awarded to Pamar Enterprises, Inc., of New Haven, MI in the amount of $1,072,270.00, to be charged to the accounts shown in the suggested resolution.

SUGGESTED RESOLUTION:

To award the 2016 Asphalt Resurfacing Project, Contract #5-16(P), to Cadillac Asphalt LLC, of Clarkston, MI in the amount of $1,072,270.00 to be charged to the following accounts:

Major Street Fund	202-449.001-981.0100	$219,786.00
Local Street Fund	203-449.001-981.0100	$435,759.00
Sewer Fund	590-536.001-981.0100	$396,340.00
Water Fund	591-537.004-981.0100	$ 20,385.00
TOTAL		$1,072,270.00

And further; to approve the appropriation and amendment to the 2016-2017 Major Street Funds, as well as the Sewer Fund budgets as follows:

Major Streets Fund	
Revenues:	
Draw from Fund Balance	
202-000.000-400.0000	$39,786
Total Revenue	$39,786
Expenditures:	
EPS-Construction/Public Improvements	
202-449.001-981.0100	$39,786
Total Expenditures	$39,786
Sewer Fund	
Revenues:	
Draw from Fund Balance	
590-000.000-400.0000	$196,340
Total Revenue	$196,340
Expenditures:	
EPS-Construction/Public Improvements	
590-536.001-981.0100	$196,340
Total Expenditures	$196,340

CITY OF BIRMINGHAM

2016 ASPHALT STREET RESURFACING PROJECT
CONTRACT # 5-16(P)

BID SUMMARY

June 15, 2016 - 2:00 PM

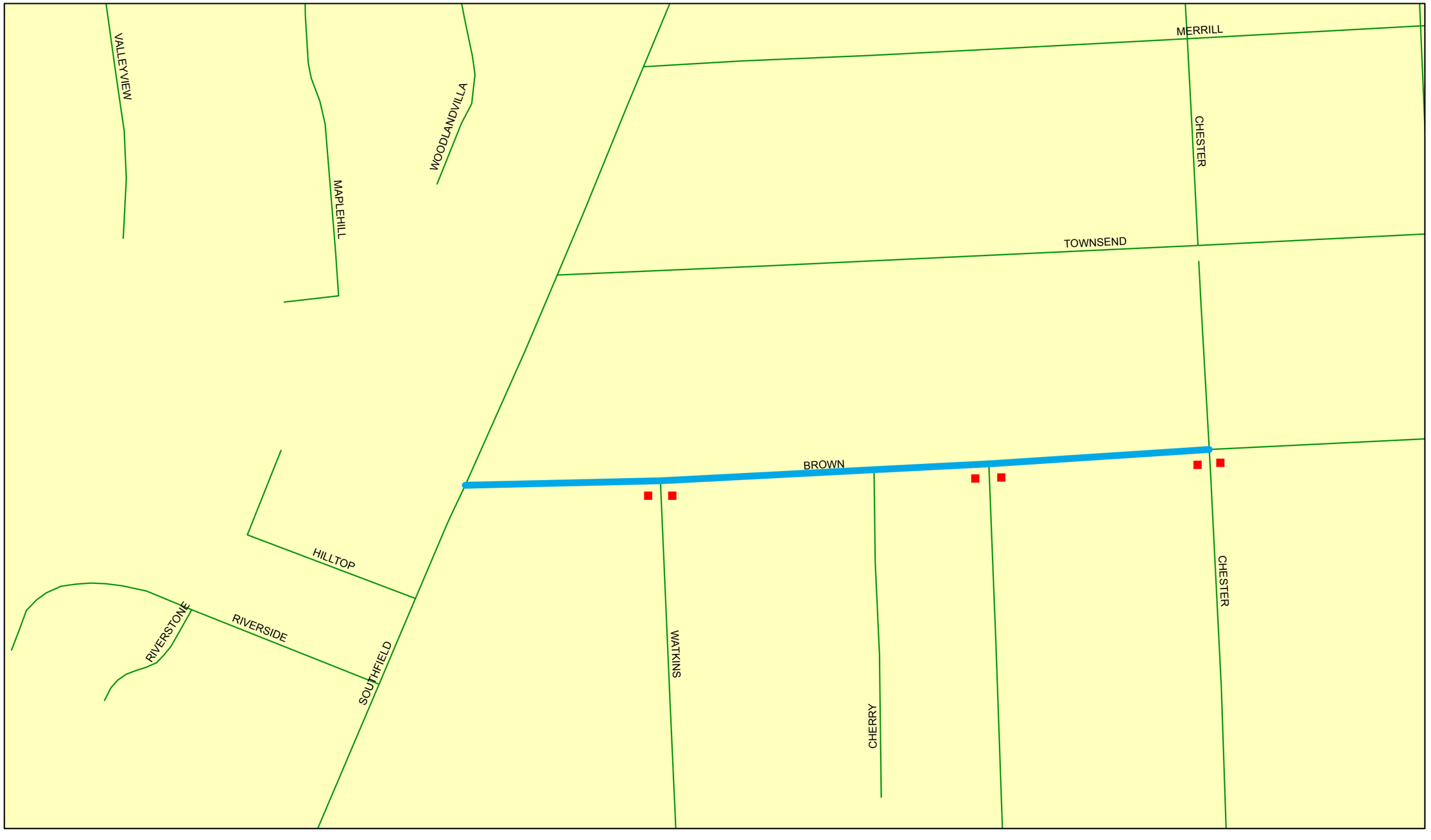
Company Name	Addendums	5% Bid Security	Base Bid
Pamar Enterprises, Inc.	No.1	Yes	$1,072,270.00
Cadillac Asphalt, LLC	No.1	Yes	$1,272,168.00
FDM Contracting, Inc.	No.1	Yes	$1,414,540.00

City of Birmingham
A Walkable Community

2016 Asphalt Resurfacing Program 5-16 (P)

Legend

- Proposed ADA Ramp Locations



City of Birmingham
A Walkable Community

2016 Asphalt Resurfacing Program 5-16 (P)

Legend

- Proposed ADA Ramp Locations

City of Birmingham
A Walkable Community

MEMORANDUM

City Clerk's Office

DATE: **June 18, 2016**

TO: **Joseph A. Valentine, City Manager**

FROM: **Laura M. Pierce, City Clerk**

SUBJECT: **Appointment of Election Inspectors**

As the official Election Commission for the City of Birmingham, election law requires the City Commission appointment of at least three election inspectors for each precinct for all elections. Attached is a list of inspectors that have been assigned to serve for the August 2, 2016 Primary Election.

SUGGESTED RESOLUTION:
To approve the appointment of election inspectors for the August 2, 2016 Primary Election pursuant to MCL 168.674(1) and to authorize the City Clerk to make revisions as needed.

		CITY OF BIRMINGHAM				
		AUGUST 2, 2016 ELECTION				
PCT	**SERVING AS**	**LAST NAME**	**FIRST NAME**		**PARTY**	
1	Chairperson	Stoessel	Robert		Republican	
1	Inspector	Foerster	Valerie		Republican	
1	Inspector	Stoessel	Mary Lee		Republican	
1	Inspector	Menthen	Mike		Republican	
1	Inspector	Friedman	Alison		Democrat	
2	Super-Chair	Barnes	Webb		Republican	Pct 2 & 3
2	Inspector	Roush-Logue	Marty		Republican	
2	Inspector	Schiehsl	Erica		Republican	
2	Inspector	Fuller	Dulce		Republican	
2	Inspector	Cline	Catherine		Republican	6AM - 1PM
2	Inspector	Dreer	Jerry		Republican	noon - close
2	Inspector	Guilmet	Bud		Democrat	11:30 - close
3	Super-Chair	Barnes	Webb		Republican	Pct 2 & 3
3	Co-Chair	Cole	Alice		Democrat	
3	Inspector	Barnes	Jean		Republican	
3	Inspector	McIntosh	Barb		Democrat	
3	Inspector	Stenzel	Marty		Republican	
3	Inspector	Cline	Bill		Republican	6 AM - 1 PM
2-3	Greeter	Connery	Tom			Greeter
4	Chairperson	Meredith	Marie		Republican	
4	Inspector	Cook	Helen		Republican	
4	Inspector	Stuart	Deb		Democrat	
4	Inspector	Taborga	Armando		Republican	
4	Inspector	Wamsler	Deborah		Republican	
5	Chairperson	Lynady	Robert		Republican	
5	Inspector	Duff	Denise		Republican	
5	Inspector	Torner	Maryanne		Republican	
5	Inspector	Head	Carol		Democrat	
5	Inspector	Lowery	Karla		Republican	
5	Inspector	Rock	Karen		Democrat	6A - 1PM
6	Chairperson	Gemmell	Sarah		Democrat	
6	Inspector	Burns	John		Republican	
6	Inspector	Gabler	Valerie		Republican	
6	Inspector	Adkisson	Mary Ann		Democrat	
6	Inspector	Broski	Joseph		Republican	
7	Chairperson	Rose	Cindy		Democrat	
7	Inspector	Davison	Mary Ann		Republican	
7	Inspector	Hansen	Kristi		Democrat	
7	Inspector	Cin	Pamela		Republican	
7	Inspector	Richey	Lester		Republican	
7	Inspector	Tate	Taneka		Democrat	
7	Inspector	Forman	Carol		Republican	6AM - 1PM
8	Chairperson	Feiste	Lee		Republican	
8	Co-Chair	Cornillie	Ron		Republican	
8	Inspector	Linnell	Karen		Democrat	
8	Inspector	Hoff	Rackeline		Republican	
8	Inspector	Raymond	Roberta		Republican	10AM - close
9	Chairperson	Hodge	Martha		Democrat	
9	Inspector	Killiany	Andrew		Republican	
9	Inspector	Harold	Martha		Democrat	
9	Inspector	Brunhofer	Margaret		Republican	10AM - close
9	Greeter	Louton	Sally			Greeter

Alt	Inspector	Cwikiel-Glavin	Annie		Democrat	
AV	Chairperson	Giffin	Jim		Republican	
AV	Co-Chair	Howell	Cherry		Democrat	
AV	Inspector	Folin	Carolyn		Republican	
AV	Inspector	Folin	Robert		Republican	
AV	Inspector	Johnson	David		Republican	
AV	Inspector	Quart	Barbara		Republican	
AV	Inspector	Reese	Kay		Democrat	
AV	Inspector	Sanders	Greta		Democrat	
AV	Inspector	Smith	Russell		Republican	
AV	Inspector	von Storch	Gisela		Republican	
RB	Receiving Bd	Arft	Cheryl		n/a	
RB	Receiving Bd	Barrett	Paul		Republican	
RB	Receiving Bd	Bradley	Katie		n/a	
RB	Receiving Bd	Larson	Ann		Republican	
RB	Receiving Bd	Mio	Leslie		Democrat	

City of Birmingham
A Walkable Community

MEMORANDUM

Department of Public Services

DATE: **June 16, 2016**

TO: **Joseph A. Valentine, City Manager**

FROM: **Lauren A. Wood, Director of Public Services**

SUBJECT: **Forestry Contract Extension – 60 Days**

The existing Agreement for forestry services expires June 30, 2016. This concludes a twelve year contract with J. H. Hart Urban Forestry, including three multi-year extensions. Over the life of these contracts the average annual increase was two percent (2%). The written request from Judd Hart for a sixty (60) day extension at the current terms and conditions is attached. This sixty (60) day extension is for the purpose of determining whether we recommend a contract extension versus re-bidding the contract for such services.

By way of background, J. H. Hart Urban Forestry has been serving as the forestry services contractor along the City's right-of-ways, parks and other public properties including trimming, removal and planting services. The following items detail the current scope of services under the existing contract.

1. Cutting and removal of trees and its parts to ground level, removal of stump, clean-up of debris, transport and disposal of brush, logs and chips.

2. Trimming trees and other plants in accordance with standard arboricultural standards under the direction of the City, and chipping logs and limb wood into wood chips, and the transport and disposal of this material.

3. Residential brush pick-up and Christmas tree pick-up after the Holidays.

4. Disposal of woody debris.

5. Trimming and/or removal of trees, shrubs and other vegetation for certain private lots as determined by the Department of Public Services to be in violation of the City's vegetation ordinance.

6. Holiday light installation and removal, as requested.

The City of Birmingham has high expectations for the care and maintenance of its forest and as a result there has been a constant increase in the services necessary to maintain and cultivate the community urban forestry at large. J. H. Hart Urban Forestry has been maintaining all public trees on city owned property over the past twenty-five years. The Department of Public Services continues to strive to assure a high level of service throughout the community.

The Contractor agrees to provide the labor, material supplies and equipment necessary to perform the requested services for the additional sixty (60) day period, commencing July 1, 2016 and ending August 31, 2016. Attached is the bid form listing the current pricing which covers the period from 2010-2016, which shows no rate increase the last six years of the contract. This service includes qualified supervision of the work crews and a certified Arborist. The budgeted funds for these services derive from various accounts. The accounts include Major Street Fund – Street Trees – Tree Trimming Contract account #202-449.005-819.0000; Local Street Fund – Street Trees – Tree Trimming Contract account #203-449.005-819.0000; Parks – Tree Trimming Contract account #101-751.000-819.0000; and Property Maintenance – Tree Trimming Contract account #101-441.003-819.0000.

SUGGESTED RESOLUTION:
To approve the Amendment and Resolution to the Tree Care and Removal Agreement with J. H. Hart Urban Forestry that ends on June 30, 2016 and authorize a sixty (60) day extension with all terms and conditions remaining the same until August 31, 2016. Further, to authorize the Mayor and City Clerk to sign the Agreement upon receipt of all required insurances.

Judd Hart
President & CEO

June 2, 2016

Lauren Wood
Director of Public Services
City of Birmingham
851 S. Eton
Birmingham, MI 48009

Lauren,

J.H. Hart Urban Forestry's contract with the City of Birmingham expires on June 30, 2016. To assist in the contract re-evaluation, I would like to formally request a 60-day extension of our current contract, terms and conditions. This extension allows the City and the Commission the appropriate time to evaluate our request for a long-term agreement.

I thank you and the Commission for the confidence you have in me and my company.

Regards,

Judd Hart

J.H. HART
URBAN FORESTRY

PO Box 222
Birmingham, MI
48012

800.404.9390
248.647.4408

f 586.795.0930
e info@jhhart.com

HART FORESTRY TREE MAINTENANCE BID PRICING 2010-2013

HOURLY SERVICES	2009-2010	2010-2011	2011-2012	2012-2013
TRIM - 2 MEMBER	$85.04	$85.04	$85.04	$85.04
OVERTIME RATE	$117.22	$117.22	$117.22	$117.22
SMALL REMOVAL - 3 MEMBER	$119.96	$119.96	$119.96	$119.96
OVERTIME RATE	$166.17	$166.17	$166.17	$166.17
MEDIUM REMOVAL - 4 MEMBER	$148.00	$148.00	$148.00	$148.00
OVERTIME RATE	$208.22	$208.22	$208.22	$208.22
LARGE REMOVAL - 5 MEMBER	$182.92	$182.92	$182.92	$182.92
OVERTIME RATE	$257.17	$257.17	$257.17	$257.17
STUMP REMOVAL - 3 MEMBER	$155.81	$155.81	$155.81	$155.81
OVERTIME RATE	$206.17	$206.17	$206.17	$206.17
LANDSCAPE - 2 MEMBER	$71.26	$71.26	$71.26	$71.26
OVERTIME RATE	$103.45	$103.45	$103.45	$103.45
TREE PLANTING - 2 MEMBER	$112.59	$112.59	$112.59	$112.59
OVERTIME RATE	$144.78	$144.78	$144.78	$144.78
BRUSH PICK UP - 2 MEMBER	$78.15	$78.15	$78.15	$78.15
OVERTIME RATE	$110.34	$110.34	$110.34	$110.34
HOLIDAY LIGHTS - 2 MEMBER	$78.15	$78.15	$78.15	$78.15
OVERTIME RATE	$110.34	$110.34	$110.34	$110.34
FOREMAN	$36.34	$36.34	$36.34	$36.34
OVERTIME RATE	$54.51	$54.51	$54.51	$54.51
TRIMMER	$36.34	$36.34	$36.34	$36.34
OVERTIME RATE	$54.51	$54.51	$54.51	$54.51
GROUNDMAN	$28.04	$28.04	$28.04	$28.04
OVERTIME RATE	$42.06	$42.06	$42.06	$42.06
AERIAL TOWER	$13.78	$13.78	$13.78	$13.78
BRUSH CHIPPER	$6.89	$6.89	$6.89	$6.89
DUMP TRUCK	$6.89	$6.89	$6.89	$6.89
LOGGING TRUCK W/LIFT	$41.33	$41.33	$41.33	$41.33
STUMP CHIPPER	$41.33	$41.33	$41.33	$41.33
PICK UP TRUCK	$6.89	$6.89	$6.89	$6.89
ARROW BOARD	$6.89	$6.89	$6.89	$6.89

AMENDMENT TO THE TREE CARE AND REMOVAL AGREEMENT

THIS AMENDMENT to the Tree Care Removal Agreement ("Agreement") made this 27TH day of June, 2016 by and between the **CITY OF BIRMINGHAM,** having its principal office at 151 Martin Street, P.O. Box 3001, Birmingham, Michigan, 48012 (hereafter "CITY"), and **J.H. HART URBAN FORESTRY,** having its principal office at 6600 Product Drive, Sterling Heights, Michigan, 48312 (hereinafter "CONTRACTOR"), provides as follows:

WITNESSETH:

WHEREAS, the CITY, through its Department of Public Services, desires to have the Tree Care and Removal Agreement extended through August 31, 2016; and,

WHEREAS, the CONTRACTOR, also desires to extend the contract through August 31, 2016.

NOW, THEREFORE, AND IN CONSIDERATION OF THE RESPECTIVE AGREEMENTS AND UNDERTAKINGS HEREIN CONTAINED, THE PARTIES AGREE AS FOLLOWS:

The Tree Care and Removal Agreement dated September 2, 1994 shall be and the same is hereby extended through August 31, 2016 with all of the remaining terms and conditions set forth in the September 2, 1994 Agreement remaining in full force and effect. However, notwithstanding the term of the agreement, the City shall have the right to terminate this Agreement on ten (10) days written notice. In the event of termination, the Contractor shall receive compensation for services to the date the termination takes effect and the City shall be entitled to retain and use the results to the date the termination takes effect and the City shall be entitled to retain and use the results of all information, documents and recommendations prepared by the Contractor through such date.

J.H. HART URBAN FORESTRY

By: Mark A. Hart

Its: President

CITY OF BIRMINGHAM

By:_____
Rackeline J. Hoff
Its: Mayor

By:_____
Laura M. Pierce
Its: Clerk

Approved:

Lauren A. Wood,
Director Department of Public Services
As to Substance

Joseph A. Valentine, City Manager
As to Substance

Mark Gerber, Director of Finance
As to Financial Obligation

Timothy J. Currier, City Attorney
As to Form

RESOLUTION REGARDING EXERCISING EXTENSION OF
THE TREE CARE AND REMOVAL AGREEMENT

Moved by:_____ Seconded by:_____

WHEREAS, the City of Birmingham ("City") and J.H. Hart Urban Forestry ("Contractor") entered into a Tree Care and Removal Agreement ("Agreement") wherein Contractor would provide various tree care services and holiday light/decoration installation and removal services; and

WHEREAS, the Agreement is set to expire June 30, 2016; and

WHEREAS, the Contractor is offering to extend the Tree Care and Removal Agreement for sixty (60) days until August 31, 2016 at the current contract price; and,

WHEREAS, there has been an indication from both parties that there is a desire to extend the Agreement for the additional sixty (60) day period.

NOW THEREFORE, BE IT RESOLVED that the City is hereby extending the Agreement for sixty (60) days at the cost set forth in the Contract until August 31, 2016.

BE IT FURTHER RESOLVED that all of the terms and conditions of the Agreement shall apply to the extended term including, but not limited to, all insurance, indemnification and dispute resolution provisions.

BE IT FURTHER RESOLVED that the City Manager is authorized and directed to extend the Agreement to August 31, 2016 and take any necessary steps to effectuate the extension with the Contractor.

Passed, adopted and approved this _____ day of _____, 2016.

AYES: _____

_____

NAYS: _____

_____

PRESENT: _____

_____

ABSENT: _____

_____

CERTIFICATION

I, Laura M. Pierce, 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 _____, 2016.

_____

Laura M. Pierce, City Clerk

JHHAR-1 OP ID: AB

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/31/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Johnston Lewis Associates, Inc 575 E. Maple Road Troy, MI 48083 Jay D. Sawmiller	CONTACT NAME: Jay D. Sawmiller PHONE (A/C, No, Ext): 248-528-2400 FAX (A/C, No): 248-528-2414 E-MAIL ADDRESS: jaysawmiller@johnstonlewis.com
INSURED J H Hart Urban Forestry J H Hart Company Inc. DBA 6600 Product Dr. Sterling Heights, MI 48312	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : National Union Fire Ins Co INSURER B : New Hampshire Insurance Co. INSURER C : Travelers Insurance — 19046 INSURER D : INSURER E : INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PRO-JECT / LOC OTHER:			GL5268297	06/01/2016	06/01/2017	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
A	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS / SCHEDULED AUTOS HIRED AUTOS / NON-OWNED AUTOS			CA4489780	06/01/2016	06/01/2017	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
C	X UMBRELLA LIAB / X OCCUR EXCESS LIAB / CLAIMS-MADE DED / X RETENTION $ 0			ZUP15S51739	06/01/2016	06/01/2017	EACH OCCURRENCE	$ 2,000,000
							AGGREGATE	$ 2,000,000
								$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N / N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			WC022296206	06/01/2016	06/01/2017	X PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional Insured: The City of Birmingham including all elected and appointed officials, all boards, commissions and/or authorities and board members.This coverage shall be primary to any coverage that may be available to the additional insured, whether any other available coverage be primary, contributing or excess. Cancellation shall be 30 dys except for non-payment

CERTIFICATE HOLDER

CITYOB2

City of Birmingham
Bob Fox, Dept of Public Servic
851 S Eaton
Birmingham, MI 48009

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Jay D. Sawmiller

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City of Birmingham
A Walkable Community

MEMORANDUM

Department of Public Services

DATE: June 14, 2016

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services

SUBJECT: DPS Loader Backhoe Replacement Vehicle #34

DPS vehicle #34 is a 2002 JCB Loader Backhoe is in need of replacement due to age and reliability issues. This vehicle is used on a daily basis by the Department of Public Services to carry out any duty that requires loading materials such as topsoil, mulch, snow piles, salt, water main breaks; and the like.

The scoring system for Loader Backhoes has 6 categories. The following table illustrates the breakdown of the scoring system used as justification for the replacement of this vehicle.

Vehicle #34 2002 JCB Backhoe

Factor	Description	Points
Age	1 point each year of age.	14
Miles/Hours	1 point each 2500 hours of usage.	12
Type of Service	3 points multiple duties based on season (snow, mowing, leaf)	3
Reliability	3 points in shop more than 1 time in 3 month period, 1 breakdown/road call within 3 month period.	3
M & R Costs	2 points maintenance and repair costs are 21-40% of replacement costs.	2
Condition	2 points, fair body, functional.	2
	Total points 28+, poor, needs priority replacement.	**36**

The Cat 420F and the Case 580SNWT were evaluated to replace the current machine. The two machines were demoed and evaluated based on City needs and cost. At this time, the department recommends the purchase of the Case 580SNWT. Once the order is placed for the replacement loader backhoe, it will take approximately 10-14 weeks for delivery. Upon delivery, the 2002 JCB Loader Backhoe will be placed on the Michigan Inter-governmental Trade Network (MITN) for re-sale. The 2002 Backhoe purchased for approximately $60,000 is not as versatile or as powerful as the new 2016 Case Loader Backhoe.

The 2016 Case 580SNWT is available for purchase using cooperative bid pricing available through the National Joint Powers Alliance (NJPA), for which the City of Birmingham is a member. Southeastern Equipment Co., Inc. is the exclusive dealer for this contract and was contacted for pricing. The contract price of the new loader backhoe including front and rear spare tires and rims is $88,794.00. Other options not included in the contract that are requested at this time total $15,004.86. The options include a Wain Roy quick coupler, two sets of auxiliary hydraulics, 4 corner safety strobe lights, spare filters/belts, service manuals, replacement cutting edges, and a 3 year/3000 hour extended warranty. The total cost as specified is $103,798.86. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.

SUGGESTED RESOLUTION:
To approve the purchase of one (1) new 2016 Case 580SNWT Loader Backhoe from Southeastern Equipment Co., Inc., using National Joint Powers Alliance extendable purchasing pricing for a total expenditure not to exceed $103,798.86. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.

City of Birmingham
A Walkable Community

MEMORANDUM

Department of Public Services

DATE: June 8, 2016

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services

SUBJECT: Two Message Board Purchases

Sealed bids were opened on Tuesday, May 17, 2016 for the purchase of two (2) Sunray 345 message boards. The request for proposal was entered into the Michigan Inter-governmental Trade Network (MITN) purchasing system.

Below is a summary of the submitted proposals.

Company	Sunray 345	Sunray 380	Sunray 480
National Signal Inc.	**$14,325.00**	$13,975.00	$12,875.00
M.S. Foster & Associates Inc.	$15,800.00	$14,800.00	$14,800.00

The existing message board is used frequently for construction project notifications, special City event notices, DPS Open House, road closure notifications and the like. It is the only board the City owns and was purchased in 1999 for $19,000. The software set-up system for this is outdated and functions strictly by a key pad. It is also not supported on the new computer systems available in the offices. We do plan on keeping it only as a back-up system and will be able to re-evaluate whether keeping it or disposing of it will be warranted in the future. We estimate the resale value of this piece of equipment at $500.00.

Based on the volume of public projects year round, two new message boards are recommended at this time. We have even borrowed a board in the past, in order to handle public announcements for various road projects. DPS handles the set-up of these message sign boards throughout the City. During December of 2014 when the Equipment budget is prepared for the 2015-2016 fiscal year, this purchase was not anticipated. Since such time the need for a new message board has become more critical and in fact; purchasing two boards would be most beneficial for operational purposes. The purpose and uses for these message boards has increased significantly over the past few years.

The Department of Public Services recommends the purchase of two (2) Sunray 345 message boards from National Signal Inc. at a price not to exceed $28,650.00. The 2015-2016 Equipment Fund has more than $150,000 available to use to fund this purchase. In other words, we will not be using all of the budgeted dollars for the anticipated purchases during this fiscal year. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.

SUGGESTED RESOLUTION:
To approve the purchase of two (2) Sunray 345 message boards from National Signal Inc. in an amount not to exceed $28,650.00. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: June 20, 2016

TO: Joseph A. Valentine, City Manager

From: Jana L. Ecker, Planning Director

SUBJECT: Set a Public Hearing to consider amendments to Chapter 126, Zoning, Article 04, Section 4.90 WN-01 (WINDOW STANDARDS) and Article 07, section 7.05 (ARCHITECTURAL DESIGN REQUIREMENTS)

At the November 23, 2015 City Commission meeting, a public hearing was held to consider proposed amendments to the current window standards in the Zoning Ordinance. The purpose of these amendments was to reduce the recurring need for applicants to seek variances from the Board of Zoning Appeals due to difficulty meeting those requirements. The amendment that was proposed at that time was to apply the standard of measuring the percentage of glazing on a site used in the Downtown Overlay Zone to both the Triangle Overlay Zone and to the general development standards for the rest of the city. This requirement is to calculate the amount of glazing on a commercial property by measuring between 1 and 8 feet above grade. At the end of the public hearing, the proposed amendments were adopted by the City Commission.

At that time it was acknowledged that additional changes needed to be made beyond what was proposed and it was determined that there should be further study on certain aspects of the standards before additional changes are recommended. Since that time, the Planning Board has held several study sessions on the subject of window standards. The Planning Board is now recommending approval of several minor changes to the standards contained in Article 04 of the Zoning Ordinance, as well as the elimination of additional standards in Article 07 that are in conflict with other areas of the Zoning Ordinance. The proposed changes would add a requirement to have at least 30% glazing on rear elevations with a public entrance and would also provide the reviewing Board with the flexibility to allow adjustments to the amount of glazing under specific conditions.

Please find attached the staff report presented to the Planning Board, along with the proposed ordinance language and minutes from previous discussions on the topic.

Suggested Action:

To set a Public Hearing for **July 25, 2016** to consider the amendments to Chapter 126, Zoning, Article 04, Section 4.90 WN-01 and Article 07, Section 7.05 of the Zoning Ordinance to amend the glazing standards.

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: June 1, 2016

TO: Planning Board

FROM: Jana Ecker, Planning Director

SUBJECT: Public Hearing to consider amendments to Chapter 126, Zoning, Article 04, Section 4.90 WN-01 (WINDOW STANDARDS) and Article 07, section 7.05 (ARCHITECTURAL DESIGN REQUIREMENTS)

At the November 11, 2015 Planning Board meeting the Board held a public hearing to discuss proposed amendments to the current window standards in the Zoning Ordinance. The purpose of these amendments was to reduce the recurring need for applicants to seek variances from the Board of Zoning Appeals due to difficulty meeting those requirements. At that time it was acknowledged that additional changes needed to be made beyond what is currently proposed and it was determined that there needs to be further study on certain aspects of the standards before additional changes can be recommended. It was decided however, that the standard of measuring the percentage of glazing on a site should be consistently measured between 1 and 8 feet above grade. Accordingly, the Planning Board recommended approval of the proposed amendments to the City Commission, which were later adopted by the Commission. Since that time, the Planning Division has held several study sessions on the subject of window standards.

Background

Over the past several years the Planning Board has performed site plan reviews where the Planning Board expressed support for the proposed design but the applicant has been forced to pursue variances because they were not able to meet the window standards contained in the Zoning Ordinance. Accordingly, the Planning Board has been holding study sessions on this topic to explore ways that the ordinance requirements can be altered so that fewer variances are sought but the intent of the window standards remains in place. The intent of the glazing requirements has been to activate the streets and public spaces of Birmingham by creating an interactive relationship between the pedestrians and the buildings in commercial areas.

There are currently four sections of the Zoning Ordinance that regulate the amount of glazing, or windows, that are required in various commercial areas. Those sections are as follows:

Downtown Overlay

Article 03 section 3.04(E):

4. Storefronts shall be directly accessible from public sidewalks. Each storefront must have transparent areas, equal to 70% of its portion of the facade, between one and eight feet from the ground. The wood or metal armature (structural elements to support canopies or signage) of such storefronts shall be painted, bronze, or powder-coated.

6. The glazed area of a facade above the first floor shall not exceed 35% of the total area, with each façade being calculated independently.

7. Glass shall be clear or lightly tinted only. Opaque applications shall not be applied to the glass surface.

Triangle Overlay District

Article 03 section 3.09:

B. Windows and Doors:
1. Storefront/Ground Floor. Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed and painted. No less than 70% of the storefront/ground floor façade between 1 and 8 feet above grade shall be clear glass panels and doorway. Glass areas on storefronts shall be clear, or lightly tinted. Mirrored glass is prohibited. Required window areas shall be either windows that allow views into retail space, working areas or lobbies, pedestrian entrances, or display windows set into the wall. Windows shall not be blocked with opaque materials or the back of shelving units or signs. The bottom of the window must be no more than 3 feet above the adjacent exterior grade.

All other Commercial zones

Article 04 section 4.90:

The following window standards apply on the front façade and any façade facing a street, plaza, park or parking area:

A. Storefront/Ground Floor Windows: Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed. The following standards apply:
    1. No less than 70% of the storefront/ground floor façade between 1 and 8 feet above grade shall be clear glass panels and doorway.
    2. Glass areas on storefronts shall be clear or lightly tinted in neutral colors. Mirrored glass is prohibited.
    3. Required window areas shall be either pedestrian entrances, windows that allow views into retail space, working areas or lobbies. Display windows set into the wall may be approved by the Planning Board.
    4. Windows shall not be blocked with opaque materials or furniture, products, signs, blank walls or the back of shelving units.
    5. The bottom of the window shall be no more than 3 feet above the adjacent exterior grade.
    6. Blank walls of longer than 20 feet shall not face a public street.
B. Upper Story Windows: Openings above the first story shall be a maximum of 50% of the total façade area. Windows shall be vertical in proportion.

In addition, there is an obscure section of the Zoning Ordinance that includes an additional provision that also regulates the amount of glazing required on commercial buildings. This section of the code only requires 50% clear glazing at street level.

Article 07 section 7.05, Architectural Design Review:

7.05 Requirements

B. A minimum of 50% of that portion of the first floor facade of a building with a commercial use(s) on the first floor and that faces a public street, private street, public open space or permanently preserved open space shall contain clear glazing.

Potential changes

During recent site plan reviews where variances have been pursued, the subject properties have all been located outside of the overlay zones. Accordingly, the focus of the study sessions up to this point has been on the standards contained in Article 04 section 4.90, which affect all areas not within an overlay zone. The Board has discussed creating a waiver that is contingent on a set of criteria that would allow the Planning Board, Historic District Commission, or Design Review Board to alter the glazing requirements under certain circumstances. The Planning Board developed a list of criteria that must be met in order to qualify for the modification of the standards. The draft language of the waiver criteria is attached for your review.

Another potential change that was discussed at the previous Planning Board study session was combining the provisions of Article 04 and Article 07 into one set of standards that requires 70% glazing on the facades that face the street and then reducing the requirement to 50% on secondary facades that face parking areas and open space. At the last study session the Planning Board discussed an error that was discovered by staff in the Zoning Ordinance that has a significant effect on how the existing language is enforced. The definition of façade was inadvertently altered when the Zoning Ordinance was reformatted in 2005. The current definition of façade reads as follows:

Facade: The vertical exterior surface of a building that is set parallel to a **setback line**.

However, prior to the reformatting of the Zoning Ordinance the definition of facade read as follows:

Facade means the vertical exterior surface of a building that is set parallel to a **frontage line**.

The change from frontage line to setback line significantly alters what is considered a façade as a frontage line is defined as follows:

Frontage line: all lot lines that abut a public street, private street, or permanently preserved or dedicated public open space.

With this discovery the window standards would only be enforced on facades as defined in the Zoning Ordinance prior to the reformatting. As this is a clerical error, it will be corrected. This eliminates glazing required on non-street facing facades and will reduce the number of variance requests but will still provide glazing on elevations of buildings that face the street. Accordingly, the Planning Division is of the opinion that this clerical error correction would bring the regulations back in line with the original intent of the window standards. This would eliminate the need for creating definitions for primary and secondary facades as discussed at

previous study sessions. As a result of this discovery, the Planning Board decided to eliminate the draft language that delineated between facades that face a street and those that do not. However, the Board did determine that building elevations that have a public entrance should contain some element of glazing. Accordingly, the Board directed staff to draft a provision that requires 30% glazing on those elevations that have a public entrance but do not face a frontage line. In addition, the Planning Division recommends adding Article 4, section 4.90(C) to prevent blank walls in most situations, and would also recommend the removal of Article 7, Processes, Permits and Fees, section 7.05(B), Architectural Design Review, as it is out of place in this location, and would be best addressed in Article 4, Development Standards – Window Standards, as noted above.

On May 11, 2016, the Planning Board discussed the proposed amendments to the glazing standards, and voted unanimously to set a public hearing for June 8, 2016. No changes have been made to the proposed language since that time. Draft ordinance language is attached for your review, along with relevant meeting minutes.

Suggested Action:

To recommend to the City Commission approval of the proposed changes to Article 04, Section 4.90 WN-01 and Article 07, Section 7.05 of the Zoning Ordinance to amend the glazing standards.

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 04 DEVELOPMENT STANDARDS, SECTION 4.90, WN-01 (WINDOW STANDARDS) TO ALTER THE REQUIRED GLAZING ON COMMERCIAL BUILDINGS.

Article 04, section 4.90 WN-01 shall be amended as follows:

4.90 WN-01

This Window Standards section applies to the following districts:

O1, O2, P, B1, B2, B2B, B2C, B3, B4, MX, TZ3

The following window standards apply ~~on the front façade and any façade facing a street, plaza, park or parking area~~:

A. Storefront Windows: Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed. The following standards apply:

    1. No less than 70% of a storefront/groundfloor façade between 1 and 8 feet above grade shall be clear glass panels and doorway.
    2. Glass areas on storefronts shall be clear, or lightly tinted in neutral colors. Mirrored glass is prohibited.
    3. Required window areas shall be either pedestrian entrances, windows that allow views into retail space, working areas or lobbies. Display windows set into the wall may be approved by the Planning Board.
    4. Windows shall not be blocked with opaque materials or furniture, products, signs, blank walls or the back of shelving units.
    5. The bottom of the window shall be no more than 3 feet above the adjacent exterior grade.
    ~~6. Blank walls of longer than 20 feet shall not face a public street.~~

B. ~~Upper Story Windows: Openings above the first story shall be a maximum of 50% of the total façade area. Windows shall be vertical in proportion.~~ **Ground floor building elevations: Building elevations on the ground floor that do not face a frontage line but contain a public entrance shall be no less than 30% glazing between 1 and 8 feet above grade.**

C. Blank walls of longer than 20 feet on the ground floor shall not face a plaza, park, parking area or public street.

D. Upper Story Windows: Openings above the first story shall be a maximum of 50% of the total façade area. Windows shall be vertical in proportion.

E. To allow flexibility in design, these standards may be modified by a majority vote of the Planning Board, Design Review Board, and/or Historic District Commission for architectural design considerations provided that the following conditions are met:

- **a. The subject property must be in a zoning district that allows mixed uses;**
- **b. The scale, color, design and quality of materials must be consistent with the building and site on which it is located;**
- **c. The proposed development must not adversely affect other uses and buildings in the neighborhood;**
- **d. Glazing above the first story shall not exceed a maximum of 70% of the façade area;**
- **e. Windows shall be vertical in proportion.**

ORDAINED this _____ day of _____, 2016 to become effective 7 days after publication.

_____
Rackeline J. Hoff, Mayor

_____
Laura Pierce, City Clerk

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 07 ARCHITECTURAL DESIGN REQUIREMENTS, SECTION 7.05, REQUIREMENTS.

Article 07, section 7.05 shall be amended as follows:

7.05 Requirements

(See architectural design checklist on Site Plan Review application).

A. Building materials shall possess durability and aesthetic appeal.
~~B. A minimum of 50% of that portion of the first floor facade of a building with a commercial use(s) on the first floor and that faces a public street, private street, public open space or permanently preserved open space shall contain clear glazing.~~
B~~C~~. The building design shall include architectural features on the building facade that provide texture, rhythm, and ornament to a wall.
C~~D~~. Colors shall be natural and neutral colors that are harmonious with both the natural and man-made environment. Stronger colors may be used as accents to provide visual interest to the facade.
D~~E~~. The building design shall provide an interesting form to a building through manipulation of the building massing. This can be achieved through certain roof types, roof lines, and massing elements such as towers, cupolas, and stepping of the building form.
E~~F~~. These architectural elements shall be arranged in a harmonious and balanced manner.

ORDAINED this _____ day of _____, 2016 to become effective 7 days after publication.

_____
Rackeline J. Hoff, Mayor

_____
Laura Pierce, City Clerk

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, OCTOBER 24, 2012
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held October 24, 2012. Chairman Robin Boyle convened the meeting at 6:30 p.m.

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

Absent: Student Representative Kate Leary

Administration: Matthew Baka, Planning Specialist
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

10-180-12

FINAL SITE PLAN REVIEW
995 S. ETON (postponed from the meeting of October 10, 2012)
Saretsky, Hart, Michaels & Gould Law Firm
Two-story addition to building in existing outdoor courtyard

Ms. Ecker highlighted the proposal. The site located at 995 S. Eton is a one-story building that currently houses a law office. The petitioner intends to build a two-story addition at the southeast corner of the building (facing Cole Ave.) at the location of an existing outdoor courtyard. The addition will add 1,043 sq. ft. for a total of 5,423 sq. ft. The existing parking lot will remain, though new plantings are proposed to buffer the addition from the parking lot. The applicant proposes an aluminum and glass façade with swinging window treatments for the addition. The applicant is also proposing the installation of a new rooftop mechanical unit on the existing roof with mechanical screening to match existing screens. The existing site is zoned MX, Mixed Use. The law office is a permitted use within this district.

The increase in square footage increases the applicant's parking requirement by three spaces. The applicant intends to convert one barrier-free parking spot to an unrestricted parking spot, and seeks to utilize two on-street parking spaces on Eton St. toward their parking requirement in exchange for making improvements in the right-of-way. ***In order to count these spaces, the applicant will be required to obtain approval from the City Commission. If approval is not granted, the applicant will be required to obtain a variance from the Board of Zoning Appeals ("BZA") or enter into a shared parking agreement that must be approved by the Planning Board.***

The second level of the south elevation on Cole St. does not meet the glazing requirements of the MX District. The applicant has agreed to reduce the amount of glazing on the second floor

of the addition to comply with the maximum 50 percent glazing requirement. ***If the glazing requirement is not met, a variance will be required from the BZA***.

All exterior design changes to the existing building will also be reviewed by the Design Review Board.

Mr. Roman Bonaslowski from Ron & Roman Architects was present for the applicant. With regards to the parking along Eton, if the Engineering Dept. believes there is a problem with the tightness of Cole as it resolves itself on Eton, he suggested the opportunity exists to make modifications on the south side of Eton if they believe it is too tight of a condition. Secondly, if there is opportunity to find 50 percent glazing going up from the top of the existing parapet they would prefer to have the glass up there or have it continue behind the louvers. It seems reasonable to add an additional tree on Cole. He requested that lighting not be a street improvement along Eton until there is a determination of what is happening along the entire Eton Corridor, and an understanding on how that street lighting can work.

Mr. Miles Hart from the law firm said their employee base is not growing. They need more space to spread out and into offices in order to have better working conditions. They don't have an issue with parking.

Mr. Williams thought the glazing on the second floor adds interest to the building. Mr. DeWeese agreed. To him it looks better if the top and bottom windows are the same size and the second floor is defined as starting at the top of the existing building.

There were no comments from the public at 8:55 p.m.

Motion by Ms. Whipple-Boyce
Seconded by Mr. DeWeese to approve the Final Site Plan and Design Review for 995 S. Eton, Saretsky, Hart, Michaels & Gould Law Firm, with the following conditions:

1. **Applicant obtain approval of the City Commission for the use of two parking spaces on S. Eton or obtain a parking variance from the BZA;**
2. **Applicant submit details for administrative approval for all landscaping, plant material, the location of the Knox box, and a recalculated glazing requirement on the south and east elevations that incorporates calculating the second floor glazing from the line of the existing building's roofline. A tree will be added on Cole.**
3. **Applicant replace non cut-off light fixtures with cut-off fixtures to bring the site into compliance with the current ordinance;**
4. **Applicant obtain approval from the Design Review Board for the proposed addition.**

Members of the public had no final comments at 9 p.m.

Motion carried, 7-0.

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

Nays: None
Absent: None

10-183-12

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

a. Communications (none)

b. Administrative Approvals

- 335 E. Maple Rd. – To slightly re-design the proposed storefront at grade level to include an additional entrance door for the office component of the building.

- 953 S. Eton – Install five ton condenser on roof/"Lamsl" painted to match building. Height of unit: 33 in.; height of screening: 41 in.

c. Draft Agenda for the Regular Planning Board Meeting on November 14, 2012

- Park St. re-zoning application;
- Max and Erma's space for Stoney Creek Steakhouse; and
- 550 W. Merrill, School Administration Building, for office use.

d. Other Business

- 2013 Bistro Update – The City Commission has sent three bistros for the Planning Board to look at: What Crepe?, Birmingham Sushi, and Crush.

- Mr. Baka thought it might be useful in the future to give this board the flexibility to vary from the glazing requirement. Board members also agreed that applicants should not be required to appear before two boards for their reviews.

PLANNING BOARD MINUTES
FEBRUARY 27, 2013

PUBLIC HEARING

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

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

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

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

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

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

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

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

Motion carried, 7-0.
VOICE VOTE
Yeas: DeWeese, Clein, Boyle, Koseck, Lazar, Whipple-Boyce, Williams
Nays: None
Absent: None

CITY COMMISSION MINUTES
MAY 6, 2013

05-148-13 PUBLIC HEARING – ZONING ORDINANCE AMENDMENT WINDOW STANDARDS

The Mayor opened the Public Hearing at 7:40 PM to consider an amendment to the Zoning Ordinance, Chapter 126, Article 04 Development Standards, Section 4.83, WN-01 (Window Standards).

Mr. Baka explained that the Planning Board requested a modification to the ordinance to allow some flexibility regarding window standards due to a recent site plan review. Mr. Currier recommended the Planning Board develop effective standards for when the second floor window requirements could be waived.

The Mayor closed the Public Hearing at 7:42 PM. The Commission took no action.

PLANNING BOARD MINUTES
AUGUST 14, 2013

STUDY SESSION
Glazing Standards

Ms. Ecker noted that on October 24, 2012 the Planning Board approved a two-story addition to the office building at 995 S. Eton. However, the applicant was forced to revise the architectural design of the addition in order to meet the window standards established in the Zoning Ordinance. At that time, several members of the Planning Board expressed support for the proposed design. It was discussed whether the Ordinance could be amended to authorize the reviewing City Board to give architects more creativity and flexibility when composing their designs by allowing variation from the window requirements.

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

On February 27, 2013 the Planning Board recommended approval to the City Commission.

On May 6, 2013 the City Commission reviewed the ordinance amendment and sent it back to the Planning Dept. The City Attorney asked for more specific requirements to be added that would allow the Planning Board to waive the glazing requirements on the upper levels.

The Planning Board reviewed the revised ordinance and changed the wording as follows:

" . . .To encourage flexibility in design these standards may be waived by a majority vote of the Planning Board and/or Historic District Commission for architectural design considerations. . . "

b. The scale, color, design and quality of materials of upper stories must be consistent with the building and site; and

c. The proposed development must not adversely affect other uses and buildings in the neighborhood.

Motion by Ms. Whipple-Boyce
Seconded by Mr. Clein to schedule a public hearing on Glazing Standards for September 11, 1913.

Motion carried, 5-0.

VOICE VOTE
Yeas: Whipple-Boyce, Clein, Boyle, DeWeese, Williams
Nays: None
Absent: Koseck, Lazar

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, SEPTEMBER 25, 2013
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held September 25, 2013. Chairman Robin Boyle convened the meeting at 7:32 p.m.

Present: Chairman Robin Boyle; Board Members Scott Clein, Carroll DeWeese, Bert Koseck (arrived at 7:35 p.m.), Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Student Representative Arshon Afrakhteh

Absent: None

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

09-168-13

PUBLIC HEARING
Glazing Standards (rescheduled from September 11, 2013)
TO CONSIDER AN AMENDMENT TO CHAPTER 126, ZONING, ARTICLE 04, SECTION 4.83 WN-01 (WINDOW STANDARDS) TO ALLOW DESIGN FLEXIBILITY AS APPROVED BY THE PLANNING BOARD, DESIGN REVIEW BOARD AND/OR HISTORIC DISTRICT COMMISSION

Chairman Boyle opened the public hearing at 7:37 p.m.

Mr. Baka advised that the Planning Board has been discussing whether the ordinance could be amended to give the reviewing City Board the authority to give architects more creativity and flexibility when composing their designs by allowing variation from the window requirements.

After several meetings on this topic, the Planning Board, at their August 14, 2013 meeting, held a study session detailing ordinance changes to the Glazing Standards and requested staff to set a public hearing date to consider amendments to Chapter 126, Article 04, section 24.83 B.

Mr. Williams received confirmation that the City Attorney is happy with the suggested ordinance amendments. Ms. Ecker verified that if a proposal goes before two different City boards, the Planning Board and the Historic District Commission ("HDC"), the HDC determination would take priority.

Chairman Boyle observed this is an example of the City listening to applicants and developers.

At 7:43 p.m. there were no comments from members of the audience.

Motion by Mr. Williams
Seconded by Mr. DeWeese to recommend approval by the City Commission to amend Article 04, Section 4.83 WN-01 (Window Standards) to allow design flexibility as permitted by the Planning Board, Design Review Board, and/or Historic District Commission.

There were no final comments from the audience at 7:44 p.m.

Motion carried, 7-0.

ROLLCALL VOTE
Yeas: Williams, DeWeese, Boyle, Clein, Koseck, Lazar, Whipple-Boyce
Nays: None
Absent: None

The chairman formally closed the public hearing at 7:45 p.m.

BIRMINGHAM CITY COMMISSION MINUTES
JANUARY 27, 2014
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

01-15-14 PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDMENT TO CHAPTER 126, ARTICLE 04, SECTION 4.83 WN-01

Mayor Pro Tem Sherman opened the Public Hearing to consider an ordinance amendment to Chapter 126, Article 04, Section 4.83 WN-01 at 8:44 PM.

Planner Ecker explained that the proposed ordinance amendment was the subject of a public hearing on September 25, 2013, after a request from the City Commission to add more specific criteria in order to waive the current 50% glazing requirement on upper level windows.

Planner Ecker explained that the Planning Board does not want to change the glazing standards for the first floor windows, which is 70% in the downtown area as well as in the triangle district; the change would apply to the upper levels only. There are no window glazing guidelines in the Rail District.

In response to Commission discussion regarding the amount of flexibility in the proposed ordinance, Planner Ecker noted that the Planning Board wanted to be able to respond to design changes in the marketplace and to prevent the glazing requirements from getting in the way of a good development.

Commissioner Nickita suggested the ordinance be more flexible in the rail district, less so in the triangle district, and more restrictive in the downtown district. Commissioner Dilgard suggested changing "to encourage flexibility", to "to allow flexibility".

Mayor Pro Tem Sherman closed the Public Hearing at 8:57 PM.

The commissioners took no action on the proposed ordinance amendment, and directed staff to review the discussion with the Planning Board.

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, APRIL 22, 2015
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on April 22, 2015. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Stuart Jeffares; Student Representative Andrea Laverty (left at 9:30 p.m.)

Absent: Board Member Robin Boyle, Alternate Board Member Daniel Share; Student Representative Scott Casperson

Administration: Matthew Baka, Senior Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

04-80-15

STUDY SESSION
Glazing Standards

Mr. Baka explained that as a result of applicants having to revise their architectural designs in order to meet the window standards established in the Zoning Ordinance,
members of the Planning Board have discussed whether the ordinance could be amended to give the reviewing City Board the authority to allow architects more creativity and flexibility when composing their designs by allowing variation from the window requirements.

After many prior meetings and review by the City Commission, the Planning Board at their March 11, 2015 meeting conducted a study session to continue discussion on
improving the window standards. There was consensus that the 70% glazing requirement should be limited to between 1 and 8 ft. above grade in all zones and districts. It was also agreed that the current requirements of section 4.83 WN are problematic as they have required excessive glazing on several recent projects which has resulted in multiple variance requests to the Board of Zoning Appeals.

Although no specific modification standards were recommended over others, the Planning Board clearly indicated that the intent of the ordinance was to engage pedestrians in commercial zones. The board directed the Planning Dept. to review the various ways of accomplishing that intent. Accordingly, revised draft ordinance language is presented for the consideration of the Planning Board.

In order to provide consistency throughout the ordinance, the Planning Staff recommends amending the first floor standards in the Triangle District and Section 4.83 to require 70% glazing between 1 and 8 ft. above grade.

Mr. Baka advised that the window standards apply on the front façade and any façade that includes the primary entrance where the façade faces a street, plaza, park or parking area. Blank walls are not permitted on elevations with public entrances.

It was concluded that a definition of "blank wall" is needed. Ms. Whipple-Boyce thought that some flexibility should be written into the ordinance. Say that blank walls are not permitted on elevations, period. Mr. Koseck thought this matter needs another layer of study so they don't end up with a bunch of windowless buildings or uninterrupted walls that don't make for good architecture. Mr. Baka clarified that what is being discussed does not apply in the Downtown or the Triangle. It only applies in areas that are more likely to have a stand-alone building. Ms. Lazar thought the board needs definite parameters to work with.

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, OCTOBER 14, 2015
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on October 14, 2015. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce; Alternate Board Member Stuart Jeffares

Absent: Board Member Bryan Williams; Alternate Board Member Daniel Share; Student Representatives Scott Casperson, Andrea Laverty

Administration: Matthew Baka, Senior Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

10-201-15

STUDY SESSION

1. Window Glazing Standards

Mr. Baka recalled that on October 24, 2012 several members of the Planning Board discussed whether the ordinance could be amended to permit the reviewing City board the authority to give architects more creativity and flexibility when composing their designs by allowing variation from the window requirements. Since that time several study sessions and public hearings have been held to examine this topic.

At their meeting on January 27, 2014 the City Commission suggested that the ordinance amendment recommended by the Planning Board be modified to allow the proposed flexibility in the MX District but to have more restrictive requirements in the Downtown and Triangle District.

The first-floor glazing standards are inconsistent throughout the zones. The result of this difference is that outside of the Downtown Overlay a significantly larger amount of glazing is needed to satisfy the requirement. Therefore, the Planning Division recommends as a starting point amending the first-floor window standards in all districts in section 4.83, the General Standards, to require 70% glazing between 1 and 8 ft. above grade on any facade facing a street, plaza, park, or parking area. Blank walls of longer than 20 ft. shall not face a public street. It is believed that the addition of these provisions to these two areas of the City will significantly decrease the frequency of variance applications while still achieving the intent of the standards. Also, the Planning Division recommends amendments to Article 3, section 3.09(b)(1) to make the glazing standards consistent in the Triangle Overlay District.

The board discussed that unique circumstances might allow flexibility in design to modify the standards. They decided to come back to that later after a little more thought.

Board members concluded that consideration of the Downtown Overlay would be a separate issue.

The consensus was to amend Article 04, section 4.83 WN-01 A and B and strike C. Further, amend Article 03, Section 3.09 b (1) Commercial/Mixed Use Architectural Requirements in the MX District as presented.

Motion by Mr. Boyle
Seconded by Mr. DeWeese to send this matter to a public hearing on November 11, 2015.

Motion carried, 7-0.

VOICE VOTE
Yeas: Boyle, DeWeese, Clein, Jeffares, Koseck, Lazar, Whipple-Boyce
Nays: None
Absent: Williams

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, NOVEMBER 11, 2015
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on November 11, 2015. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Bert Koseck, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Stuart Jeffares, Daniel Share

Absent: Board Member Gillian Lazar; Student Representatives Scott Casperson, Andrea Laverty

Administration: Matthew Baka, Senior Planner
Sean Campbell, Asst. Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

11-220-15

PUBLIC HEARINGS

1. TO AMEND ARTICLE 03 SECTION 3.09 (B) (1) TO REQUIRE GLAZING IN THE TRIANGLE DISTRICT BETWEEN 1 FT. AND 8 FT. ABOVE GRADE ON THE GROUND FLOOR;

AND

TO AMEND ARTICLE 04, SECTION 4,83 WN-01 (WINDOW STANDARDS) TO SPECIFY THAT THE REQUIRED 70% GLAZING IS BETWEEN 1 AND 9 FT. ABOVE GRADE ON THE GROUND FLOOR IN ALL ZONE DISTRICTS

Chairman Clein opened the public hearing at 7:34 p.m.

Mr. Baka recalled that at the October 14, 2015 Planning Board meeting the board discussed the issues related to the current window standards and the recurring need for applicants to seek variances from the Board of Zoning Appeals ("BZA"). Although it was acknowledged that additional changes need to be made beyond what is currently proposed, it was determined that there should to be further study on certain aspects of the standards before additional changes can be recommended. It was decided however, that the standard of measuring the percentage of glazing on a site
should be consistently measured between 1 and 8 ft. above grade. Accordingly, the Planning Board set a public hearing for November 11, 2015 to consider amendments to the window standards contained in the Zoning Ordinance.

The first floor glazing standards are inconsistent throughout the zones. In the Downtown Overlay the 70% requirement is only applied between 1 and 8 ft. above grade. In the

Triangle District and window standards of section 4.83, the 70% requirement is applied to the entire first floor. The result of this difference is that outside of the Downtown Overlay it requires a significantly larger amount of glazing to satisfy the requirement. A lot of developments are having a hard time meeting this standard. In order to provide consistency throughout the ordinance and still achieve the pedestrian and public interaction intended by the standards, the Planning Division recommends amending the first floor standards in the Triangle District and Section 4.83 to require 70% glazing between 1 and 8 ft. above grade. Staff believes that the addition of this provision to these two sections will significantly decrease the frequency of variance applications, while still achieving the intent of the standards.

The other proposed standard to be added to section 4.83 is that blank walls of longer than 20 ft. shall not face a public street.

There were no comments from the public at 7:36 p.m.

Motion by Mr. Boyle
Seconded by Mr. Williams to accept the amendments to the Zoning Ordinance as follows:

Article 04, section 4.83 WN-01

A. Storefront/Ground Floor Windows: Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed. The following standards apply:

1. No less than 70% of the storefront/ground floor facade between 1 and 8 ft. above grade shall be clear glass panels and doorway.

6. Blank walls of longer than 20 ft. shall not face a public street.

Article 03, section 3.09 (b) (1)

B. Windows and Doors

1, Storefront/Ground Floor, Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed and painted. No less than 70% of the storefront/ground floor facade between 1 and 8 ft. above grade shall be clear glass panels and doorway.

No one from the audience wished to comment at 7:37 p.m.

Motion carried, 7-0.

VOICE VOTE
Yeas: Boyle, Williams, Clein, Jeffares, Koseck, Share, Whipple-Boyce
Nays: None
Absent: Lazar

The chairman closed the public hearing at 7:38 p.m.

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, MARCH 9, 2016
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on March 9, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Lisa Prasad; Student Representative Colin Cusimano

Absent: Board Members Bert Koseck, Gillian Lazar; Alternate Board Member Daniel Share

Administration: Matthew Baka, Senior Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

03-39-16

3. Glazing

Mr. Baka advised that over the past several years the Planning Board has performed site plan reviews where the board expressed support for the proposed design but the applicant has been forced to pursue variances because they were not able to meet the window standards contained in the Zoning Ordinance. Accordingly, the Planning Board has been holding study sessions on this topic to explore ways that the ordinance requirements can be altered so that fewer variances are sought but the objective of the window standards remains in place. The intent has been stated as the activation of the streets and public spaces of Birmingham by creating an interactive relationship between pedestrians and the users of the buildings in commercial areas.

During the study sessions held previously, the Board has discussed creating a waiver that is contingent on a set of criteria that would allow the Planning Board to waive the glazing requirements under certain circumstances. The City Commission has been hesitant to embrace this approach due to the subjective nature of such criteria. Accordingly, in previous study sessions the Planning Board developed a list of requirements that must be met in order to qualify for the exemption.

Another potential change that staff would like the Planning Board to discuss is combining the provisions of Article 04 and Article 07 into one set of standards that requires 70% glazing on the facades that face the street and then reducing the requirement to 50% on secondary facades that face parking areas and open space.

Mr. Baka recalled the Planning Board has been talking about glazing for quite a long time. The origination of the glazing requirements came from the Downtown Overlay Zone and/or the 2016

Plan where 70% glazing is required between 1 ft. and 8 ft. above grade. In the downtown that is just along the storefronts. When the Triangle Plan was created in 2006, glazing standards were also added. Then there were additions made to Article 4, the Development Standards which would apply to all commercial properties outside of the two Overlays. Last fall, an amendment was completed to make the three criteria consistent in that they were all being measured between 1 ft. and 8 ft. The Triangle and the General Commercial areas did not have that, so staff was forced to measure glazing for the whole facade which made it difficult for people to comply.

Right now section 4.90 dealing with all other commercial zones states that window standards requiring 70% glazing apply on the front facade and any facade facing a street, plaza, park, or parking area. The board has been talking about altering the language so that the requirements are not quite as difficult to meet. Staff has come up with a way to give this body the authority to waive those requirements if they see fit and has developed a list of requirements that must be met in order to qualify for the exemption:

To allow flexibility in design, these standards may be modified by a majority vote of the Planning Board, Design Review Board, and/or Historic District Commission for architectural design considerations provided that the following conditions are met:
a. The subject property must be in a zoning district that allows mixed uses.
b. The scale, color, design and quality of materials of upper stories must be consistent with the building and site on which it is located.
c. The proposed development must not adversely affect other uses and buildings in the neighborhood.

Ms. Whipple-Boyce along with other members suggested adding the following:
d. No less than 50% glazing between 1 ft. and 8 ft. above grade on the secondary facades that don't face a public or private street. Note that the primary facade faces the street and contains the address.

Mr. Baka advised that current standards for upper story windows say that openings above the first story shall be a maximum of 50% of the total facade area. Windows shall be vertical in proportion. It was discussed that current office design calls for expansive use of glazing on the upper floors. Board members considered allowing no more than 70% glazing on the upper floors. Chairman Clein suggested coming back next time with the language that was discussed for the first floor along with language that says that the second story can have no more than 70% glazing.

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, APRIL 13, 2016
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on April 13, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams

Absent: Alternate Board Members Lisa Prasad, Daniel Share; Student Representative Colin Cusimano

Administration: Matthew Baka, Senior Planner
Sean Campbell, Asst. Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

04-61-16

STUDY SESSION
Glazing

Mr. Baka recalled that the Planning Board has been holding study sessions on this topic to explore ways that the ordinance requirements can be altered so that fewer variances are sought but the intent of the window standards remains in place. The intent of the glazing requirements has been to activate the streets and public spaces of Birmingham by creating an interactive relationship between the pedestrians and the buildings in commercial areas.

Since the last study session an error was discovered in the Zoning Ordinance that has a significant effect on how the existing language is enforced. However, the Planning Division is of the opinion that this clerical error correction would bring the regulations back in line with the original intent of the window standards. This would eliminate the need for creating definitions for primary and secondary facades as discussed at the last study session. It will reduce the amount of glazing required on non-street facing facades and will reduce the number of variance requests, but will still provide glazing on elevations of buildings that face the street. The question is whether the board wants to add more requirements for non-street facing facades.

Board members decided to strike 4.90 WN-01 (C) (e) that states glazing on the ground floor facade shall not be reduced to less than 50% between 1 and 8 ft. above grade.
Discussion considered whether glazing should be required on buildings where a public entrance not on the frontage line is in the back. It was thought there must be a minimum of 30% glazing between 1 and 8 ft. above grade.

Mr. Baka agreed to write out the changes for the board to see one more time before this topic goes to a public hearing.

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, MAY 11, 2016
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on May 11, 2016. Vice-Chairperson Gillian Lazar convened the meeting at 7:30 p.m.

Present: Board Members Stuart Jeffares, Bert Koseck, Gillian Lazar, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Student Representative Colin Cusimano

Absent: Chairman Scott Clein; Board Member Robin Boyle.

Administration: Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

05-84-16

STUDY SESSION ITEMS

1. Glazing

Ms. Ecker recalled the only changes from the last meeting were:

(1) That the board determined they would like minimum glazing required on any façade that has a public entrance, even if it is not in the front. That alteration was made to Article 4.90 WN-01 (B) Ground floor building elevations that now states "Building elevations on the ground floor that do not face a frontage line but contain a public entrance shall be no less than 30% glazing between 1 and 8 feet above grade." However, if the façade is on a frontage line and faces the street, 70% glazing is required.

(2) Also (C) Blank walls of longer than 20 ft. on the ground floor shall not face a plaza, park, parking area or pubic street.

For Chairperson Lazar, Ms. Ecker explained that Article 4.90 WN-01 (B) (5) means the bottom part of the window has to be in the pedestrian zone, which is no more than 3 ft. above the adjacent exterior grade.

Motion by Mr. Williams
Seconded by Ms. Whipple-Boyce to set a public hearing for June 8, 2016 to consider the proposed changes to Article 04, Section 4.90 WN -01 and Article 07, Section 7.05 of the Zoning Ordinance to amend the glazing standards.

At 7:40 p.m. there was no public to comment on the motion.

Motion carried, 7-0.

ROLLCALL VOTE
Yeas: Williams, Lazar, Jeffares, Koseck, Share, Whipple-Boyce
Nays: None
Absent: Boyle, Clein

DRAFT Planning Board Minutes
June 8, 2016

PUBLIC HEARING

1. To consider amendments to Article 04, section 4.90 WN-01 and Article 07, section 7.05 of the Zoning Ordinance to amend the glazing standards

Chairman Clein opened the public hearing at 7:40 p.m.

Mr. Baka recalled that the Planning Board has been holding study sessions on this topic to explore ways that the ordinance requirements can be altered so that fewer variances are sought but the intent of the window standards remains in place. The intent of the glazing requirements has been to activate the streets and public spaces of Birmingham by creating an interactive relationship between the pedestrians and the buildings in commercial areas. The Planning Board decided that the standard of measuring the percentage of glazing on a site should be consistently measured between 1 and 8 ft. above grade in all zoning districts. Accordingly, the board recommended approval of the proposed amendments to the City Commission, which were later adopted by the Commission. Since that time, the Planning Division has held several study sessions on the subject of window standards.

At the last study session the Planning Board discussed an error in the Zoning Ordinance that was discovered by staff and that has a significant effect on how the existing language is enforced. The definition of facade was inadvertently altered when the Zoning Ordinance was reformatted in 2005. The reformatting changed the definition of facade to the vertical exterior surface of a building that is set parallel to a setback line which is all four sides of the parcel; rather than a frontage line which is elevations that front on a public street. The change from frontage line to setback line significantly alters what is considered a facade.

This discovery eliminated a lot of the need to make drastic changes to the window standards. However, the board did determine that building elevations that have a public entrance should contain some element of glazing on elevations that are not on a frontage line. Accordingly, the board directed staff to draft a provision that requires 30% glazing between 1 and 8 ft. on those elevations. In addition, the Planning Division recommends adding Article 4, section 4.90 (C) to prevent blank walls longer than 20 ft. in most situations, and would also recommend the removal of Article 7, Processes, Permits and Fees, section 7.05 (B), Architectural Design Review, as it is out of place in this location, and would be best addressed in Article 4, Development Standards – Window Standards.

Also a section has been added to allow flexibility in architectural design considerations. These standards may be modified by a majority vote of the Planning Board, Design Review Board, and/or Historic District Commission provided certain conditions are met.

Discussion brought out that the ordinance dictates which board an applicant will appear before.

On May 11, 2016, the Planning Board discussed the proposed amendments to the glazing standards, and voted unanimously to set a public hearing for June 8, 2016. No changes have been made to the proposed language since that time.

There were no comments from the public on the proposed amendments at 7:52 p.m.

Motion by Ms. Whipple-Boyce
Seconded by Mr. Share to recommend to the City Commission approval of the proposed changes to Article 04, section 4.90 WN-01 and Article 07, section 7.05 of the Zoning Ordinance to amend the glazing standards.

No one from the audience wished to discuss the motion at 7:53 p.m.

Motion carried, 6-0.

VOICE VOTE
Yeas: Whipple-Boyce, Share, Clein, Jeffares, Koseck, Lazar
Nays: None
Absent: Boyle, Williams

The chairman closed the public hearing at 7:53 p.m.

City of Birmingham
A Walkable Community

MEMORANDUM

Police Department

DATE: June 15, 2016

TO: Joseph A. Valentine, City Manager

FROM: Mark H. Clemence, Chief of Police

SUBJECT: Outside Agency Agreements – Fiscal Year 2016-17

The City Commission previously approved a master service agreement to be used by various outside agencies that request funding from the City. The following organizations have completed the required agreements and Attachment A, which provides a description of the services to be provided and the direct benefit of the services to the City.

Birmingham Bloomfield Community Coalition	3,000
Birmingham Youth Assistance	$ 18,000
Common Ground	1,500
Haven	2,000

The department request funding totals for Birmingham Bloomfield Community Coalition, Birmingham Youth Assistance, Common Ground, and Haven, and reflect the same amount of funding received by these agencies for the current fiscal year.

The police department recommends approving the (4) attached service contracts for 2016-17 outside agency agreements.

Sufficient funds have been budgeted in the police department other contracted services account #101-301-000-811.0000 to provide for these contracts.

Suggested Resolution:

To approve the 2016-2017 outside agency contracts for Birmingham Bloomfield Community Coalition in the amount of $3,000, Birmingham Youth Assistance in the amount of $18,000, Common Ground in the amount of $1,500, Haven in the amount of $2,000, and, further authorizing and directing the mayor and city clerk to sign the agreements on behalf of the city.

SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement"), made this ____ day of _____, 2016 by and between the **CITY OF BIRMINGHAM**, having its principal office at 151 Martin Road, Birmingham, MI 48009 ("CITY"), and Birmingham Bloomfield Community Coalition, whose address is 1525 Covington Road, Bloomfield Hills, MI 48301 ("SERVICE PROVIDER"), provides as follows:

WITNESSETH:

WHEREAS, the CITY desires to have certain services provided, which shall be of the type, nature and extent as set forth on Attachment A; and

WHEREAS, SERVICE PROVIDER desires to provide said services for the CITY, which it shall do in accordance with the experience it has attained from providing similar services of this nature, under the terms and conditions hereinafter stated.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. SERVICE PROVIDER shall perform the services as set forth on Attachment A. The type, nature and scope may be changed if mutually agreed upon in writing by SERVICE PROVIDER and the CITY.

2. The CITY shall pay a total of $3,000.00 to SERVICE PROVIDER for the performance of this Agreement, which amount shall compensate SERVICE PROVIDER for all aspects of the services to be performed including, but not limited to, all preparation, coordination, management, staffing and all other services incidental thereto. Payment shall be made to SERVICE PROVIDER pursuant to the schedule contained in Attachment A.

3. All services performed shall be of the highest quality and standards that meet or exceed that which is required and expected in that service industry.

4. SERVICE PROVIDER shall provide and designate one supervisor responsible for the coordination of services provided, who shall handle problem solving and be the contact person for the CITY.

5. This Agreement shall commence immediately after both parties have signed in the place and manner indicated below and shall terminate in accordance with the provisions as set forth in Attachment A.

6. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. SERVICE PROVIDER agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

7. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

8. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by SERVICE PROVIDER without the prior written consent of the CITY. Any attempt at assignment without prior written consent shall be void and of no effect.

9. SERVICE PROVIDER agrees that neither it nor its employees will discriminate against any employee, independent contractor, or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. SERVICE PROVIDER shall inform the CITY of all claims or suits asserted against it by SERVICE PROVIDER's employees or contractors who work pursuant to this Agreement. SERVICE

PROVIDER shall provide the CITY with periodic status reports concerning all such claims or suits, at intervals established by the CITY.

10. To the fullest extent permitted by law, SERVICE PROVIDER and any entity or person for whom SERVICE PROVIDER is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the CITY, its elected and appointed officials, employees and volunteers and others working on behalf of the CITY against any and all claims, demands, suits, or loss, including all costs connected therewith, including reasonable attorney fees, and for any damages which may be asserted, claimed or recovered against or from the CITY, its elected and appointed officials, employees, volunteers or others working on behalf of the CITY, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting solely from the act or omission of the CITY, its elected or appointed officials, employees, volunteers or others working on behalf of the CITY.

11. SERVICE PROVIDER shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required by this paragraph. All certificates of insurance shall be with insurance carriers licensed and admitted to do business in the State of Michigan. All certificates of insurance shall be with insurance carriers acceptable to the CITY. SERVICE PROVIDER shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: SERVICE PROVIDER shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. Commercial General Liability Insurance: SERVICE PROVIDER shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than $1,000,000 per occurrence for combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability

Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: SERVICE PROVIDER shall procure and maintain during the life of this Agreement 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.

D. Additional Insured: Commercial General Liability 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 and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance required from SERVICE PROVIDER under this Section.

E. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to: Finance Department, City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham, Michigan 48012.

F. Proof of Insurance Coverage: SERVICE PROVIDER shall provide the CITY at the time the contracts are returned for execution, Certificates of Insurance and/or policies, acceptable to the CITY, as listed below.

1. Two (2) copies of Certificate of Insurance for Workers' Compensation;

2. Two (2) copies of Certificate of Insurance for Commercial General Liability;

3. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;

4. If so requested, Certified Copies of all policies mentioned above will be furnished.

G. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, SERVICE PROVIDER shall deliver renewal certificates and/or policies to the CITY at least (10) days prior to the expiration date.

12. If, after the effective date of this Agreement, any official of the CITY or spouse, child, parent or in-law, of such official or employee shall become directly or indirectly interested in this Agreement, or the affairs of SERVICE PROVIDER, the CITY shall have the right to terminate this Agreement without further liability to SERVICE PROVIDER if the disqualification has not been removed within thirty (30) days after the CITY has given SERVICE PROVIDER notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

13. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL §600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. This Agreement shall be governed by the laws of the State of Michigan and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

14. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, except as

specifically set forth herein. No supplement, modification, addition, deletion or waiver of this Agreement or any provision of this Agreement shall be binding unless executed in writing by both parties to be bound thereby.

15. SERVICE PROVIDER and the CITY agree that SERVICE PROVIDER shall be liable for its own actions and neither SERVICE PROVIDER nor its employees or contractors shall be construed as employees of the CITY. Neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. SERVICE PROVIDER, including its employees and contractors, shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the CITY, or be deemed an employee of the CITY for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation and other employer contributions on behalf of SERVICE PROVIDER or SERVICE PROVIDER's employees or contractors.

16. SERVICE PROVIDER acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. SERVICE PROVIDER recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the CITY. Therefore, the SERVICE PROVIDER agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. SERVICE PROVIDER shall inform its employees and contractors of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. SERVICE PROVIDER further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

The said parties have caused this Agreement to be executed as of the date and year above written.

THE CITY OF BIRMINGHAM

By: _____
Rackeline J. Hoff, Mayor

By: _____
Laura M. Pierce, City Clerk

[SERVICE PROVIDER]

By: _____
Carol Mastroianni

Its: Executive Director

APPROVED:

_____
Joseph A. Valentine, City Manager
(Approved as to substance)

_____
Mark H. Clemence, Chief of Police
(Approved as to substance)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Mark Gerber, Director of Finance
(Approved as to financial obligation)

SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement"), made this ____ day of _____, 2016 by and between the **CITY OF BIRMINGHAM**, having its principal office at 151 Martin Road, Birmingham, MI 48009 ("CITY"), and Birmingham Youth Assistance Committee, whose address is 2436 W. Lincoln, Suite F102, Birmingham, MI 48009 ("SERVICE PROVIDER"), provides as follows:

WITNESSETH:

WHEREAS, the CITY desires to have certain services provided, which shall be of the type, nature and extent as set forth on Attachment A; and

WHEREAS, SERVICE PROVIDER desires to provide said services for the CITY, which it shall do in accordance with the experience it has attained from providing similar services of this nature, under the terms and conditions hereinafter stated.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. SERVICE PROVIDER shall perform the services as set forth on Attachment A. The type, nature and scope may be changed if mutually agreed upon in writing by SERVICE PROVIDER and the CITY.

2. The CITY shall pay a total of $18,000.00 to SERVICE PROVIDER for the performance of this Agreement, which amount shall compensate SERVICE PROVIDER for all aspects of the services to be performed including, but not limited to, all preparation, coordination, management, staffing and all other services incidental thereto. Payment shall be made to SERVICE PROVIDER pursuant to the schedule contained in Attachment A.

3. All services performed shall be of the highest quality and standards that meet or exceed that which is required and expected in that service industry.

4. SERVICE PROVIDER shall provide and designate one supervisor responsible for the coordination of services provided, who shall handle problem solving and be the contact person for the CITY.

5. This Agreement shall commence immediately after both parties have signed in the place and manner indicated below and shall terminate in accordance with the provisions as set forth in Attachment A.

6. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. SERVICE PROVIDER agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

7. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

8. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by SERVICE PROVIDER without the prior written consent of the CITY. Any attempt at assignment without prior written consent shall be void and of no effect.

9. SERVICE PROVIDER agrees that neither it nor its employees will discriminate against any employee, independent contractor, or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. SERVICE PROVIDER shall inform the CITY of all claims or suits asserted against it by SERVICE PROVIDER's employees or contractors who work pursuant to this Agreement. SERVICE

PROVIDER shall provide the CITY with periodic status reports concerning all such claims or suits, at intervals established by the CITY.

10. To the fullest extent permitted by law, SERVICE PROVIDER and any entity or person for whom SERVICE PROVIDER is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the CITY, its elected and appointed officials, employees and volunteers and others working on behalf of the CITY against any and all claims, demands, suits, or loss, including all costs connected therewith, including reasonable attorney fees, and for any damages which may be asserted, claimed or recovered against or from the CITY, its elected and appointed officials, employees, volunteers or others working on behalf of the CITY, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting solely from the act or omission of the CITY, its elected or appointed officials, employees, volunteers or others working on behalf of the CITY.

11. SERVICE PROVIDER shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required by this paragraph. All certificates of insurance shall be with insurance carriers licensed and admitted to do business in the State of Michigan. All certificates of insurance shall be with insurance carriers acceptable to the CITY. SERVICE PROVIDER shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: SERVICE PROVIDER shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. Commercial General Liability Insurance: SERVICE PROVIDER shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than $1,000,000 per occurrence for combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability

Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: SERVICE PROVIDER shall procure and maintain during the life of this Agreement 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.

D. Additional Insured: Commercial General Liability 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 and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance required from SERVICE PROVIDER under this Section.

E. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to: Finance Department, City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham, Michigan 48012.

F. Proof of Insurance Coverage: SERVICE PROVIDER shall provide the CITY at the time the contracts are returned for execution, Certificates of Insurance and/or policies, acceptable to the CITY, as listed below.

1. Two (2) copies of Certificate of Insurance for Workers' Compensation;

2. Two (2) copies of Certificate of Insurance for Commercial General Liability;

3. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;

4. If so requested, Certified Copies of all policies mentioned above will be furnished.

G. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, SERVICE PROVIDER shall deliver renewal certificates and/or policies to the CITY at least (10) days prior to the expiration date.

12. If, after the effective date of this Agreement, any official of the CITY or spouse, child, parent or in-law, of such official or employee shall become directly or indirectly interested in this Agreement, or the affairs of SERVICE PROVIDER, the CITY shall have the right to terminate this Agreement without further liability to SERVICE PROVIDER if the disqualification has not been removed within thirty (30) days after the CITY has given SERVICE PROVIDER notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

13. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL §600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. This Agreement shall be governed by the laws of the State of Michigan and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

14. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, except as

specifically set forth herein. No supplement, modification, addition, deletion or waiver of this Agreement or any provision of this Agreement shall be binding unless executed in writing by both parties to be bound thereby.

15. SERVICE PROVIDER and the CITY agree that SERVICE PROVIDER shall be liable for its own actions and neither SERVICE PROVIDER nor its employees or contractors shall be construed as employees of the CITY. Neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. SERVICE PROVIDER, including its employees and contractors, shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the CITY, or be deemed an employee of the CITY for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation and other employer contributions on behalf of SERVICE PROVIDER or SERVICE PROVIDER's employees or contractors.

16. SERVICE PROVIDER acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. SERVICE PROVIDER recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the CITY. Therefore, the SERVICE PROVIDER agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. SERVICE PROVIDER shall inform its employees and contractors of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. SERVICE PROVIDER further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

The said parties have caused this Agreement to be executed as of the date and year above written.

THE CITY OF BIRMINGHAM

By: _____
Rackeline J. Hoff, Mayor

By: _____
Laura M. Pierce, City Clerk

[SERVICE PROVIDER]

By: _____
Ruben Myers

Its: Chairperson

APPROVED:

_____
Joseph A. Valentine, City Manager
(Approved as to substance)

_____
Mark H. Clemence, Chief of Police
(Approved as to substance)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Mark Gerber, Director of Finance
(Approved as to financial obligation)

SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement"), made this ____ day of _____, 2016 by and between the **CITY OF BIRMINGHAM**, having its principal office at 151 Martin Road, Birmingham, MI 48009 ("CITY"), and Common Ground Sanctuary, whose address is 1410 S. Telegraph, Bloomfield Hills, MI 48302 ("SERVICE PROVIDER"), provides as follows:

WITNESSETH:

WHEREAS, the CITY desires to have certain services provided, which shall be of the type, nature and extent as set forth on Attachment A; and

WHEREAS, SERVICE PROVIDER desires to provide said services for the CITY, which it shall do in accordance with the experience it has attained from providing similar services of this nature, under the terms and conditions hereinafter stated.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. SERVICE PROVIDER shall perform the services as set forth on Attachment A. The type, nature and scope may be changed if mutually agreed upon in writing by SERVICE PROVIDER and the CITY.

2. The CITY shall pay a total of $1,500.00 to SERVICE PROVIDER for the performance of this Agreement, which amount shall compensate SERVICE PROVIDER for all aspects of the services to be performed including, but not limited to, all preparation, coordination, management, staffing and all other services incidental thereto. Payment shall be made to SERVICE PROVIDER pursuant to the schedule contained in Attachment A.

3. All services performed shall be of the highest quality and standards that meet or exceed that which is required and expected in that service industry.

4. SERVICE PROVIDER shall provide and designate one supervisor responsible for the coordination of services provided, who shall handle problem solving and be the contact person for the CITY.

5. This Agreement shall commence immediately after both parties have signed in the place and manner indicated below and shall terminate in accordance with the provisions as set forth in Attachment A.

6. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. SERVICE PROVIDER agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

7. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

8. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by SERVICE PROVIDER without the prior written consent of the CITY. Any attempt at assignment without prior written consent shall be void and of no effect.

9. SERVICE PROVIDER agrees that neither it nor its employees will discriminate against any employee, independent contractor, or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. SERVICE PROVIDER shall inform the CITY of all claims or suits asserted against it by SERVICE PROVIDER's employees or contractors who work pursuant to this Agreement. SERVICE

PROVIDER shall provide the CITY with periodic status reports concerning all such claims or suits, at intervals established by the CITY.

10. To the fullest extent permitted by law, SERVICE PROVIDER and any entity or person for whom SERVICE PROVIDER is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the CITY, its elected and appointed officials, employees and volunteers and others working on behalf of the CITY against any and all claims, demands, suits, or loss, including all costs connected therewith, including reasonable attorney fees, and for any damages which may be asserted, claimed or recovered against or from the CITY, its elected and appointed officials, employees, volunteers or others working on behalf of the CITY, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting solely from the act or omission of the CITY, its elected or appointed officials, employees, volunteers or others working on behalf of the CITY.

11. SERVICE PROVIDER shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required by this paragraph. All certificates of insurance shall be with insurance carriers licensed and admitted to do business in the State of Michigan. All certificates of insurance shall be with insurance carriers acceptable to the CITY. SERVICE PROVIDER shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

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Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: SERVICE PROVIDER shall procure and maintain during the life of this Agreement 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.

D. Additional Insured: Commercial General Liability 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 and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance required from SERVICE PROVIDER under this Section.

E. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to: Finance Department, City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham, Michigan 48012.

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1. Two (2) copies of Certificate of Insurance for Workers' Compensation;

2. Two (2) copies of Certificate of Insurance for Commercial General Liability;

3. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;

4. If so requested, Certified Copies of all policies mentioned above will be furnished.

G. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, SERVICE PROVIDER shall deliver renewal certificates and/or policies to the CITY at least (10) days prior to the expiration date.

12. If, after the effective date of this Agreement, any official of the CITY or spouse, child, parent or in-law, of such official or employee shall become directly or indirectly interested in this Agreement, or the affairs of SERVICE PROVIDER, the CITY shall have the right to terminate this Agreement without further liability to SERVICE PROVIDER if the disqualification has not been removed within thirty (30) days after the CITY has given SERVICE PROVIDER notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

13. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL §600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. This Agreement shall be governed by the laws of the State of Michigan and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

14. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, except as

specifically set forth herein. No supplement, modification, addition, deletion or waiver of this Agreement or any provision of this Agreement shall be binding unless executed in writing by both parties to be bound thereby.

15. SERVICE PROVIDER and the CITY agree that SERVICE PROVIDER shall be liable for its own actions and neither SERVICE PROVIDER nor its employees or contractors shall be construed as employees of the CITY. Neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. SERVICE PROVIDER, including its employees and contractors, shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the CITY, or be deemed an employee of the CITY for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation and other employer contributions on behalf of SERVICE PROVIDER or SERVICE PROVIDER's employees or contractors.

16. SERVICE PROVIDER acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. SERVICE PROVIDER recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the CITY. Therefore, the SERVICE PROVIDER agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. SERVICE PROVIDER shall inform its employees and contractors of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. SERVICE PROVIDER further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

The said parties have caused this Agreement to be executed as of the date and year above written.

THE CITY OF BIRMINGHAM

By: _____
Rackeline J. Hoff, Mayor

By: _____
Laura M. Pierce, City Clerk

[SERVICE PROVIDER]

By: _____
Heather Rae

Its: President and CEO

APPROVED:

_____
Joseph A. Valentine, City Manager
(Approved as to substance)

_____
Mark H. Clemence, Chief of Police
(Approved as to substance)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Mark Gerber, Director of Finance
(Approved as to financial obligation)

SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement"), made this ____ day of _____, 2016 by and between the **CITY OF BIRMINGHAM**, having its principal office at 151 Martin Road, Birmingham, MI 48009 ("CITY"), and HAVEN, whose address is P.O. Box 431045, Pontiac, MI 48343-1045 ("SERVICE PROVIDER"), provides as follows:

WITNESSETH:

WHEREAS, the CITY desires to have certain services provided, which shall be of the type, nature and extent as set forth on Attachment A; and

WHEREAS, SERVICE PROVIDER desires to provide said services for the CITY, which it shall do in accordance with the experience it has attained from providing similar services of this nature, under the terms and conditions hereinafter stated.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. SERVICE PROVIDER shall perform the services as set forth on Attachment A. The type, nature and scope may be changed if mutually agreed upon in writing by SERVICE PROVIDER and the CITY.

2. The CITY shall pay a total of $2,000.00 to SERVICE PROVIDER for the performance of this Agreement, which amount shall compensate SERVICE PROVIDER for all aspects of the services to be performed including, but not limited to, all preparation, coordination, management, staffing and all other services incidental thereto. Payment shall be made to SERVICE PROVIDER pursuant to the schedule contained in Attachment A.

3. All services performed shall be of the highest quality and standards that meet or exceed that which is required and expected in that service industry.

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7. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

8. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by SERVICE PROVIDER without the prior written consent of the CITY. Any attempt at assignment without prior written consent shall be void and of no effect.

9. SERVICE PROVIDER agrees that neither it nor its employees will discriminate against any employee, independent contractor, or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. SERVICE PROVIDER shall inform the CITY of all claims or suits asserted against it by SERVICE PROVIDER's employees or contractors who work pursuant to this Agreement. SERVICE

PROVIDER shall provide the CITY with periodic status reports concerning all such claims or suits, at intervals established by the CITY.

10. To the fullest extent permitted by law, SERVICE PROVIDER and any entity or person for whom SERVICE PROVIDER is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the CITY, its elected and appointed officials, employees and volunteers and others working on behalf of the CITY against any and all claims, demands, suits, or loss, including all costs connected therewith, including reasonable attorney fees, and for any damages which may be asserted, claimed or recovered against or from the CITY, its elected and appointed officials, employees, volunteers or others working on behalf of the CITY, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting solely from the act or omission of the CITY, its elected or appointed officials, employees, volunteers or others working on behalf of the CITY.

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Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

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D. Additional Insured: Commercial General Liability 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 and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance required from SERVICE PROVIDER under this Section.

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1. Two (2) copies of Certificate of Insurance for Workers' Compensation;

2. Two (2) copies of Certificate of Insurance for Commercial General Liability;

3. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;

4. If so requested, Certified Copies of all policies mentioned above will be furnished.

G. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, SERVICE PROVIDER shall deliver renewal certificates and/or policies to the CITY at least (10) days prior to the expiration date.

12. If, after the effective date of this Agreement, any official of the CITY or spouse, child, parent or in-law, of such official or employee shall become directly or indirectly interested in this Agreement, or the affairs of SERVICE PROVIDER, the CITY shall have the right to terminate this Agreement without further liability to SERVICE PROVIDER if the disqualification has not been removed within thirty (30) days after the CITY has given SERVICE PROVIDER notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

13. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL §600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. This Agreement shall be governed by the laws of the State of Michigan and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

14. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, except as

specifically set forth herein. No supplement, modification, addition, deletion or waiver of this Agreement or any provision of this Agreement shall be binding unless executed in writing by both parties to be bound thereby.

15. SERVICE PROVIDER and the CITY agree that SERVICE PROVIDER shall be liable for its own actions and neither SERVICE PROVIDER nor its employees or contractors shall be construed as employees of the CITY. Neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. SERVICE PROVIDER, including its employees and contractors, shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the CITY, or be deemed an employee of the CITY for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation and other employer contributions on behalf of SERVICE PROVIDER or SERVICE PROVIDER's employees or contractors.

16. SERVICE PROVIDER acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. SERVICE PROVIDER recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the CITY. Therefore, the SERVICE PROVIDER agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. SERVICE PROVIDER shall inform its employees and contractors of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. SERVICE PROVIDER further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

The said parties have caused this Agreement to be executed as of the date and year above written.

THE CITY OF BIRMINGHAM

By: _____
Rackeline J. Hoff, Mayor

By: _____
Laura M. Pierce, City Clerk

[SERVICE PROVIDER]

By: _____
Beth Morrison

Its: President and CEO

APPROVED:

_____
Joseph A. Valentine, City Manager
(Approved as to substance)

_____
Mark H. Clemence, Chief of Police
(Approved as to substance)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Mark Gerber, Director of Finance
(Approved as to financial obligation)

City of Birmingham
A Walkable Community

MEMORANDUM

City Clerk's Office

DATE: **June 12, 2016**

TO: **Joseph A. Valentine, City Manager**

FROM: **Laura M. Pierce, City Clerk**

SUBJECT: **Deaf & Hearing Impaired Services Inc.**

Deaf & Hearing Impaired Services, Inc. provides services for residents of Birmingham which include hearing screenings, sign language classes, and individual client assistance. The organization provides invoices the City quarterly which details the services provided.

Deaf & Hearing Impaired Services, Inc. has completed the agreement including Attachment A, which provides a description of the services to be provided and the direct benefit of their services to the City. The budget for 2016-2017 includes an amount of $2,400.00 for these services. This represents no change from the previous budget year.

SUGGESTED RESOLUTION:
To approve the service agreement with Deaf & Hearing Impaired, Inc. in the amount of $2,400.00 for services described in Attachment A of the agreement for fiscal year 2016-2017, account number 101-215.000-811-0000. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.

SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement"), made this 27 day of May, 2016 by and between the **CITY OF BIRMINGHAM**, having its principal office at 151 Martin Road, Birmingham, MI 48009 ("CITY"), and Deaf & Hearing Impaired Svcs whose address is 25882 Orchard Lk Rd. Suite 100 Farmington Hills, MI 48336 ("SERVICE PROVIDER"), provides as follows:

WITNESSETH:

WHEREAS, the CITY desires to have certain services provided, which shall be of the type, nature and extent as set forth on Attachment A; and

WHEREAS, SERVICE PROVIDER desires to provide said services for the CITY, which it shall do in accordance with the experience it has attained from providing similar services of this nature, under the terms and conditions hereinafter stated.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. SERVICE PROVIDER shall perform the services as set forth on Attachment A. The type, nature and scope may be changed if mutually agreed upon in writing by SERVICE PROVIDER and the CITY.

2. The CITY shall pay a total of $ 2,400 to SERVICE PROVIDER for the performance of this Agreement, which amount shall compensate SERVICE PROVIDER for all aspects of the services to be performed including, but not limited to, all preparation, coordination, management, staffing and all other services incidental thereto. Payment shall be made to SERVICE PROVIDER pursuant to the schedule contained in Attachment A.

3. All services performed shall be of the highest quality and standards that meet or exceed that which is required and expected in that service industry.

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7. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

8. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by SERVICE PROVIDER without the prior written consent of the CITY. Any attempt at assignment without prior written consent shall be void and of no effect.

9. SERVICE PROVIDER agrees that neither it nor its employees will discriminate against any employee, independent contractor, or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. SERVICE PROVIDER shall inform the CITY of all claims or suits asserted against it by SERVICE PROVIDER's employees or contractors who work pursuant to this Agreement. SERVICE

PROVIDER shall provide the CITY with periodic status reports concerning all such claims or suits, at intervals established by the CITY.

10. To the fullest extent permitted by law, SERVICE PROVIDER and any entity or person for whom SERVICE PROVIDER is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the CITY, its elected and appointed officials, employees and volunteers and others working on behalf of the CITY against any and all claims, demands, suits, or loss, including all costs connected therewith, including reasonable attorney fees, and for any damages which may be asserted, claimed or recovered against or from the CITY, its elected and appointed officials, employees, volunteers or others working on behalf of the CITY, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting solely from the act or omission of the CITY, its elected or appointed officials, employees, volunteers or others working on behalf of the CITY.

11. SERVICE PROVIDER shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required by this paragraph. All certificates of insurance shall be with insurance carriers licensed and admitted to do business in the State of Michigan. All certificates of insurance shall be with insurance carriers acceptable to the CITY. SERVICE PROVIDER shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: SERVICE PROVIDER shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. Commercial General Liability Insurance: SERVICE PROVIDER shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than $1,000,000 per occurrence for combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability

Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: SERVICE PROVIDER shall procure and maintain during the life of this Agreement 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.

D. Additional Insured: Commercial General Liability 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 and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance required from SERVICE PROVIDER under this Section.

E. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to: Finance Department, City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham, Michigan 48012.

F. Proof of Insurance Coverage: SERVICE PROVIDER shall provide the CITY at the time the contracts are returned for execution, Certificates of Insurance and/or policies, acceptable to the CITY, as listed below.

1. Two (2) copies of Certificate of Insurance for Workers' Compensation;

2. Two (2) copies of Certificate of Insurance for Commercial General Liability;

3. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;

4. If so requested, Certified Copies of all policies mentioned above will be furnished.

G. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, SERVICE PROVIDER shall deliver renewal certificates and/or policies to the CITY at least (10) days prior to the expiration date.

12. If, after the effective date of this Agreement, any official of the CITY or spouse, child, parent or in-law, of such official or employee shall become directly or indirectly interested in this Agreement, or the affairs of SERVICE PROVIDER, the CITY shall have the right to terminate this Agreement without further liability to SERVICE PROVIDER if the disqualification has not been removed within thirty (30) days after the CITY has given SERVICE PROVIDER notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

13. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL §600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. This Agreement shall be governed by the laws of the State of Michigan and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

14. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, except as

specifically set forth herein. No supplement, modification, addition, deletion or waiver of this Agreement or any provision of this Agreement shall be binding unless executed in writing by both parties to be bound thereby.

15. SERVICE PROVIDER and the CITY agree that SERVICE PROVIDER shall be liable for its own actions and neither SERVICE PROVIDER nor its employees or contractors shall be construed as employees of the CITY. Neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. SERVICE PROVIDER, including its employees and contractors, shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the CITY, or be deemed an employee of the CITY for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation and other employer contributions on behalf of SERVICE PROVIDER or SERVICE PROVIDER's employees or contractors.

16. SERVICE PROVIDER acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. SERVICE PROVIDER recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the CITY. Therefore, the SERVICE PROVIDER agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. SERVICE PROVIDER shall inform its employees and contractors of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. SERVICE PROVIDER further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

The said parties have caused this Agreement to be executed as of the date and year above written.

THE CITY OF BIRMINGHAM

By: _____
Rackeline J. Hoff, Mayor

By: _____
Laura M. Pierce, City Clerk

[SERVICE PROVIDER]

By: Linda M. Booth

Its: President

APPROVED:

_____
Joseph A. Valentine, City Manager
(Approved as to substance)

_____
Laura M. Pierce, City Clerk
(Approved as to substance)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Mark Gerber, Director of Finance
(Approved as to financial obligation)

ATTACHMENT A

I. Funding Request: $2,400

II. Amount of Funding Previously Received from the City of Birmingham: $2,370

III. Organization's Purpose of Mission with Emphasis on how the Organization serves the City:

Mission: Deaf & hearing Impaired Services, Inc.'s mission is to provide the highest quality of comprehensive services for Deaf and hard of hearing older adults and their families in southeast Michigan – linking their talent to the Deaf youth population through mentoring programs that enhance language and living skills- while promoting their independence and dignity through cooperative effort with other community based services.

Benefits: Deaf older adults and their families benefit from group education programs and individual client assistance, provided in American Sign Language, by the interpreters of Deaf & Hearing Impaired Services, Inc. Staff of DHIS are fluent in American Sign Language and its contractors are all state or national certified interpreters in accordance with State Law and Federal Americans With Disabilities Act mandate. Birmingham residents, who are Deaf, are able to have equal access to DHIS programs and services. Additionally, Birmingham residents benefit from the sign language classes that DHIS provides so that they may communicate with their Deaf family member. Hard of hearing Birmingham residents benefit from the Hearing screenings that are provided at no cost. Hearing aid maintenance and information and referral for follow up is also provided.

The City of Birmingham Commissioners to the interpreting services of Deaf & Hearing Impaired Services, Inc. as DHIS provides Sign Language Interpreters for public meetings at no cost to the city, upon request.

IV Date(s) of Service: Services are provided weekly on Thursdays and other days for special events

V. Description of Services to be Provided (Scope of Work): Staff of Deaf & Hearing Impaired Services, Inc. provide Sign Language Classes, Hearing Screenings, Group Education Programs,

Hearing loss for DATA (discussion, awareness and technological assistance, Individual client assistance, socialization opportunities, day trips so that the Deaf may have equal access to and enjoy public services and public accommodations. DHIS staff provide <u>Community education and trainings to city personnel upon request</u>. Trainings include but are not limited to: Tips to communicate with a hard of hearing residents/Deaf residents; how to stay compliant with state and federal laws; tty review of usage; videophone usage. Upon request by the City of Birmingham, Sign Language Interpreters are provided for public meetings

VI. Describe Direct Benefit of Services to Birmingham Residents: DHIS provides Hearing Loss Awareness Educational presentations so residents are aware of how to protect their hearing. Causes of hearing loss, hearing aid scams etc. Deaf residents have access to community based services through the provision of DHIS state/national certified interpreters. Sign language classes are benefit to family members who have hearing loss. DHIS provides trainings are provided to city personnel and interpreting for council meetings at no cost to the City of Birmingham in compliance with ADA.

City of Birmingham
A Walkable Community

MEMORANDUM

Finance Department

DATE: **June 14, 2016**

TO: **Joseph A. Valentine, City Manager**

FROM: **Mark Gerber, Director of Finance/Treasurer**

SUBJECT: **Next (formerly BASCC) 2016-2017 Service Agreement**

The City Commission previously approved a master service agreement to be used by various outside agencies that are requesting and have previously received funding from the City. Next has completed the required agreement and Attachment A, which provides a description of the services to be provided and the direct benefit of their services to the City.

Next is requesting funding totaling $99,810 for 2016-2017. This is a $9,000, or 9.9%, increase from the amount that was approved in 2015-2016 budget. As noted in their attached letter requesting the increase, the funding will be used to support additional transportation services. Funding has been approved in the fiscal year 2016-2017 budget for this expenditure. Based on the services that Next provides and the direct benefit to the City, it is recommended that the City Commission approve Next's funding request in the amount of $99,810.

SUGGESTED RESOLUTION: To approve the service agreement with Next in the amount of $99,810 for services described in Attachment A of the agreement for fiscal year 2016-2017, account number 101-299.000-811.0000, and further direct the Mayor and City Clerk to sign the agreement on behalf of the City.

Next
Your Place to Stay Active & Connected

Cris Braun
Executive Director
CBraun@birmingham.k12.mi.us
248.203.5270

Proudly serving the 50+ population of Birmingham, Bingham Farms, Beverly Hills, Franklin, and surrounding areas.

February 1, 2016

Mr. Joe Valentine
Birmingham City Manager
151 Martin Street
Birmingham, Michigan 48012

Dear Mr. Valentine,

*The mission of **Next** "Is to identify and meet the needs of older adults by soliciting and coordinating community resources to provide educational, recreational and social programs; supportive outreach services and volunteer opportunities."*

We would like to thank The City of Birmingham for your continued support of Next. In the past year, we have seen significant growth in our membership, attendance and our outreach services. We are pleased to report we are right on track with the course set out by the Joint Senior Service Commission. Phase 1 called for increased services and hours in order to provide more opportunities for our growing 50 plus population.

We have made exciting additions to our services and programming, reaching more seniors in our community than ever before. In the last six months we have welcomed over 250 new members! We have dramatically increased programming, increased our hours of operation to include evenings and Saturdays, and extended our transportation hours as well. In addition, we have made a very deliberate effort to reach more seniors in need of support services. In that same six month period, Next provided care to 12% more clients than the same period the previous year reaching out more than 2,330 times to area residents.

Because we have been very deliberate with our outreach communication and the 50 plus demographic is growing quickly, we find it necessary to expand our transportation services and add a third bus to our operations. We are at the point where we do not have the adequate ability to transport all of the riders in need. In the last six months for example, we have seen a 23% increase in rides to hospitals, doctor offices, rehab facilities and grocery stores.

We would respectfully ask the City of Birmingham to partially support our expanded transportation program by increasing your service contract with Next by $9,000 to a total of $99,810 this budget year.

Cris Braun
Executive Director
CBraun@birmingham.k12.mi.us
248.203.5270

Next
Your Place to Stay Active & Connected

Proudly serving the 50+ population of Birmingham, Bingham Farms, Beverly Hills, Franklin, and surrounding areas.

The third bus would be loaned to us by SMART; but we are responsible for its use and upkeep. Based on the expense of the two buses we currently operate, the estimated additional financial cost would be $18,274.24 per year, which includes the maintenance, gas, insurance, dispatch phone and additional driver hours of 20 hours/week.

Dispatch phone	=$ 256.72
Oil/Maintenance	= $ 1,168.17
Fuel	= $ 1,729.18
Salary	= $12,480.00
Insurance	= $ 2,640.17
Total	= $18,272.24

We are very grateful for the support you provide to Next. It is our firm belief that together The City of Birmingham and Next can have a very immediate and positive impact on the aging population of our community.

Thank you in advance for your consideration.

Respectfully,

Cris Braun

SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement"), made this 6th day of June, 2016 by and between the **CITY OF BIRMINGHAM**, having its principal office at 151 Martin Road, Birmingham, MI 48009 ("CITY"), and Next (formaly BASCC), whose address is 2121 Midwale Ave Birmingham MI ("SERVICE PROVIDER"), provides as follows:

WITNESSETH:

WHEREAS, the CITY desires to have certain services provided, which shall be of the type, nature and extent as set forth on Attachment A; and

WHEREAS, SERVICE PROVIDER desires to provide said services for the CITY, which it shall do in accordance with the experience it has attained from providing similar services of this nature, under the terms and conditions hereinafter stated.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. SERVICE PROVIDER shall perform the services as set forth on Attachment A. The type, nature and scope may be changed if mutually agreed upon in writing by SERVICE PROVIDER and the CITY.

2. The CITY shall pay a total of $99,810 to SERVICE PROVIDER for the performance of this Agreement, which amount shall compensate SERVICE PROVIDER for all aspects of the services to be performed including, but not limited to, all preparation, coordination, management, staffing and all other services incidental thereto. Payment shall be made to SERVICE PROVIDER pursuant to the schedule contained in Attachment A.

3. All services performed shall be of the highest quality and standards that meet or exceed that which is required and expected in that service industry.

4. SERVICE PROVIDER shall provide and designate one supervisor responsible for the coordination of services provided, who shall handle problem solving and be the contact person for the CITY.

5. This Agreement shall commence immediately after both parties have signed in the place and manner indicated below and shall terminate in accordance with the provisions as set forth in Attachment A.

6. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. SERVICE PROVIDER agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

7. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

8. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by SERVICE PROVIDER without the prior written consent of the CITY. Any attempt at assignment without prior written consent shall be void and of no effect.

9. SERVICE PROVIDER agrees that neither it nor its employees will discriminate against any employee, independent contractor, or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. SERVICE PROVIDER shall inform the CITY of all claims or suits asserted against it by SERVICE PROVIDER's employees or contractors who work pursuant to this Agreement. SERVICE

PROVIDER shall provide the CITY with periodic status reports concerning all such claims or suits, at intervals established by the CITY.

10. To the fullest extent permitted by law, SERVICE PROVIDER and any entity or person for whom SERVICE PROVIDER is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the CITY, its elected and appointed officials, employees and volunteers and others working on behalf of the CITY against any and all claims, demands, suits, or loss, including all costs connected therewith, including reasonable attorney fees, and for any damages which may be asserted, claimed or recovered against or from the CITY, its elected and appointed officials, employees, volunteers or others working on behalf of the CITY, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting solely from the act or omission of the CITY, its elected or appointed officials, employees, volunteers or others working on behalf of the CITY.

11. SERVICE PROVIDER shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required by this paragraph. All certificates of insurance shall be with insurance carriers licensed and admitted to do business in the State of Michigan. All certificates of insurance shall be with insurance carriers acceptable to the CITY. SERVICE PROVIDER shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: SERVICE PROVIDER shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. Commercial General Liability Insurance: SERVICE PROVIDER shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than $1,000,000 per occurrence for combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability

Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: SERVICE PROVIDER shall procure and maintain during the life of this Agreement 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.

D. Additional Insured: Commercial General Liability 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 and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance required from SERVICE PROVIDER under this Section.

E. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to: Finance Department, City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham, Michigan 48012.

F. Proof of Insurance Coverage: SERVICE PROVIDER shall provide the CITY at the time the contracts are returned for execution, Certificates of Insurance and/or policies, acceptable to the CITY, as listed below.

1. Two (2) copies of Certificate of Insurance for Workers' Compensation;

2. Two (2) copies of Certificate of Insurance for Commercial General Liability;

3. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;

4. If so requested, Certified Copies of all policies mentioned above will be furnished.

G. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, SERVICE PROVIDER shall deliver renewal certificates and/or policies to the CITY at least (10) days prior to the expiration date.

12. If, after the effective date of this Agreement, any official of the CITY or spouse, child, parent or in-law, of such official or employee shall become directly or indirectly interested in this Agreement, or the affairs of SERVICE PROVIDER, the CITY shall have the right to terminate this Agreement without further liability to SERVICE PROVIDER if the disqualification has not been removed within thirty (30) days after the CITY has given SERVICE PROVIDER notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

13. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL §600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. This Agreement shall be governed by the laws of the State of Michigan and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

14. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, except as

specifically set forth herein. No supplement, modification, addition, deletion or waiver of this Agreement or any provision of this Agreement shall be binding unless executed in writing by both parties to be bound thereby.

15. SERVICE PROVIDER and the CITY agree that SERVICE PROVIDER shall be liable for its own actions and neither SERVICE PROVIDER nor its employees or contractors shall be construed as employees of the CITY. Neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. SERVICE PROVIDER, including its employees and contractors, shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the CITY, or be deemed an employee of the CITY for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation and other employer contributions on behalf of SERVICE PROVIDER or SERVICE PROVIDER's employees or contractors.

16. SERVICE PROVIDER acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. SERVICE PROVIDER recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the CITY. Therefore, the SERVICE PROVIDER agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. SERVICE PROVIDER shall inform its employees and contractors of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. SERVICE PROVIDER further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

The said parties have caused this Agreement to be executed as of the date and year above written.

THE CITY OF BIRMINGHAM

By: _____
Rackeline J. Hoff, Mayor

By: _____
Laura M. Pierce, City Clerk

[SERVICE PROVIDER]

By: Christie Brown

Its: Executive Director, Next.

APPROVED:

_____
Joseph A. Valentine, City Manager
(Approved as to substance)

_____
Department Head
(Approved as to substance)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Mark Gerber, Director of Finance
(Approved as to financial obligation)

BIRMI-5 OP ID: BS

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 04/12/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hershey Insurance Group 2855 Coolidge Hwy., Suite 204 Troy, MI 48084 David Hershey	CONTACT NAME: David Hershey PHONE (A/C, No, Ext): 248-619-3400 FAX (A/C, No): 248-619-3480 E-MAIL ADDRESS:
INSURED Birmingham Area Seniors Coordinating Council dba NEXT 2121 Midvale Street. Birmingham, MI 48009	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Philadelphia Insurance Co. INSURER B : Citizens Insurance Company — 31534 INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR	X		PHPK1393672	11/01/2015	11/01/2016	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
A	X Prof $1m/$2m			PHPK1393672	11/01/2015	11/01/2016	MED EXP (Any one person)	$ 20,000
A	X Abuse $500/$500			PHPK1393672	11/01/2015	11/01/2016	PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:						Emp Ben.	$ 1,000,000
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO	X		PHPK1393672	11/01/2015	11/01/2016	BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS / X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 4,000,000
A	X EXCESS LIAB CLAIMS-MADE			PHUB514944	11/01/2015	11/01/2016	AGGREGATE	$ 4,000,000
	DED X RETENTION $ 10000							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE OTH-ER	
B	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N	N/A		W2B-7925648-18	01/09/2016	01/09/2017	E.L. EACH ACCIDENT	$ 500,000
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 500,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

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 and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing.

CERTIFICATE HOLDER

BIRMI-1

City of Birmingham
P.O. Box 3001
Birmingham, MI 48012

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
David Hershey

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The ACORD name and logo are registered marks of ACORD

ATTACHMENT A

I. **Funding Request:** $99,810

II. **Amount of Funding Previously Received From City:** $90,810

III. **Organization's Purpose or Mission with Emphasis on how Organization Serves the City:**

The Mission of Next is to be a welcoming place that enriches the lives of our community. With breadth and depth of programming, and a comprehensive Support Service Department, Next is working hard to meet the growing needs of the 50 plus population in Birmingham.

IV. **Date(s) of Service(s):** July 1, 2016 to June 30, 2017.

V. **Description of Services to be Provided (Scope of Work):**

Next offers our 50 and better Birmingham residents a wide variety of classes to stay active and connected. With programming in the arts, travel, fitness and education, most at no additional cost, we provide exceptional opportunities to our members.

In addition, Next has a comprehensive Support Service Department that provides services to allow seniors to remain independent and age in place. For example Next offers: home delivered meals, transportation, emergency pharmaceuticals, health screenings and information, yard services, home repair, interest free home loans, income tax preparation, legal counseling, Medicare information, loan closet for home medical equipment, nutritional supplement program, vital support groups and much more. (Note: There is no membership requirement to access any of these services.)

VI. **Describe Direct Benefit of Services to Birmingham Residents:**
Next sponsored services enable Birmingham older adults to remain in their own home and to live with independence and dignity for as long as possible.
Next sponsored educational classes, recreational programs, social activities and travel opportunities, help anyone 50 and better stay active, healthy and engaged in the community. (Note: Next's current membership numbers are approximately 1,440. About 73% reside in our service area and about 44% of those individuals reside in Birmingham.)

Please Note: Organizations receiving funding are required to provide invoices to the City for services coinciding with timing of the delivery of those services.

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

June 17, 2016

Mr. Joseph A. Valentine, City Manager
City of Birmingham
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012-3001

Re: Ground Lease – 300 Strathmore

Dear Mr. Valentine:

The City has been approached by Crown Castle to amend the Ground Lease for the Springdale Golf Course Cell Tower. The Lease was initially entered into in March of 1993 with the monthly payments being $600. Thereafter, the monthly lease amount increased $50 every 5 years. Currently, the lease is paying $800. The City is in the last of the 5-year term of the initial Ground Lease. Crown Castle has proposed to extend the lease between the City and NCWPCS MPL 23 for an additional 8-5 year term.

On the first day of the second full month following the full execution of the Lease Agreement, the monthly rent shall increase to $1,600 per month. We have researched other communities in the area and this new monthly rental rate is comparable to them.

Commencing on March 1, 2018 (the adjustment date), and every year thereafter, the monthly rent shall increase by an amount equal to 3% of the monthly rent in effect to the month immediately preceding the adjustment date. This percentage rent escalation shall replace the rent escalation in the existing lease.

The City may submit a written request to Crown Castle for a business summary report pertaining to the lease rent obligations for the prior 12 months. This is currently not in the Ground Lease.

In addition to the rent being paid and the amendment to extend the lease, the Lessee shall pay the City of Birmingham 20% of the rental payments received by new sub-tenants co-locating on the cell tower.

Finally, the Lessee will pay the City of Birmingham a one-time amount of $5,000 for the full execution of the Lease within 60 days of the full execution of the Lease Amendment. The remaining terms and conditions of the initial Ground Lease shall remain the same.

It is our recommendation that the City Commission approve the First Amendment to the

Ground Lease and authorize the Mayor and Clerk execute the same on behalf of the City.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier
Birmingham City Attorney

TJC/jc

PROPOSED RESOLUTION

**RESOLUTION TO APPROVE THE
FIRST AMENDMENT TO THE GROUND LEASE AGREEMENT
BY AND BETWEEN THE CITY OF BIRMINGHAM AND NCWPCS MPL 23-YEAR SITES TOWER HOLDINGS, LLC
AND
APPROVE THE MEMORANDUM OF THE FIRST AMENDMENT
TO THE GROUND LEASE
AND
AUTHORIZE THE MAYOR AND CLERK TO EXECUTE THE SAME
ON BEHALF OF THE CITY**

Or

RESOLUTION REJECTING THE AMENDMENT TO THE GROUND LEASE

FIRST AMENDMENT TO GROUND LEASE AGREEMENT
(BU 840273)

THIS FIRST AMENDMENT TO GROUND LEASE AGREEMENT ("First Amendment") is made effective this _____ day of _____, 2016, by and between CITY OF BIRMINGHAM, a Michigan municipal corporation ("Landlord"), and NCWPCS MPL 23 - YEAR SITES TOWER HOLDINGS LLC, a Delaware limited liability company ("Tenant"), by and through CCATT LLC, a Delaware limited liability company, its Attorney-in-Fact.

WHEREAS, Landlord and Detroit SMSA Limited Partnership, a Delaware limited partnership ("Detroit SMSA"), entered into a Ground Lease Agreement dated March 12, 1993 (as assigned, the "Lease"), whereby Landlord leased to Detroit SMSA a portion of land being described as an approximately 1,263 square feet portion of that property (said leased portion, together with those certain access, utility and/or maintenance easements and/or rights of way granted in the Lease being the "Property") located at 300 Strathmore (Tax Parcel #19-24-451-001), Birmingham, Oakland County, State of Michigan. Notice of the Lease is provided by, and the Property is described in that certain Memorandum of Lease ("Memorandum"), recorded in Book 15579, Page 863 in the Oakland County Register of Deeds ("Registry"); and

WHEREAS, Tenant is successor in interest in the Agreement to Detroit SMSA; and

WHEREAS, the term of the Lease commenced on March 4, 1993, and has an original term, including all extension terms, that will expire on March 3, 2018 ("Original Term"), and Landlord and Tenant now desire to amend the terms of the Lease to provide for additional extension terms beyond the Original Term, and to make other changes.

NOW THEREFORE, in exchange for the mutual promises contained herein, Landlord and Tenant agree to amend the Lease as follows:

1. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Lease. The recitals in this First Amendment are incorporated herein by this reference.

2. Section 1.13 is amended to replace the existing text with the following:

1.13 [INTENTIONALLY DELETED]

3. Section 1.15 is amended by deleting Tenant's notice addresses and inserting the following:

NCWPCS MPL 23 - Year Sites Tower Holdings LLC
Legal Department
Attn: Network Legal
208 S. Akard Street
Dallas, TX 75202-4206

With a copy to: CCATT LLC
Attn: Legal Dept.
2000 Corporate Drive
Canonsburg, PA 15317

4. Section 2.2 of the Lease is amended by replacing "four (4)" with "twelve (12)", thereby adding eight (8) additional five (5)-year extension terms to the Lease beyond the Original Term, and extending its total term to March 3, 2058, unless sooner terminated as provided in the Lease.

5. As additional consideration for amending the Lease in accordance with this First Amendment, on the first day of the second full month following full execution of this First Amendment, the annual rent shall increase to an amount equal to Nineteen Thousand Two Hundred Dollars ($19,200.00) per year, payable in monthly installments of One Thousand Six Hundred Dollars ($1,600.00) per month. Following such increase, the annual rent shall continue to adjust pursuant to the terms of the Lease.

6. Section 2.3 of the Lease is amended by adding the following paragraph to the end thereto:

> Commencing on March 1, 2018, and every year thereafter (each an "Adjustment Date"), the annual rent shall increase by an amount equal to three percent (3%) of the annual rent in effect for the year immediately preceding the Adjustment Date.

7. Section 3 of the Lease is amended by replacing "fourth (4th)" with "twelfth (12)".

8. Section 11 of the Lease is amended by (i) removing the words "sublease or" from the first line, and (ii) replacing the last sentence with the following:

> Any other assignment by Tenant shall be with the prior written consent of Landlord, which shall not be unreasonably withheld, and upon such assignment Tenant's liability under this Lease shall cease. Tenant will have the right to sublease or license use of all or any portion of the Property without the consent or approval of Landlord. Tenant shall provide written notice to Landlord within sixty (60) days after such sublease or license is fully executed.

9. In addition to the rent currently paid by Tenant to Landlord pursuant to the Lease, as further consideration for the right to exclusively use and lease the Property, if, after full execution of this First Amendment, Tenant subleases, licenses or grants a similar right of use or occupancy in the Property to an unaffiliated third party not already a subtenant on the Property (each a "Future Subtenant"), Tenant agrees to pay to Landlord twenty percent (20%) of the rental, license or similar payments actually received by Tenant from such Future Subtenant (excluding any reimbursement of taxes, construction costs, installation costs, or revenue share reimbursement) (the "Additional Rent") within thirty (30) days after receipt of said payments by Tenant. Tenant shall have no obligation for payment to Landlord of such share of rental, license or similar payments if not actually received by Tenant. Non-payment of such rental, license or other similar payment by a Future Subtenant shall not be an event of default under the Lease. Tenant shall have sole discretion as to whether, and on what terms, to sublease, license or

otherwise allow occupancy of the Property and there shall be no express or implied obligation for Tenant to do so. Landlord acknowledges that Landlord shall have no recourse against Tenant as a result of the failure of payment or other obligation by a Future Subtenant. Notwithstanding anything in this paragraph to the contrary, the parties agree and acknowledge that revenue derived from subtenants and any successors and/or assignees of such subtenants who commenced use and/or sublease of the Property prior to execution of this First Amendment shall be expressly excluded from the Additional Rent and Landlord shall have no right to receive any portion of such revenue

10. As additional consideration for amending the Lease in accordance with this First Amendment, Tenant agrees to pay to Landlord $5,000.00 within sixty (60) days of full execution of this First Amendment by both parties.

11. Representations, Warranties and Covenants of Landlord. Landlord represents, warrants and covenants to Tenant as follows:

(a) Landlord is duly authorized to and has the full power and authority to enter into this First Amendment and to perform all of Landlord's obligations under the Lease as amended hereby.

(b) Except as expressly identified in this First Amendment, Landlord owns the Property free and clear of any mortgage, deed of trust, or other lien secured by any legal or beneficial interest in the Property, or any right of any individual, entity or governmental authority arising under an option, right of first refusal, lease, license, easement or other instrument other than any rights of Tenant arising under the Lease as amended hereby and the rights of utility providers under recorded easements.

(c) Upon Tenant's request, Landlord shall discharge and cause to be released (or, if approved by Tenant, subordinated to Tenant's rights under the Lease as amended hereby) any mortgage, deed of trust, lien or other encumbrance that may now or hereafter exist against the Property.

(d) Upon Tenant's request, Landlord shall cure any defect in Landlord's title to the Property which in the reasonable opinion of Tenant has or may have an adverse effect on Tenant's use or possession of the Property.

(e) Tenant is not currently in default under the Lease, and to Landlord's knowledge, no event or condition has occurred or presently exists which, with notice or the passage of time or both, would constitute a default by Tenant under the Lease.

(f) Landlord agrees to execute and deliver such further documents and provide such further assurances as may be requested by Tenant to effect any release or cure referred to in this paragraph, carry out and evidence the full intent and purpose of the parties under the Lease as amended hereby, and ensure Tenant's continuous and uninterrupted use, possession and quiet enjoyment of the Property under the Lease as amended hereby.

12. Tenant reserves the right, at its discretion and at its sole cost, to obtain a survey ("Survey") specifically describing the Property and any access and utility easements associated therewith. Tenant shall be permitted to attach the Survey as an exhibit to this First Amendment and any related memorandum for recording, which shall update and replace the existing description, at any time prior to or after closing of this First Amendment.

13. IRS Form W-9. Landlord agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this First Amendment and at such other times as may be reasonably requested by Tenant. In the event the Property is transferred, the succeeding Landlord shall have a duty at the time of such transfer to provide Tenant with a completed IRS Form W-9, or its equivalent, and other related paper work to effect a transfer in rent to the new Landlord. Landlord's failure to provide the IRS Form W-9 within thirty (30) days after Tenant's request shall be considered a default and Tenant may take any reasonable action necessary to comply with IRS regulations including, but not limited to, withholding applicable taxes from rent payments.

14. In all other respects, the remainder of the Lease shall remain in full force and effect. Any portion of the Lease that is inconsistent with this First Amendment is hereby amended to be consistent with this First Amendment. All of the provisions hereof shall inure to the benefit of and be binding upon Landlord and Tenant, and their personal representatives, heirs, successors and assigns. This First Amendment may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, it being understood that all parties need not sign the same counterparts.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have signed this instrument under seal, and have caused this First Amendment to be duly executed on the day and year first written above.

LANDLORD:

City of Birmingham,
a Michigan municipal corporation

By:_____(SEAL)
Print Name: _____
Title:_____

IN WITNESS WHEREOF, Landlord and Tenant have signed this instrument under seal, and have caused this First Amendment to be duly executed on the day and year first written above.

TENANT:

NCWPCS MPL 23 - Year Sites Tower Holdings LLC, a Delaware limited liability company

By: CCATT LLC,
a Delaware limited liability company,
its Attorney-in-Fact

By: _____(SEAL)
Print Name: _____
Title: _____

Cross Index with Book 15579, Page 863

Tax Map #: 19-24-451-001

MEMORANDUM OF FIRST AMENDMENT TO GROUND LEASE AGREEMENT

THIS MEMORANDUM OF FIRST AMENDMENT TO GROUND LEASE AGREEMENT ("Amended Memorandum") is made effective this _____ day of _____, 2016, by and between CITY OF BIRMINGHAM, a Michigan municipal corporation ("Landlord"), with a mailing address of 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012, and NCWPCS MPL 23 - YEAR SITES TOWER HOLDINGS LLC, a Delaware limited liability company ("Tenant"), by and through CCATT LLC, a Delaware limited liability company, its Attorney-in-Fact, with a mailing address of c/o Crown Castle USA Inc., 2000 Corporate Drive, Canonsburg, Pennsylvania 15317-8564.

WHEREAS, Landlord and Detroit SMSA Limited Partnership, a Delaware limited partnership ("Detroit SMSA"), entered into a Ground Lease Agreement dated March 12, 1993 (as assigned, the "Lease"), whereby Landlord leased to Detroit SMSA a portion of land being described as an approximately 1,263 square feet portion of that property (said leased portion, together with those certain access, utility and/or maintenance easements and/or rights of way granted in the Lease being the "Property") located at 300 Strathmore (Tax Parcel #19-24-451-001), Birmingham, Oakland County, State of Michigan. Notice of the Lease is provided by, and the Property is described in that certain Memorandum of Lease ("Memorandum"), recorded in Book 15579, Page 863 in the Oakland County Register of Deeds ("Registry"); and

WHEREAS, Tenant is successor in interest in the Agreement to Detroit SMSA; and

WHEREAS, the term of the Lease commenced on March 4, 1993, and has an original term, including all extension terms, that will expire on March 3, 2018 ("Original Term"), and Landlord and Tenant now desire to amend the terms of the Lease to provide for additional extension terms beyond the Original Term, and to make other changes; and

WHEREAS, Landlord and Tenant made and entered into a First Amendment to Ground Lease Agreement of even date herewith ("First Amendment") and pursuant to the terms of, and

for that consideration recited in, the First Amendment, the parties wish to hereby amend certain provisions of the Lease, and provide this Amended Memorandum as notice thereof, as follows:

1. Landlord does hereby lease and grant unto Tenant, its successors and assigns, the Property for eight (8) additional five (5) year extension terms beyond the Original Term, such that the Original Term and all extension terms of the Lease may last for a term of sixty-five (65) years, expiring on March 3, 2058, unless sooner terminated as provided in the Lease.

2. The description of the Property is as provided in that Memorandum of Lease recorded in the Registry in Book 15579, Page 863.

3. This Amended Memorandum contains only selected provisions of the First Amendment, and reference is made to the full text of the Lease and the First Amendment for their full terms and conditions, which are incorporated herein by this reference. Except as otherwise provided in the First Amendment and this Amended Memorandum, the terms and conditions of the Lease remain in full force and effect. This Amended Memorandum may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, it being understood that all parties need not sign the same counterparts. A copy of the Lease and its amendments are located at the office of the Tenant.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have signed this instrument under seal, and have caused this Amended Memorandum to be duly executed on the day and year first written above.

LANDLORD:

City of Birmingham,
a Michigan municipal corporation

By:_____(SEAL)
Print Name: _____
Title:_____

STATE OF _____

COUNTY OF _____

The foregoing Memorandum of First Amendment to Ground Lease Agreement was acknowledged before me this _____ day of _____ 2016, by _____, as _____ of the City of Birmingham, a Michigan municipal corporation, on behalf of the municipality.

_____
Notary Public
Print Name:_____
_____ County, Michigan
My commission expires _____

IN WITNESS WHEREOF, Landlord and Tenant have signed this instrument under seal, and have caused this Amended Memorandum to be duly executed on the day and year first written above.

TENANT:

NCWPCS MPL 23 - Year Sites Tower Holdings LLC, a Delaware limited liability company

By: CCATT LLC,
a Delaware limited liability company,
its Attorney-in-Fact

By: _____(SEAL)
Print Name: _____
Title: _____

STATE OF _____

COUNTY OF _____

The foregoing Memorandum of First Amendment to Ground Lease Agreement was acknowledged before me this _____ day of _____ 2016, by _____, as _____ of CCATT LLC, a Delaware limited liability company, as Attorney-in-Fact for NCWPCS MPL 23 - Year Sites Tower Holdings LLC, a Delaware limited liability company, on behalf of the company.

_____
Notary Public
Print Name:_____
_____ County, _____
My commission expires _____

Prepared out of State by:
Brandon Bordeaux
Parker Poe Adams & Bernstein LLP
301 Fayetteville St., Suite 1400
Raleigh, NC 27601

Return to:
Crown Castle
1220 Augusta, Suite 500
Houston, Texas 77057

NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION
REZONING & ZONING MAP AMENDMENT

Meeting - Date, Time, Location:	Monday, June 27, 2016, 7:30 PM Municipal Building, 151 Martin Birmingham, MI 48009
Nature of Hearing:	To consider a proposal to rezone the property at 404 Park Street, Parcel #1925451021, lots 66 and 67 of Oak Grove Addition from R-2 Single Family Residential to TZ-1 Transitional.

City Staff Contact:	Jana Ecker, 248.530.1841 jecker@bhamgov.org
Notice:	Publish: June 5, 2016 Mailed to all property owners within 300 feet of subject address.
Approved minutes may be reviewed at:	City Clerk's Office
Should you have any statement regarding the above, you are invited to attend the meeting or 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.	
Persons with disabilities needing accommodations 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.	

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: June 20, 2016

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: Public Hearing for 404 Park, Parcel #1925451021, lots 66 and 67 of Oak Grove Addition – Application for Rezoning from R-2 Single Family Residential to TZ-1 Transitional

On April 27, 2016, the Planning Board conducted a public hearing to discuss a request by the applicant to rezone the property located at 404 Park Street, Parcel #1925451021, lots 66 and 67 of Oak Grove Addition from R-2 Single Family Residential to TZ-1 Transitional. The subject site is currently vacant, and has been since 1989 when a single family home was demolished by the previous owner. The applicant proposes to construct a new attached single family building on the site, and is seeking the rezoning to allow attached single family based on the recommendations of the Oakland/Park Subarea Plan. After much discussion regarding the history of this site, the Planning Board voted unanimously to recommend approval of the rezoning to the City Commission, based on the following findings:

A. The objectives of the City's current master plan and the City's 2016 Plan.

The Birmingham Plan, 1980 identifies the R-2 area surrounding the subject parcel in the Birmingham Future Land Use plan as a "Sensitive Residential Area" that should be protected against non-residential encroachment. Specifically, The Birmingham Plan states:

> "Because of its proximity to the downtown area and the fact that it is surrounded by Hunter Boulevard and Woodard Avenue, **the neighborhood may be under repeated pressure for piecemeal rezoning to non-residential use**. Such rezoning could destroy the area's sound residential character and result in a deterioration of property values for remaining homes. **(Emphasis added.)**

Thus, The Birmingham Plan advises that the residential area north of Oakland remain as residential, and should be protected from commercial encroachment.

Portions of the Downtown Birmingham 2016 Vision Statement relevant to the proposed rezoning of 404 Park state:

The Downtown Birmingham 2016 Master Plan must:

- Strengthen the spatial and architectural character of the downtown area and ensure buildings are compatible, in mass and scale, with their immediate surroundings and the downtown's traditional two to four story buildings.

- Ensure good land use transitions and structural compatibility in form and mass to the traditional, residential neighborhoods surrounding downtown.

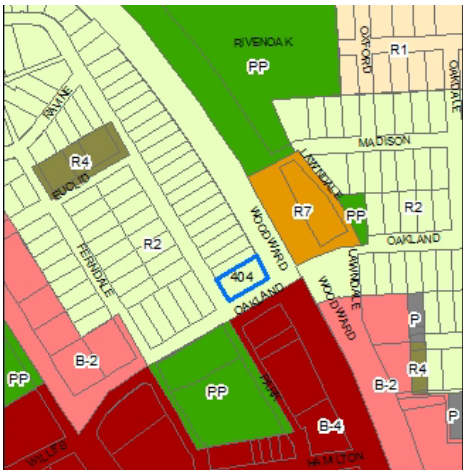
The proposed TZ-1 Transition Zone would only allow attached single family residential uses, and would not allow any commercial uses if the rezoning was approved.
The TZ-1 Transition Zone was established to provide for a reasonable and orderly transition from, and buffer between commercial uses and predominantly single family residential areas or for property which either has direct access to a major traffic road or is located between major traffic roads and predominantly single family residential areas. The subject property has direct access to a major traffic road and is located between major streets and the residential neighborhood to the north.

B. Existing uses of property in the general area of the property in question.

The existing uses within the general area of the Subject Property include Single-Family Residential and Multiple-Family Residential to the north, Single-Family Residential and General Business to the west, Public Parking and Business-Residential to the south and General Business, Single-Family Residential, and Multiple-Family Residential to the east.

C. Zoning classification of property within the general area of the property in question.

The current zoning classifications of the property in the general area are R-2 and R-4 to the north, R-2 and B-2 to the west, B-4 and PP to the south, and B-2, R-2, and R-7 to the east.



D. The suitability of the property in question to the uses permitted under the existing zoning classification.

The existing zoning of the property is R-2, Single-Family Residential. The vacant subject parcel is situated with frontage on three streets, two of which carry significant amounts of traffic, Woodward and Oakland. While a single family home can be built on the property, the applicant makes the case that having the side yard and rear yard exposed to the two high traffic streets is a detriment to the safety and privacy of any single family home that may be built there. This is evidenced by the fact that the parcel has been vacant since

1989 and available for purchase yet a willing buyer has not come forward to develop the property as a single family home.

As discussed above, the subject property was a part of the Oakland/Park Subarea Study completed by LSL Planning in 2013. The Oakland/Park Subarea Study stated the following with regards to 404 Park Street:

> **While Birmingham has a strong single family market, we do not believe this site can be expected to redevelop as a single family home due to site factors (location, shallow lot depth along Oakland, lack of screening along Woodward, views of multi-story buildings across Oakland, and traffic volumes along Oakland)**. These site characteristics are unique only to this lot. Under these conditions, attached, owner-occupied residential units (approximately 4 units per building) seem to be the most appropriate use.

Thus, the most recent study of the Oakland/Park Subarea found that 404 Park was a unique site with numerous challenging conditions that would not be favorable for the development of a single family home. Rather, this study recommends attached single-family residential uses to protect the residential neighborhood to the north, to minimize impacts from parking facilities and to strengthen Oakland as a gateway into Downtown.

E. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

The general area in question is currently fully developed and unlikely to be re-developed in the near future. The single family homes to the north and west are stable and unlikely to change in the future. The adjacent area in the overlay to the south is zoned to go up to 5 stories. The existing office buildings and parking structure are well maintained and unlikely to be redeveloped in the immediate future.

Accordingly, the City Commission set a public hearing date for June 27, 2016 to consider the rezoning of the property at 404 Park Street, Parcel #1925451021, lots 66 and 67 of Oak Grove Addition from R-2 Single Family Residential to TZ-1 Transitional. Please find attached the staff report presented to the Planning Board, along with supporting documentation from the applicant, relevant meeting minutes and letters received from members of the public.

SUGGESTED ACTION:

To approve the rezoning of the property at 404 Park Street, Parcel #1925451021, lots 66 and 67 of Oak Grove Addition from R-2 Single Family Residential to TZ-1 Transitional in accordance with the recommendation of the Planning Board;

OR

To deny the rezoning of the property at 404 Park Street, Parcel #1925451021, lots 66 and 67 of Oak Grove Addition from R-2 Single Family Residential to TZ-1 Transitional.

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: **April 19, 2016**

TO: **Planning Board**

FROM: **Jana L. Ecker, Planning Director**

SUBJECT: **404 Park, Parcel #1925451021, lots 66 and 67 of Oak Grove addition – Application for Rezoning from R-2 Single Family Residential to TZ-1 Transitional Zone.**

In accordance with the requirements of the Zoning Ordinance the property owner of Parcel #1925451021, being lots 66 and 67 of Oak Grove addition, commonly known as 404 Park, is requesting that the Planning Board hold a public hearing to consider the rezoning of said property from R-2 (Single-Family Residential) to TZ-1 (Transitional Zone). Only a person who has a fee interest in a piece of property, or a contractual interest which may become a fee interest in a piece of property, may seek an amendment in the zoning classification of that property under this section.

The subject property is currently vacant. The property has been vacant since 1989 when a previously existing single family home was razed.

History of Planning Board Review

The subject parcel has been considered for rezoning three times; in 1960, 1988, and 2013. The application was denied on all three occasions. Relevant meeting minutes and City records from previous applications have been included with this report.

Most recently, the subject property was discussed by the Planning Board on September 19, 2012 for a proposed contract rezoning request to allow development of a multi-family residential building with 14 units on the existing vacant site. After much discussion, the Planning Board voted to postpone the matter to give the applicant time to amend the plans to address the comments of the Planning Board and to meet with the neighbors to address their comments as well. Comments from the neighbors including requesting an Oakland Avenue access drive, a reduction in density, an increase in the front and north side setbacks, a concern regarding guest parking and concerns over renters living in the neighborhood. Specifically, the Planning Board agreed there was strong support for residential uses on the site, but board members identified the following concerns with the proposed building design:

(1) Access to the site for residents should be located on Oakland Avenue, not Park Street;
(2) The height of the building should be reduced, and the applicant should consider designing the building with the tallest portions for the loft spaces facing Oakland, not the rental home to the north;
(3) The applicant should consider reducing the density of the proposed building; and
(4) The applicant should meet with the neighbors to address their concerns.

After September 19, 2012, the applicant met with the neighbors on two occasions, and amended their site plan and building design to address the concerns of the neighbors and the comments of the Planning Board. On November 14, 2012, the applicant appeared again before the Planning Board. The applicant continued to propose contract rezoning to B2C, with the voluntary restriction to allow only residential uses on the site. If approved, no commercial uses would be permitted on the site now or in the future unless the property was rezoned. The applicant had amended the original plans to address all of the concerns addressed by the Planning Board at the September meeting. Specifically, the applicant:

(1) Relocated resident vehicular access to the site to Oakland Avenue from Park Street as requested by both the neighbors and the Planning Board;
(2) Reduced the height of the building from 42.6' to 36' in height and removed the proposed loft spaces entirely to reduce the height and mass of the building as requested by the Planning Board;
(3) Reduced the density of the building from 14 units to 11 units as requested by both the neighbors and the Planning Board;
(4) Added two on-site guest parking spaces under the building to address the issue of guest parking as requested by the neighbors;
(5) Increased the front setback along Park Street adjacent to the rental house to the west from 3' to 15' as requested by the neighbors; and
(6) Increased the northern side setback adjacent to the rental house to the north from 14' to 15'.

In addition, the Planning Division provided a Draft Zoning Summary Sheet based on a request of one of the Planning Board members, in order to determine if any variances would be needed should this rezoning be approved.

When the applicant appeared at the November 14, 2012 meeting, they presented further revised plans detailing a 6 unit row house concept. After much discussion, and extensive public input, the Planning Board voted to continue the public hearing to January 9, 2013. The following items were requested by the Planning Board to be provided for the January 9, 2013 meeting:

(a) A draft of the terms of the contract volunteered by the applicant as reviewed by Mr. Currier;
(b) A rendering of the proposal with elevations showing how it would fit on the site with the adjacency to the neighbors to the south, to the north, and to the west;
(c) A meeting with residents so they know what is being proposed.
(d) A letter of opinion from the city attorney outlining the nature of contract zoning and what precedent it creates for similarly situated properties within the neighborhood;
(e) A review of residential zoning in other zone districts and what they would generally allow; and
(f) A history of rezoning to R-7 and R-8 on Brown St.

The applicant conducted another meeting with the neighbors on the evening of January 3, 2013. This meeting was originally scheduled for December 2012, but was postponed at the request of the neighbors.

Accordingly, on January 9, 2013, the applicant again appeared before the Planning Board, with a revised 2.5 story row house design (with a total of 6 units) showing the relationship of the proposed building with the surrounding buildings. The Planning Board voted 4 to 2 in favor of recommending the conditional rezoning request to the City Commission (one Planning Board member recused themselves from voting on this matter).

On February 25, 2013, the City Commission held a public hearing on the proposed conditional rezoning of the subject property from R-2 to B2C, with the condition that only residential uses would be permitted on the site. After much discussion by members of the public and the City Commissioners, the City Commission denied the rezoning request without prejudice, and directed the Planning Board to study the site as it should be addressed as it is an unusual transition zone. The City Commission asked the Planning Board to study both the vision for this area in the future, and whether or not contract zoning should be permitted.

Accordingly, the Planning Board sought approval for and hired a planning consultant to conduct a study of the Oakland and Park area to study existing conditions, and to develop a vision and plan for the future. The Oakland/Park Subarea Study was completed by LSL Planning in the spring/summer of 2013 (please see attached plan). With regards to 404 Park Street, the study found that attached, owner-occupied residential units, with approximately 4 units per building, would be the most appropriate use for the site which acts as a transition from the high density, mixed use central business district on the south side of Oakland and the residential neighborhood to the north. Several other parcels within this subarea were identified as transitional parcels as well between the central business district and the Little San Francisco neighborhood.

After reviewing the LSL study, the Planning Board determined that 404 Park was only one of many transitional parcels in need of further study throughout the city. Accordingly, over the next several years, the Planning Board embarked on a study to identify all of the transitional parcels located within the City, and to create new transitional zoning districts to address the unique characteristics of these sites, and corresponding development standards.

On June 24, 2015, the Planning Board conducted a public hearing on the proposed transitional zoning ordinance amendments, as well as the potential rezoning of numerous parcels throughout the City to TZ-1, including 404 Park Street. After much discussion on all of the proposed zoning amendments and properties considered for rezoning, the Planning Board voted to recommend approval of the creation of TZ-1, TZ-2 and TZ-3 Transitional Zoning districts to the City Commission, and voted to recommend approval of many properties for rezoning to these new districts. Specifically, the Planning Board voted to recommend to the City Commission that 404 Park Street be rezoned to TZ-1 Transitional Zone to allow development of the property with attached single-family units.

Finally, on September 21, 2015, the City Commission approved the creation of both the TZ-1 and TZ-3 Transitional Zoning districts, and approved the rezoning of several properties into these new zoning classification. With regards to 404 Park, the City Commission discussed rezoning the site to TZ-1 as recommended by the Planning Board, but a motion to do so failed as several commissioners felt that adjacent properties along both Oakland and Park Street should also have been included for consideration of rezoning to TZ-1.

Current Request for Rezoning from R-2 to TZ-1

At this time, the applicant is seeking a rezoning of the subject property from R-2 Single Family Residential to TZ-1 Transitional Zone, as originally recommended by the Planning Board on June 24, 2015.

The requirements for a request for the rezoning of a property are set forth in Article 07 section 7.02 B as follows:

Each application for an amendment to change the zoning classification of a particular property shall include statements addressing the following:

1. **An explanation of why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with property ownership.**

   Response
   - *Rezoning to TZ1 would allow the Subject Property to be developed in a manner consistent with the 2016 Plan goals.*
   - *The Planning Department has previously advised the Planning Board that development of the Subject Property as a single family home "has proven improbable."*
   - *The Subject Property is bound by three major streets.*
   - *The side facing Woodward does not have screening.*

2. **An explanation of why the existing zoning classification is no longer appropriate.**

   Response
   - *The existing Zoning should be updated so that a residential use can be built that complies with TZ-1 District Intent and the 2016 Plan.*
   - *The development of the Subject Property would be pursuant to an ordinance that was enacted to establish, encourage and foster buffers between commercial and residential areas.*
   - *Redevelopment of Subject Property as a single family residence does not accomplish any of the important goals of the TZ-1 Zoning District or the goals of other land use plans which are the basis for the Zoning Ordinance.*

3. **An explanation of why the proposed rezoning will not be detrimental to surrounding properties.**

   Response
   - *It will protect the single family neighborhood to the north by providing a clear buffer between traditional single family uses and commercial uses.*
   - *It will allow for the development of a modern and attractive residential structure.*
   - *The contemplated plans for the Subject Property are at a height, density, and aesthetic that coordinates with the surrounding properties.*

- *The intended use developed in a modern way is a great improvement over its current vacant condition.*

Applications for amendments that are intended to change the zoning classification of a particular property shall be accompanied by a plot plan. Information required on plot plans shall be as follows:

1. **Applicant's name, address and telephone number.**
2. **Scale, north point, and dates of submission and revisions.**
3. **Zoning classification of petitioner's parcel and all abutting parcels.**
4. **Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.**
5. **Existing use of the property.**
6. **Dimensions, centerlines and right-of-way widths of all abutting streets and alleys.**
7. **Location of existing drainage courses, floodplains, lakes, streams, and wood lots.**
8. **All existing easements.**
9. **Location of existing sanitary systems and/or septic systems.**
10. **Location and size of existing water mains, well sites and building service.**
11. **Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared the plans. If any of the items listed above are not applicable to a particular plot plan, the applicant must specify in the plot plan which items do not apply, and, furthermore, why the items are not applicable.**

The Applicant has submitted a plot plan as a part of their application package including all of the necessary requirements**.**

The Planning Board shall hold at least one public hearing on each application for amendment at such time and place as shall be established by the Planning Board. The Planning Board shall make findings based on the evidence presented to it with respect to the following matters:

a. The objectives of the City's current master plan and the City's 2016 Plan.
b. Existing uses of property within the general area of the property in question.
c. Zoning classification of property within the general area of the property in question.
d. The suitability of the property in question to the uses permitted under the existing zoning classification.
e. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

Following receipt of the written report and recommendations from the Planning Board, the City Commission may grant or deny any application for the amendment for rezoning. If the City Commission denies the application, no application shall be reheard for at least one year, unless there have been substantial changes in the facts, evidence, and/or conditions demonstrated by

the applicant. The determination of whether there have been such changes shall be made by the Planning Board at the time the application is submitted for processing.

Departmental Reports

1. Engineering Division – No concerns were reported by the Engineering Division.

2. Department of Public Services – No concerns were reported from DPS.

3. Fire Department – No concerns were reported from the Fire Dept.

4. Police Department - No concerns were reported from the Police Dept.

5. Building Division – No comments have been provided by the Building Department at this time.

Planning Division Analysis and Recommendations

F. The objectives of the City's current master plan and the City's 2016 Plan.

The Birmingham Plan, 1980 identifies the R-2 area surrounding the subject parcel in the Birmingham Future Land Use plan as a "Sensitive Residential Area" that should be protected against non-residential encroachment. Specifically, The Birmingham Plan states:

> "Because of its proximity to the downtown area and the fact that it is surrounded by Hunter Boulevard and Woodard Avenue, **the neighborhood may be under repeated pressure for piecemeal rezoning to non-residential use**. Such rezoning could destroy the area's sound residential character and result in a deterioration of property values for remaining homes. **(Emphasis added.)**

Thus, The Birmingham Plan advises that the residential area north of Oakland remain as residential, and should be protected from commercial encroachment.

Portions of the Downtown Birmingham 2016 Vision Statement relevant to the proposed rezoning of 404 Park state:

The Downtown Birmingham 2016 Master Plan must:

- Strengthen the spatial and architectural character of the downtown area and ensure buildings are compatible, in mass and scale, with their immediate surroundings and the downtown's traditional two to four story buildings.
- Ensure good land use transitions and structural compatibility in form and mass to the traditional, residential neighborhoods surrounding downtown.

The proposed TZ-1 Transition Zone would only allow attached single family residential uses, and would not allow any commercial uses if the rezoning was approved.
The TZ-1 Transition Zone was established to provide for a reasonable and orderly transition from, and buffer between commercial uses and predominantly single family residential areas or

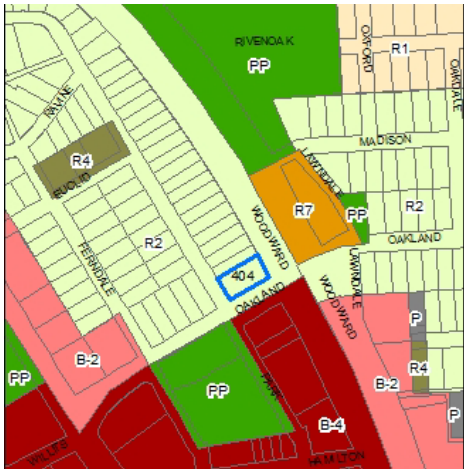
for property which either has direct access to a major traffic road or is located between major traffic roads and predominantly single family residential areas. The subject property has direct access to a major traffic road and is located between major streets and the residential neighborhood to the north.

G. Existing uses of property in the general area of the property in question.

The existing uses within the general area of the Subject Property include Single-Family Residential and Multiple-Family Residential to the north, Single-Family Residential and General Business to the west, Public Parking and Business-Residential to the south and General Business, Single-Family Residential, and Multiple-Family Residential to the east.

H. Zoning classification of property within the general area of the property in question.

The current zoning classifications of the property in the general area are R-2 and R-4 to the north, R-2 and B-2 to the west, B-4 and PP to the south, and B-2, R-2, and R-7 to the east.



I. The suitability of the property in question to the uses permitted under the existing zoning classification.

The existing zoning of the property is R-2, Single-Family Residential. The vacant subject parcel is situated with frontage on three streets, two of which carry significant amounts of traffic, Woodward and Oakland. While a single family home can be built on the property, the applicant makes the case that having the side yard and rear yard exposed to the two high traffic streets is a detriment to the safety and privacy of any single family home that may be built there. This is evidenced by the fact that the parcel has been vacant since 1989 and available for purchase yet a willing buyer has not come forward to develop the property as a single family home.

As discussed above, the subject property was a part of the Oakland/Park Subarea Study completed by LSL Planning in 2013. The Oakland/Park Subarea Study stated the following with regards to 404 Park Street:

While Birmingham has a strong single family market, we do not believe this site can be expected to redevelop as a single family home due to site factors (location, shallow lot depth along Oakland, lack of screening along Woodward, views of multi-story buildings across Oakland, and traffic volumes along Oakland). These site characteristics are unique only to this lot. Under these conditions, attached, owner-occupied residential units (approximately 4 units per building) seem to be the most appropriate use.

Thus, the most recent study of the Oakland/Park Subarea found that 404 Park was a unique site with numerous challenging conditions that would not be favorable for the development of a single family home. Rather, this study recommends attached single-family residential uses to protect the residential neighborhood to the north, to minimize impacts from parking facilities and to strengthen Oakland as a gateway into Downtown.

J. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

The general area in question is currently fully developed and unlikely to be re-developed in the near future. The single family homes to the north and west are stable and unlikely to change in the future. The adjacent area in the overlay to the south is zoned to go up to 5 stories. The existing office buildings and parking structure are well maintained and unlikely to be redeveloped in the immediate future.

Recommendations

The Oakland/Park Subarea Study completed by LSL Planning in 2013 provided the following specific recommendations for the site at Oakland and Park known as 404 Park:

> The dimensional characteristics, parcel configurations, proximity to the downtown and location along higher volume streets will influence the potential development. **Our recommended approach would be to allow modest density, attached residential types (4-unit buildings) at a density higher than what is allowed in the R-2 district, to be offset to some degree with higher quality screening and overall development quality.** The following discuss the various ways that this could be achieved and our suggested approach:
>
> > 1. **Grant Variances.** The City has the authority to grant variances of the dimensional and use restrictions in the Zoning Ordinance. Use and dimensional variances should only be issued in extremely unusual cases, and should be avoided where the desired redevelopment is expected to require several variances. In this case, the shape of the parcel alone does not prevent development into single-family homes according to the requirements of the R-2 district. However, there are some physical factors that make development of a single family home questionable. We believe an alternative development option, attached single-family units, is more reasonable and can serve as a buffer for the adjacent residences. A use variance, along with dimensional variances, is an

option. Even if the property owner can demonstrate there is a "demonstrated hardship" to warrant a use variance, such a procedure is often not viewed as a good policy approach.

2. **Rezone the Property.** Rezoning of the site from R-2 to a higher intensity designation, such as the R-8 zoning district would allow additional uses including multiple-family uses, but not commercial uses, which can help alleviate concern from the neighborhood residents. In addition, the dimensional requirements are less than those in the R-2. Particularly, the minimum lot size is reduced to 3,000 s.f., the rear setback is reduced to 20', and open space and lot coverage requirements are eliminated, which could accommodate more intense uses. They could also, however, create a development that, without performance standards, may not achieve the compatibility, transitions and buffers desired for this site.

3. **Establish a New District or Overlay.** The recommended approach is to develop a new, urban residential district that could be applied to select sites in anticipation of redevelopment. The provisions could apply if sites are rezoned, or it could be applied as an overlay. The primary benefit of this option is that the City can establish the provisions it feels appropriate for these sites rather than trying to force them into an existing district. Key aspects of this district could include:

a. Shifting of the approval focus from the dimensional requirements to a set of performance based standards. If chosen, standards including but not limited to the following should be included:

1) The development includes building heights, screening and landscaping that consider adjacent land uses and development patterns to ensure proper transition to nearby residential neighborhoods; and

2) The development provides an alternative housing type not typically found in the City, such as senior housing, attached single-family, or other targeted types.

b. Because the conditions of the 404 Park Area are not specific to that study area, applicability provisions could be included to allow this district to be applied to other sites that either:

1) Abut both a single-family residential district and a non-residential district, or

2) Are located along a major non-residential road that abuts a single family district.

c. Specific standards of the district should include design considerations such as:

1) Additional screening standards for transitional sites, such as inclusion of additional landscaping, building step-backs, and other provisions that we expect will be needed;

2) Additional parking location options, which are limited to on-site facilities in the R-2 district; and

3) Maximum illumination levels, limits on late-night activity, noise restrictions or other standards that may help protect nearby residents.

4) Incentives or other market-based zoning approaches that are more likely to result in the development activity that is desired.

d. A development agreement should be required with each approval, to detail the parameters for development relative to the specific conditions and factors for each site.

In accordance with the recommendations contained in the Oakland/Park Subarea Study noted above, the Planning Board conducted a study of 404 Park and other such transitional properties throughout the City, and developed three new transitional zoning classifications limiting use, mass, scale and hours of operation, as well as incorporating specific development standards to address buffering issues, landscaping, lighting and screening. Specifically, the intent of the TZ-1 Transition Zone is outlined in Article 2, Section 2.41 of the Zoning Ordinance is as follows:

A. Provide for a reasonable and orderly transition from, and buffer between commercial uses and predominantly single-family residential areas or for property which either has direct access to a major traffic road or is located between major traffic roads and predominantly single-family residential areas.

B. Develop a fully integrated, mixed-use, pedestrian-oriented environment between residential and commercial districts by providing for graduated uses from the less intense residential areas to the more intense commercial areas.

C. Plan for future growth of transitional uses which will protect and preserve the integrity and land values of residential areas.

D. Regulate building height and mass to achieve appropriate scale along streetscapes to ensure proper transition to nearby residential neighborhoods.

E. Regulate building and site design to ensure compatibility with adjacent residential neighborhoods.

F. Encourage right-of-way design that calms traffic and creates a distinction between less intense residential areas and more intense commercial areas.

The property at 404 Park Street clearly has direct access to a major traffic road, and is located between major traffic roads and a residential area, and thus qualifies as a transitional property that should be zoned TZ-1 to protect and preserve the integrity of the residential area to the north by allowing a graduated attached single family use to transition from the mixed use downtown to the adjacent neighborhood. On June 24, 2015, the Planning Board followed the recommendation of the Oakland/Park Subarea Study and recommended approval of 404 Park Street for rezoning to the newly created TZ-1 Transitional Zone as part of the transitional zoning study. The TZ-1 Transitional Zone allows only residential uses, and limits the height, mass and density permitted in accordance with the recommendations of the Oakland/Park Subarea Study.

The Planning Division finds that the proposed rezoning of the subject property at 404 Park from R-2 to TZ-1 would create an appropriate transition from the five story central business district to the south to the two and a half story residential neighborhood to the north. Such a buffer would not adversely affect the surrounding property and would provide a suitable transition from the commercial zone to the south, while protecting the stable neighborhood to the north.

404 Park Street Aerial and Surrounding Zoning

Planning Board Minutes
September 19, 2012

REZONING REQUEST
404 Park St. Parcel ID#1925451021
Lots 66 and 67 Oak Grove Addition (currently vacant land at Park, Oakland and Woodward Ave.)

Ms. Ecker explained that in accordance with the requirements of the Zoning Ordinance, the property owner of parcel #1925451021, being lots 66 and 67 of Oak Grove addition (vacant property on the corner of Park, Oakland, and Woodward), commonly known as 404 Park, is requesting that the Planning Board hold a public hearing to consider the rezoning of said property from R-2 (Single-Family Residential) to B-2C (General Business). The applicant included a letter from the property owner in the application package indicating that there is a binding purchase agreement in place.

Following receipt of the written report and recommendations from the Planning Board, the City Commission may grant or deny any application for the amendment for rezoning.

The Planning Division finds that the proposed rezoning of the subject property at 404 Park from R-2 to B-2C would not adversely affect the surrounding property. When considering the existing development in the area, development of this parcel as a single-family home has proven improbable and would result in a home that is less desirable then the neighboring homes. The development of the parcel as a multi-family building provides a strong buffer for the single-family homes if property executed. Considering the applicant's proposal to offer contract zoning providing exclusively residential uses, the Planning Division has concluded that the proposed rezoning would provide a suitable transition from the commercial zone to the south, while protecting the stable neighborhood to the north.

Mr. Williams was not clear why the applicant applied for this particular zoning designation rather than some other. Ms. Ecker said it had to do with development standards for other zoning districts that didn't seem to work with what they wanted to do. Mr. Koseck observed that the criteria in terms of how the board evaluates this contract rezoning is probably different than with a regular rezoning. Chairman Boyle noted this contract rezoning gives the board an indication of footprint, bulk, height, etc. Ms. Ecker added with contract zoning the applicant volunteers to restrict their uses.

Discussion considered whether the applicant would be likely to get a variance from the Board of Zoning Appeals ("BZA") for their setbacks with a regular rezoning. Ms. Ecker said they would have to show a hardship before the BZA. They would be better with contract rezoning as opposed to wondering how the BZA would rule. The proposal is to lock the development down to residential only; no commercial.

Ms. Ecker advised the subject parcel has been considered for rezoning twice before, once in 1960 and once in 1988. The application was denied on both occasions. The property has been vacant since 1989 when a previously existing single-family home was razed. The applicant's letter indicates the property has been for sale since 2006. Mr. Williams thought it is part of the Planning Board's task to understand the history of surrounding properties as well as the property in question. Mr. Clein wanted to see a complete site plan analysis of the proposal. Ms. Ecker explained the setbacks are zero and there isn't a specific standard for parking in the B-2C Zoning District.

Mr. Chuck DiMaggio from Burton Katzman; Mr. Tom Phillips, Architect from Hobbs & Black; and Mr. Frank Flynn, the broker representing the property owners, were present. Mr. DiMaggio listed a number of Burton Katzman developments in Birmingham and gave a PowerPoint that showed the site layout, floor plans, and conceptual elevation of the proposed project. With this request for contract zoning the petitioner is offering to restrict the site to multi-family housing that the board will approve. The B-2C classification allows the building to be sited on the property so the applicants don't have to go before the BZA and show a hardship for a setback variance. The proposal is for 14 units w/grade-level parking.

Mr. DiMaggio listed reasons why a rezoning is necessary for the preservation and enjoyment of the rights of usage associated with property ownership, as the current R-2 Single-Family Residential zoning does not provide the owner with a reasonable use of its property. The long-time vacancy of the property, negative land use and traffic impacts, and similar placement to other adjacent property zoned for high density multiple-family purposes exacerbate the difficulty of the current zoning.

Mr. DiMaggio maintained the existing zoning classification is no longer appropriate because of the non-residential land use changes which have occurred on adjacent properties. The premises are no longer ingrained within an established neighborhood, but have become an edge property.

The proposed rezoning will not be detrimental to surrounding properties because it will not be harmful to the Downtown properties to its south or the five-story apartment building to its east. It will form the narrowest and least intrusive edge to the south side of the Ravines Neighborhood and offer it protection from non-residential uses and encroachments. Lastly, the conditional rezoning assures the residential use of the premises.

Mr. Williams inquired why they constructed the higher portion of the building to the north rather than to the south. Mr. DiMaggio responded that is something that could be changed as they move through the process. Mr. Williams inquired further whether they developed alternate plans with ingress and egress off of Oakland rather than Park, because he would not like to see more traffic on Park than necessary. Mr. DiMaggio's reply was they had concerns about the difficulty of achieving a curb cut on Oakland because there would be safety considerations with turning.

Ms. Whipple-Boyce said the height of this building concerns her.

Mr. Koseck asked if the property has been marketed as a single-family home since 2006. Mr. Flynn replied it has been marketed as a single 80 ft. lot that could be split into two 40 ft. parcels. The asking price today is in the mid-$300s. Mr. Koseck then questioned if one family doesn't want to live there, why would 14 families? Mr. Flynn explained this is a gateway parcel conveniently located just steps from Downtown. He has had no single-family inquiries for the property. Mr. Koseck concluded that he understands the challenges of this property, but doesn't see that 14 units with all the associated parking is an attempt to be sensitive to the neighbors.

Mr. DiMaggio explained the proposal is for a multiple-family apartment building with for rent units. There are many people who would like to live in such a high quality neighborhood close to Downtown.

Chairman Boyle took comments from the public at 8:53 p.m.

Ms. Enid Livingston who lives in the Ravines neighborhood said the proposed rezoning serves to maximize the footprint. She hopes the board would have setback requirements that will not annihilate the property to the north of the proposal.

Ms. Catherine Gates, 343 Ferndale, was not in favor of an entrance on Park. She was cautious about an environment with 14 families moving in and out every year.

Ms. Debby Frankovich, 467 Park, listed concerns for the community:

- Having the entrance on Park really adds to the traffic there;
- The property on Poppleton is isolated and not comparable to this property;
- The project should not be a 14-unit apartment building with people living there who are not invested in the neighborhood. The applicant should take others living in the neighborhood into consideration.

Ms. Dorothy Conrad, 2252 Yorkshire, spoke to support a single-family development. This proposal is not single-family residential and she encouraged the board to hold to the single-family classification because of the need to preserve that neighborhood.

Ms. Kate Safford, 211 Ravine, hoped the Planning Board would consider that people need guest parking passes. There is no place for those cars to go. Additionally, the entrance and exit to the parking is a concern to her.

Mr. Michael Shuck, 247 Oakland, spoke in opposition to the rezoning because it is too dense for the neighborhood. Even townhouses would be a better transition. This will really change the neighborhood. The problem they are having with selling the property is the price.

Mr. Paul Gillen, the owner of three duplexes in the neighborhood, thought the tallest portion of the building should be on Oakland. People will use Park to cut through. There needs to be retention of all the water that would come down Park and flood the lower area. Also, he was not in favor of an entrance on Park.

Mr. Matt Wimble, the owner of 452 Park, was opposed to the rezoning. The lot was priced at $380 thousand which is too high and that is why it didn't sell. He had concerns about parking, sewers, and traffic. People don't take care of rentals as well as homeowners.

Mr. Brad Host, owner of 416 Park next door, said the rezoning request is an attempt that will compromise the integrity of their family-oriented neighborhood by allowing a looming structure as the entrance to the neighborhood and by creating a traffic nightmare. If the property were appropriately priced, it could be sold.

Mr. Jim Wilhite, 376 Ferndale, agreed that the property would sell if they would price it suitably.

Mr. Hab Chan, 330 Ferndale, observed that rental apartments aren't well taken care of by their occupants.

Ms. Ecker noted for the record that the Planning Division has received five letters with the same format that are against the rezoning request. Four other letters also expressed opposition.

Mr. Clein said he doesn't see the proposed building as being appropriate and he is not comfortable with this level of density on the site.

Mr. Williams shared those concerns. Fourteen apartment units is too many for the site and he won't support that or anything that has ingress and egress on Park. Also, three stories is too high for the parcel.

Chairman Boyle said the elephant in the room is the current market that provides opportunity for rentals of this type. The question is whether the proposed rezoned building is too big or too high or too intrusive to fit into this neighborhood. He suggested that the developer has come forward with something that doesn't fit the neighborhood. He urged them to explore less density, less height, access off of Oakland, and ownership.

Mr. Williams concurred. The extent of the development and the height concerns him. Mr. Koseck indicated this proposal seems wrong to him.

Motion by Ms. Whipple-Boyce
Seconded by Mr. Williams to postpone the rezoning request for 404 Park St. Parcel ID#1925451021 to November 14.

Motion carried, 5-0.

VOICE VOTE
Yeas: Whipple-Boyce, Williams, Boyle, Clein, Koseck
Nays: None
Absent: DeWeese, Lazar

Mr. DiMaggio appreciated the opportunity to work on this further with the board.

Mr. Williams suggested that the developer meet with the neighborhood association officers before coming back.

Chairman Boyle summed up that there is strong support for this site to be developed for residential use.

The board took a brief recess at 9:35 p.m.

Planning Board Minutes
November 14, 2012

OLD BUSINESS
404 Park St.
Request to rezone property from R-2 Single-Family Residential to B-2C General Business

Ms. Ecker summarized that in accordance with the requirements of the Zoning Ordinance the property owner of parcel #1925451021, being lots 66 and 67 of Oak Grove addition (vacant property on the corner of Park, Oakland, and Woodward Ave.), commonly known as 404 Park, is requesting that the Planning Board hold a public hearing to consider the rezoning of said property from R-2 (Single-Family Residential) to B-2C (General Business). The applicant included a letter from the property owner in the application package indicating that there is a binding purchase agreement in place. The subject parcel has been considered for rezoning twice before, once in 1960 and once in 1988. The application was denied on both occasions.

The subject property has been vacant since 1989 when a previously existing single family home was razed. The applicant's letter indicates the property has been for sale since 2006.

Following receipt of the written report and recommendations from the Planning Board, the City Commission may grant or deny any application for the amendment for rezoning.

The applicant appeared before the Planning Board on September 19, 2012 to discuss the proposed contract rezoning request to allow development of a multi-family residential building on the existing vacant site. Under the contract zoning that the applicant is proffering, the property would be deed restricted as well as zoning restricted to residential uses only, and no commercial uses would be permitted at the site. The suggestions of the Planning Board included relocating access to the site from Park St. to Oakland Ave.; reducing the proposed building height; and reducing the density of the building.

After much discussion, the Planning Board voted to postpone the matter to give the applicant time to amend the plans to address the comments of the Planning Board and to meet with the neighbors to speak to their comments as well. Comments from the neighbors included requesting an Oakland Ave. access drive, a reduction in density, an increase in the front and north side setbacks, a concern regarding guest parking and concerns over renters living in the neighborhood. Numerous neighbors have signed a petition based on their concerns for the area.

Thus, since September 19, 2012, the applicant has met with the neighbors on two occasions, and has amended their site plan and building design to address the concerns of the neighbors and the comments of the Planning Board.

Mr. DeWeese said it bothers him to have a business classification even with a residential restriction because this is a sensitive neighborhood. Ms. Ecker replied that classification was selected by the applicant based on the setbacks.

Mr. Koseck inquired what the applicant would be held to with the rezoning. Ms. Ecker said basically they are committing to a footprint, the number of units, and the agreement outlining those particulars for the contract rezoning. If the City Commission decides the rezoning can go

through, then the proposal would come back to the Planning Board with plans and layouts and the board would do a full Preliminary and Final Site Plan Review on it.

Mr. Chuck DiMaggio with Burton Katzman recalled at the conclusion of the last meeting they indicated that through this rezoning process they wanted to strike a balance between what they think is appropriate for the site and what respects the neighborhood.

At that meeting a number of concerns were voiced about the project. Through meetings with the neighbors on two occasions they have attempted to address the concerns. They have now come up with a row house type of project with six units, three on the ground floor and three on the upper floor. The bulk has been reduced 40 percent from what was originally proposed. Height is residential in scale – 26 - 28 ft. Access is off of Park St., two parking spaces/unit, two guest parking spaces, a 15 ft. setback off of Park St., a 20 ft. setback from Woodward Ave., and a 7 ft. setback off of Oakland Ave. They believe the price points this rental will demand will bring in residents of the caliber this City would desire to have.

Ms. Ecker noted the applicant is exceeding the nine space parking requirement by five spaces. Mr. Williams observed the previous proposal required traffic from 30 cars out onto Park, and now there will only be 14.

Mr. DiMaggio presented several slides showing residences in the Ravines neighborhood built in the shadow of office buildings, or against Woodward Ave.

The chairman invited comments from the audience at 8:48 p.m.

Ms. Michelle Irwin, 356 Ferndale, said she doesn't know how the board could consider rezoning when they don't understand what the building will look like. She had concerns about the potential increase in density to their neighborhood. If this proposal goes through, it would set a precedent for other homeowners that back up to Woodward Ave. to level their homes and then apply for rezoning. That would really change the flavor of the area. She presented more petitions from neighbors opposing commercial rezoning.

Mr. Benjamin Gill, 520 Park St., observed there is a whole row of houses along Woodward Ave. Six units is way too much density. It is hard to get through on Park St. when people are parked on both sides of the street. A fire engine could not get through to go behind the building. The applicant can work within the zoning as it is now to develop the property. Lastly, Mr. Gill expressed his opinion that staff is biased towards the developer.

Mr. Jason Yert, 490 Park St., said the developer wants to rezone to commercial because it will make him more money. It is not better for the community or for the residents. Unless the developer can prove why the property should be rezoned, Mr. Yert doesn't think the board should consider it.

Mr. John Gleason, 356 Ferndale, described beautiful homes that have been developed in his neighborhood despite the surroundings. He feels rental apartments have the potential to tank the property values for the rest of the area. They are simply not appropriate.

Mr. Matt Wimble, 452 Park St., said the applicant bought the property as a single-family zoned lot, raised the price, and that created the problem being used as a justification for this project. Mr. Wimble did not think people should be allowed to create a problem and then benefit from it. He cautioned the board not to rezone until they actually have a plan.

Mr. Brad Host, owner of 416 Park St., the rental house next door to the property in question, believes the square footage of this property only allows three units if it is rezoned. Commercial entrances to the Ravines neighborhood were there before new houses were built.

Ms. Dorothy Conrad, 2252 Yorkshire, commented this is a special neighborhood and it needs to be protected. Taking the proposed action isn't helping to protect it. The proposal is spot zoning that would create a special zoning classification for someone to come in and overbuild on a piece of property. She objects to it and is sure a beautiful house can be built there.

Mr. Reed Bennett, 271 Euclid, said the neighbors have a high standard for what they expect to go in on the subject property. He doesn't see the burden of proof for rezoning. A high quality single-family residence can be constructed there. He went on to say the opinion of staff is going to look like it is the opinion of the City. The chairman told him that the Planning Board makes the decisions. Ms. Ecker added the previous decisions that were made with regards to two rezoning requests were in the initial report that was given to the board and discussed at the presentation.

Ms. Bev McCotter, who owns the house at 287 Oakland, said she opposes any multifamily zoning. She thinks it would forever change the character of the Little San Francisco area of Birmingham. It would add extra traffic and put people in there who are not financially tied to the neighborhood. She knows of a party who is interested in the property to build a single-family home, but their offer was not accepted.

Mr. Frank Flynn spoke to represent Mr. Richard Lambert, the property owner. The parcel is on the market for $379 thousand and he does not think the price is too high. A vacant property less than one-half the size recently closed for $299 thousand. The offer that was mentioned earlier was low ball and not considered. He concluded by saying high-end rental properties are extremely rare.

Mr. Jim Wilheight, 376 Ferndale, noted the property is very valuable. If the price is right, it will sell.

Ms. Whipple-Boyce received clarification that if a developer were to build a two, three, or four unit development there, rezoning would be necessary.

Mr. Williams wanted to see a history of how Brown St. was rezoned.

Mr. DeWeese did not see a compelling case for rezoning without looking at the whole area. There is considerable opposition from the neighbors.

Mr. Clein pointed out that contract zoning is a legal land use tool in this state. This contract rezoning has been requested for a classification where no variances are required because they may not be granted on the basis of self-created hardship. Discussion centered on the contract for rezoning. Consensus was that it would be tough to support the proposal tonight without seeing the terms of the agreement. Chairman Boyle did not think enough progress has been made for the board to make a decision. Enormous progress has been made; however the board still does not have enough information to make a decision.

Motion by Mr. Williams
Seconded by Mr. Koseck to continue the hearing for 404 Park St. to January 9,

2013.

No comments from the public were voiced at 9:46 p.m.

Motion carried, 6-0.

VOICE VOTE
Yeas: Williams, Koseck, Boyle, Clein, DeWeese, Whipple-Boyce
Recused: Lazar
Nays: None
Absent: None

Board members listed the information they would need for the January 9 meeting:

From the applicant –

(g) A draft of the terms of the contract volunteered by the applicant as reviewed by Mr. Currier;
(h) A rendering of the proposal with elevations showing how it would fit on the site with the adjacency to the neighbors to the south, to the north, and to the west;
(i) A meeting with residents so they know what is being proposed.

From staff –

(j) A letter of opinion from the city attorney outlining the nature of contract zoning and what precedent it creates for similarly situated properties within the neighborhood;
(k) A review of residential zoning in other zone districts and what they would generally allow;
(l) A history of rezoning to R-7 and R-8 on Brown St.

Ms. Ecker noted the complete agenda information is posted on the City's website the Friday before the meeting. Additionally, it was affirmed the protest petition from the property owners remains active as long as the public hearing continues.

The board took a short recess at 10:03 p.m.

Planning Board Minutes
January 9, 2013

01-04-13

REZONING APPLICATION
404 Park St.
Request for Contract Zoning (continued from the meetings of September 19 and November 14, 2012).

Ms. Lazar recused herself because of a relationship with the listing company.

A petition to deny the rezoning application and signed by the seven 100 ft. neighbors has been received by the Planning Dept.

Ms. Ecker re-introduced the rezoning application. In accordance with the requirements of the Zoning Ordinance, the property owner of parcel #1925451021, being lots 66 and 67 of Oak Grove addition (vacant property on the corner of Park St., Oakland Ave., and Woodward Ave.), commonly known as 404 Park St., is requesting that the Planning Board hold a public hearing to consider the rezoning of said property from R-2 (Single-Family Residential) to B-2C (General Business). With the existing Single-Family Zoning the building envelope is very restrictive. The petitioner has selected B-2C Zoning because it offers a significant enough floor plate to allow the multi-family development they are looking for. The subject parcel has been considered for rezoning twice before, once in 1960 and once in 1988. The application was denied on both occasions.

The subject property has been vacant since 1989 when a previously existing single-family home was razed. The applicant's letter indicates the property has been for sale since 2006.

Following receipt of the written report and recommendations from the Planning Board, the City Commission may grant or deny any application for the amendment for rezoning.

Under the contract zoning that the applicant is proffering, the property would be deed restricted as well as zoning restricted to residential uses only.

After appearing before the Planning Board on September 19 and November 14, 2012, the petitioner's application was continued to January 9, 2013. They are now proposing a six-unit row house concept designed to complement the neighborhood's "Little San Francisco" image by modeling the units after the symbolic row houses for which San Francisco, CA is known. All of the information requested by the Planning Board at the last meeting has been provided. Further, the applicant has advised that a meeting with the neighbors was held on the evening of January 3, 2013.

A Conditional Rezoning Agreement has been voluntarily offered by the developer as required for conditional rezoning. They propose to rezone the property to a limited specific use, six units of multi-family residential. The Agreement binds them to that use and ties them to all other standards particular to that zone district. The City Attorney has stated that any development beyond those limitations, such as a commercial use, would require further approval from the City.

Mr. Chuck DiMaggio with Burton Katzman presented slides depicting the site plan and building elevations showing three units on the first floor and three units on the second floor. The units are 1,376 sq. ft. on the first-floor and 1,620 sq. ft. on the second floor.

He explained there are four points of access to the Ravines neighborhood which are dominated by office buildings. The properties immediately behind have very nice residential construction despite the office buildings and their size. By extension, their row house project would fit into the area without a detrimental impact. They chose elevations that begin to project the San Francisco image to the district. It is felt this will help enhance the property values and provide a tangible benefit. Signage is proposed for the corner of Oakland Ave. and Park St. announcing the Little San Francisco District.

Mr. DiMaggio indicated the City Engineer was very positive towards the idea of having parking along Oakland Ave. One lane can be turned into on-street parking. That would provide an additional six or seven parking spaces. Also, they have thought about adding a diverter marked "No Right Turn" at Park St. to divert the traffic towards Oakland Ave. Through interaction with the City and the neighborhood they have hopefully arrived at a product that can work for everybody.

Chairman Boyle announced this will be the beginning of a site plan review process. The discussion tonight will evaluate to what extent the petitioner's proposal fits into this particular part of the City. If they move forward, this board will look at a proper site plan in much more detail. He took comments from the public at 8:10 p.m.

Mr. Benjamin Gill, 520 Park St., had a problem with the zoning. He felt the two lots should continue to be zoned Single-Family. Two single-family homes can be built there with the right setbacks. He is not in favor of accommodating the seller in getting more money for the lots because of what the developer can or cannot do.

Mr. Randy Stafford, 211 Ravine, said he is one of the directors of the newly formed Little San Francisco Neighborhood Assoc. The reason the neighborhood has its name is because of the hills and not the architecture. He doesn't think the proposed elevations are necessarily consistent with the architecture in the neighborhood. He urged the board to consider requiring the petitioner to downscale their development even further. He noted the Neighborhood Assoc. was formed in part to be a party to the Conditional Zoning Agreement. The developer has offered to deed restrict the property and he asked that be put into the Agreement to provide additional protection to the property owners.

Mr. Brad Host said that he and his wife own the Brown house to the north. He represented the seven property owners within 100 ft. of the subject property. He stated the design has too much density, lot coverage, height, traffic, and water runoff. One of the seven nearby residents attended one of the public meetings. Otherwise they have had no contact with the developer. Thirty-nine other families have offered to sign their petition. In conclusion, the landowner has had a problem selling his property; but that is not the neighborhood's problem.
Mr. Matt Wendel, 452 Park St., said if the lots are left as-is, a single-family house will go there. The property owner tore the original house down instead of refurbishing it. Then he set a commercial price for the parcel and claimed his other offers were low-ball. Special privileges should not be given to people who create empty lots in order to increase their value. The concern about conditional rezoning is that if it is not done correctly it turns into spot zoning.

Ms. Dorothy Conrad, 2252 Yorkshire, did not think that developers who claim they cannot get their money back should be rewarded. She believes that a single-family home or homes are what belong on this property. She urged the board to reject the idea of a conditional rezoning classification for these lots.

Mr. Hon Chen, 330 Ferndale, spoke to say he does not support the rezoning because he doesn't want any negative effect on the neighborhood.

Mr. Benjamin Gill spoke again to add that the six units will make a huge impact on parking along Park St. even with possible parking on Oakland Ave. He feels condominiums should be offered rather than apartments because renters don't care about the property.

Mr. Randy Stafford said he forgot to mention that Mr. DiMaggio has agreed to include as part of the proposal that the tenants in the six units will not be issued parking permits. They will be required to park in the Parking Structure.

Ms. Sharon Self, owner of the duplex at 227 and 229 Euclid, said the value of her property is comparable to the single-family values in that community. She thinks applicant's proposal is a sorry, sad thing to do to their very small 90-home community. It is a permanent solution to what could be a very temporary economic problem. She hopes the board will carefully consider the impact of their decision.

Mr. Williams said his view is that the City Commission should look at the general proposition of conditional rezoning before the specifics go to the Planning Board.

Mr. DeWeese agreed. He was uncomfortable with supporting a favorable motion. The applicant has stated the current zoning classification is no longer appropriate, but that is due at least in part to the action of taking the houses down and clearing the property. There is also the question of increasing density in this sensitive neighborhood. Finally, he was uncomfortable with taking one little piece of property without looking at the whole context and how it fits overall. The issue of conditional rezoning will not go away and it should be added to the Planning Board's Priority List.

Mr. Clein emphasized that contract zoning is a legal tool in the State of Michigan. The board should at least give fair consideration to it. The only question he thinks should be discussed is density of the project.

Ms. Whipple-Boyce thought a multi-family development is the right thing for this location. However, the density does concern her a little. She thinks there is a need for rental units, and does not necessarily agree that renters or landlords don't take care of their property. Neither does she agree that too much traffic or too tall buildings are very relevant in this case, particularly given the news from the Engineering Dept. that they could potentially add seven spaces along the street. There is a parking structure across the street, and everything surrounding this neighborhood is taller than this proposed residential building. Further, water runoff is not a concern for her because she doesn't think the Engineering Dept. will allow a project that would cause the surrounding homes to flood.

Mr. Koseck tended to think contract zoning is generally a good thing because it allows people to negotiate about what is in their best interest as a group. He thinks the petitioner has done a pretty good job of analyzing the neighborhood and making a case for their development. He

agreed that Little San Francisco is not about the architecture or the proposed sign. However, that would be for another meeting.

Ms. Whipple-Boyce commented it is better to have something there than to have empty lots.

Mr. Williams said his sense is that the whole effort on Brown St. with multiple parcels up-scaled the development in the area. The neighbors were generally supportive because the investment would enhance the value of the properties to the south. In his
view, what is generally being proposed here doesn't increase the value of adjoining properties.

Motion by Mr. DeWeese
Seconded by Mr. Williams to recommend denial of the proposed rezoning of 404 Park St. from R-2 to B-2C to the City Commission.

Ms. Whipple-Boyce thought this possibly should not be approved because of the density issue and everything that will be going on in the space. Some of that was alleviated for her tonight when she learned about the possibility to increase parking spaces and the fact that these people won't be issued parking permits.

Mr. DeWeese said he is uncomfortable with the precedent the rezoning sets as far as getting around other zoning classifications in terms of setbacks, etc.

Chairman Boyle felt the question here is whether this development is compatible and fits in with the neighborhood, and whether it will have a detrimental impact on the neighborhood. His opinion is that in each case this is a compatible use in an area that is deemed residential. There will be some impact on the area, but compared to the office developments that line the neighborhood, the impact is small. For those reasons he was in favor of moving this forward.

The chairman took comments on the motion from members of the audience at 9:03 p.m.

Mr. DiMaggio noted that under many other zoning classifications they could achieve more units than what they are proposing tonight. Their biggest constraint is complying with the setback requirements. They are attempting to pull the building away from the north property line and put it up on the street where it really belongs. This not an effort to get around the Zoning Ordinance in order to achieve a greater density than permitted.

Mr. Gill said the main reason his development on Brown St. went through was because they had the endorsement of the community to the south. In this case, at least half of the homeowners have said "no," and he hopes the board will take that into consideration.

Mr. Stafford commented that if the petitioner used alternate zoning such as R-5 or R-7 he would be denied by the Board of Zoning Appeals because of the required setbacks.

Motion failed, 2-4.

ROLLCALL VOTE
Yeas: DeWeese, Williams
Nays: Boyle, Clein, Koseck, Whipple-Boyce
Recused: Lazar
Absent: None

Motion by Ms. Whipple-Boyce
Seconded by Mr. Koseck to recommend approval of the proposed rezoning of 404 Park St. from R-2 to B-2C to the City Commission.

The chairman opened up further discussion by the audience at 9:08 p.m.

Mr. Randy Stafford noted there is unanimous opposition to the proposal by all of the residents within 100 ft. of the location. He was advised by Ms. Ecker that a three-quarters vote in favor is required by the City Commission in order to pass the rezoning request. Tonight the Planning Board is just making a recommendation to the City Commission, and they will make the final decision.

Motion carried, 4-2.

ROLLCALL VOTE
Yeas: Boyle, Clein, Koseck, Whipple-Boyce
Nays: DeWeese, Williams
Recused: Lazar
Absent: None

Chairman Boyle recalled the Planning Board has reviewed and debated on three separate occasions this proposal to develop the site for contract residential zoning. He feels the board has done its job. If this goes through the City Commission successfully, it will come back to this board for further site plan and design review.

The board took a short recess at 9:15 p.m.

01-32-13 SET PUBLIC HEARING
404 PARK

Dorothy Conrad stated that the state zoning law requires a 2/3 vote when abutting property owners are opposed. She noted that the Planning Board approved this by a 4-2 vote.

Mr. Currier explained that the Planning Board makes recommendations to the City Commission. To adopt a rezoning would require a super majority vote of the City Commission.

Ms. Conrad expressed concern with conditional zoning. She objected to the Public Hearing. She asked when the Commission had passed an ordinance regarding conditional zoning. Mr. Currier explained that conditional zoning is allowed under state law.

MOTION: Motion by Rinschler, seconded by Nickita:
To set a public hearing date for February 25, 2013 to consider approval of a Conditional Rezoning request for the rezoning of the vacant property at 404 Park Street from R-1 (Single- Family Residential) to B2C (General Business), with the voluntary restriction of the applicant to allow only residential uses on the site.

VOTE: Yeas, 6
Nays, None
Absent, 1
(Moore)

01-62-13 PUBLIC HEARING TO CONSIDER REZONING 404 PARK STREET

Mayor Dilgard opened the Public Hearing to consider approval of a Conditional Rezoning request for the rezoning of the vacant property at 404 Park Street from R-2 (Single-Family Residential) to B2C (General Business), with the voluntary restriction of the applicant to allow only residential uses on the site at 7:38 PM.

Ms. Ecker presented the request to rezone the property at 404 Park to B2C as requested by the applicant. She pointed out that the applicant has voluntarily agreed to enter into an agreement limiting the site to residential use only. Ms. Ecker explained the proposal is for a six unit multi-family, two story building. She confirmed for Mayor Dilgard that each unit contains a two car garage.

Commissioner Rinschler noted that the proposal is a preliminary site plan that would still have to go for final approval. He stated the contract would limit the site to six units.

Chuck DiMaggio, Burton Katzman, presented the proposed development. He explained that each unit is approximately 1500 square feet. He discussed the transitional function of the property and the other rental properties in the neighborhood. The traffic pattern was discussed. Mr. DiMaggio stated that they have agreed to install a no right turn sign.

Commissioner Hoff questioned what type of buffer will be utilized between the rear of the building and the residential home next door. Mr. DiMaggio explained that there will be an access drive, a screening wall and landscaping.

The Commission discussed conditional rezoning. Ms. Ecker confirmed that the Planning Board review of conditional rezoning would take a minimum of three to four months. Mr. Currier explained that the Michigan Zoning Enabling Act allows for conditional rezoning and explained the process.

Mayor Pro Tem Moore and Commissioner Sherman agreed stated that this is a policy decision and that the City should develop its standards first. Commissioner McDaniel suggested the Planning Board review the appropriate zoning for the property in question.

The following individual spoke in opposition:
Benjamin Gill, 520 Park
Frida Gill, 520 Park
Gordon Nelson, 576 Park4 February 25, 2013

Richard Nadjarian, 439 Park
Dorothy Conrad
Randy Safford, 211 Ravine
Brad Host, owner of house next door
Kristen Tait, 692 Brookside
Paul Gillin, 391 Ferndale
Hong Jiang, 330 Ferndale

David Bloom agreed transition areas need additional review.

Bob Ziegelman, Ziegleman Architects, stated that there are many options to integrate the area with what is currently there and what it should grow to.

The Mayor closed the Public Hearing at 9:21 PM.

Commissioner Nickita expressed that the site should be addressed as it is an unusual transition zone. He stated this needs to be handled proactively, not reactive. He stated that the two issues that need to be discussed are contract zoning and the vision of this area in the future.

MOTION: Motion by Hoff, seconded by McDaniel:
To deny the conditional rezoning request without prejudice and to ask the Planning Board to consider in the short term zoning for this particular area and in the long term the overall plan on conditional rezoning.

Carroll Deweese, 923 Purdy and member of the Planning Board, commented that the motion gives the Planning Board direction and they will work with due diligence on both issues.

VOTE: Yeas, 7
Nays, None
Absent, None

The Commission received communications opposed to the proposed conditional rezoning.

Planning Board Minutes
June 24, 2015

PUBLIC HEARINGS

Chairman Clein re-opened the public hearing at 7:35 p.m. (continued from May 27)

1. An ordinance to amend Chapter 126, Zoning, of the Birmingham City Code as follows:
TO ADD **ARTICLE 02 DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, SECTION 2.41, TZ1 (TRANSITION ZONE) DISTRICT** TO CREATE A DISTRICT INTENT AND LIST PERMITTED AND SPECIAL USES IN THIS ZONE DISTRICT;
TO ADD **ARTICLE 02 DEVELOPMENT STANDARDS, SECTION 2.42, TZ1 (TRANSITION ZONE) DISTRICT** TO CREATE DEVELOPMENT STANDARDS IN THIS ZONE DISTRICT;
TO ADD **ARTICLE 02 DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, SECTION 2.43, TZ2 (TRANSITION ZONE) DISTRICT** TO CREATE A DISTRICT INTENT AND LIST PERMITTED AND SPECIAL USES IN THIS ZONE DISTRICT;
TO ADD **ARTICLE 02 DEVELOPMENT STANDARDS, SECTION 2.44, TZ2 (TRANSITION ZONE) DISTRICT** TO CREATE DEVELOPMENT STANDARDS IN THIS ZONE DISTRICT;
TO ADD **ARTICLE 02 DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, SECTION 2.45, TZ3 (TRANSITION ZONE) DISTRICT** TO CREATE A DISTRICT INTENT AND LIST PERMITTED AND SPECIAL USES IN THIS ZONE DISTRICT;
TO ADD **ARTICLE 02 DEVELOPMENT STANDARDS, SECTION 2.46, TZ3 (TRANSITION ZONE) DISTRICT** TO CREATE DEVELOPMENT STANDARDS IN THIS ZONE DISTRICT;
TO ADD **ARTICLE 4, SECTION 4.53, PARKING STANDARDS, PK-09**, TO CREATE PARKING STANDARDS FOR TZ1, TZ2 AND TZ3 ZONE DISTRICTS;
TO ADD **ARTICLE 4, SECTION 4.58, SCREENING STANDARDS, SC-06**, TO CREATE SCREENING STANDARDS FOR TZ1, TZ2 AND TZ3 ZONE DISTRICTS;
TO ADD **ARTICLE 4, SECTION 4.62, SETBACK STANDARDS, SB-05**, TO CREATE SETBACK STANDARDS FOR TZ1 ZONE DISTRICTS;
TO ADD **ARTICLE 4, SECTION 4.63, SETBACK STANDARDS, SB-06**, TO CREATE SETBACK STANDARDS FOR TZ2 AND TZ3 ZONE DISTRICTS;
TO ADD **ARTICLE 4, SECTION 4.69, STREETSCAPE STANDARDS, ST-01**, TO CREATE STREETSCAPE STANDARDS FOR TZ1, TZ2 AND TZ3 ZONE DISTRICTS;
TO ADD **ARTICLE 4, SECTION 4.77, STRUCTURE STANDARDS, SS – 09**, TO CREATE STRUCTURE STANDARDS FOR THE TZ1 ZONE DISTRICT;
TO ADD **ARTICLE 4, SECTION 4.78, STRUCTURE STANDARDS, SS – 10**, TO CREATE STRUCTURE STANDARDS FOR TZ2 AND TZ3 ZONE DISTRICTS;
TO ADD **ARTICLE 5, SECTION 5.14, TRANSITION ZONE 1**, TO

CREATE USE SPECIFIC STANDARDS FOR THE TZ1 ZONE DISTRICT;
TO ADD **ARTICLE 5, SECTION 5.15, TRANSITION ZONES 2 AND 3**, TO CREATE USE SPECIFIC STANDARDS FOR THE TZ2 AND TZ3 ZONE DISTRICTS;
AND
TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM, **ARTICLE 4, ALL SECTIONS NOTED BELOW,** TO APPLY EACH SECTION TO THE NEWLY CREATED TZ1, TZ2 AND/OR TZ3 ZONE DISTRICTS AS INDICATED:

Ordinance Section Name	Section Number	Applicable Zone to be Added
Accessory Structures Standards (AS)		
	4.2	TZ1, TZ2, TZ3
	4.3	TZ1
	4.4	TZ1, TZ2, TZ3
Essential Services Standards (ES)		
	4.09	TZ1, TZ2, TZ3
Fence Standards (FN)		
	4.10	TZ1, TZ2, TZ3
	4.11	TZ1
Floodplain Standards (FP)		
	4.13	TZ1, TZ2, TZ3
Height Standards (HT)		
	4.16	TZ1, TZ2, TZ3
	4.18	TZ1, TZ2, TZ3
Landscaping Standards (LA)		
	4.20	TZ1, TZ2, TZ3
Lighting Standards (LT)		
	4.21	TZ1, TZ2, TZ3
	4.22	TZ1, TZ2, TZ3

Loading Standards (LD) **4.24**	TZ1, TZ2, TZ3
Open Space Standards (OS) **4.30**	TZ1, TZ2, TZ3
Outdoor Dining Standards (OD) **4.44**	TZ2, TZ3
Parking Standards (PK) **4.45** **4.46** **4.47**	 TZ1, TZ2, TZ3 TZ1, TZ2, TZ3 TZ1, TZ2, TZ3
Screening Standards (SC) **4.53**	TZ1, TZ2, TZ3
Setback Standards (SB) **4.58**	TZ1, TZ2, TZ3
Structure Standards (SS) **4.69**	TZ1, TZ2, TZ3
Temporary Use Standards (TU) **4.77**	TZ1, TZ2, TZ3
Utility Standards (UT) **4.81**	TZ2, TZ3
Vision Clearance Standards (VC) **4.82**	TZ1, TZ2, TZ3
Window Standards (WN) **4.83**	TZ2, TZ3

AND

TO AMEND **ARTICLE 9, DEFINITIONS, SECTION 9.02** TO ADD DEFINISTIONS FOR BOUTIQUE, PARKING, SOCIAL CLUB, TOBACCONIST, INDOOR RECREATION FACILITY AND SPECIALTY FOOD STORE.

3. To consider a proposal to rezone the following transitional parcels that are adjacent to residential zones throughout the City as follows:

300 Ferndale, 233, 247, 267 & 287 Oakland, 416 & 424 Park, Parcel # 1925451021, Birmingham, MI.
Rezoning from R-2 Single-Family Residential to TZ1 - Attached Single-Family to allow attached Single-Family and Multi-Family Residential which are compatible with adjacent Single-Family Residential uses.

191 N. Chester Rd. Birmingham, MI.
Rezoning from R-2 Single-Family Residential to TZ1 - Attached Single-Family to allow Attached Single-Family and Multi-Family Residential uses which are compatible with adjacent Single-Family Residential uses.
400 W. Maple Birmingham, MI. - O1 Office to TZ3 Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

564 and 588 Purdy, 115, 123, 195 W. Brown, 122, 178 E. Brown Birmingham, MI. Rezoning from O2 Office to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

1221 Bowers & 1225 Bowers Birmingham, MI.
Rezoning from O1- Office/ P - Parking to TZ1 - Attached Single-Family to allow Attached Single-Family, Multi-Family Residential uses which are compatible with adjacent Single-Family Residential uses.

1111 & 1137 Holland; 801, 887, 999, 1035 & 1105 S. Adams Rd.; 1108, 1132 & 1140 Webster; 1137 & 1143 Cole St.; 1101 & 1120 E. Lincoln. Birmingham, MI.
Rezoning from O2 Office to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

500, 522 & 576 E. Lincoln; 1148 & 1160 Grant; 1193 Floyd; Parcel # 1936403030, Birmingham, MI.
Rezoning from B-1 Neighborhood Business to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

36801, 36823 & 36877 Woodward, Parcel #'s 1925101001, 1925101006, 1925101007, 1925101008, 1925101009, Birmingham MI.
Rezoning from O1- Office & P-Parking to TZ3 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

1775, 1803, 1915, 1971, 1999, 2055, 2075 & 2151 Fourteen Mile Rd., Parcel # 2031455006, Birmingham, MI.
Rezoning from O1- Office to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

100, 124, 130 & 152, W. Fourteen Mile Rd. & 101 E. Fourteen Mile Rd. Parcel #1936379020, Birmingham, MI.

Rezoning from B1-Neighborhood Business, P-Parking, R5-Multi-Family Residential to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

880 W. Fourteen Mile Rd., 1875, 1890 & 1950 Southfield Rd. Birmingham, MI.
Rezoning fromB1-Neighborhood Business, O1-Office to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

1712, 1728, 1732, 1740, 1744, 1794 & 1821 W. Maple Rd. Birmingham, MI.
Rezoning from B1-Neighborhood Business, P-Parking, O1-Office to TZ2 – Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

2483 W. Maple Rd. Birmingham MI.
Rezoning from B1-Neighborhood Business to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

151 N. Eton, Birmingham MI.
Rezoning from B-1 Neighborhood Business to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

412 & 420 E. Frank, Parcel # 1936253003, Birmingham MI.
Rezoning from B1-Neighborhood Business, B2B-General Business, R3-Single-Family Residential to TZ1 – Attached Single-Family Residential to allow Attached Single-Family and Multi-Family Residential uses which are compatible with adjacent Single-Family Residential uses.

Ms. Ecker advised that a typo has been corrected in the draft ordinance amendments for the TZ-2 development standards, and that is the only change to the draft ordinance language from the last meeting.

Mr. Baka recalled last time he covered the basics of each zone and started to get into each individual parcel. At the board's request, his presentation tonight will focus much more on individual properties and how each individual location would be affected by the proposed amendments as far as use and density. He briefly described the TZ-1, residential zone, and the TZ-2 and TZ-3 zones that are mixed-use. Any currently existing use or building would be grandfathered in as long as it doesn't close for six months or the building is destroyed more than 75%. When a new use is established within an existing building the new zoning regulations would go into effect. The new zoning will apply to any expansion of an existing use or a building that requires site plan approval from the Planning Board. Where a new building is proposed the new proposed ordinance would apply.

TZ-1 Properties

- **E. Frank - R-3/B-1/B-2B to TZ-1**

Total property area - approximately 15,000 sq. ft.
# of residential units currently permitted - 1 unit on R-3 parcel
0 units on B-1 parcel

No limit on B-2B parcel
# of units permitted under TZ-1 zoning - 5

It was discussed that if Frank St. Bakery goes out of business they would be allowed to establish another bakery within 6 months or go to a residential use.

- 412 E. Frank - R-3 to TZ-1
- 420 E. Frank (Frank St. Bakery) - B-1 to TZ-1
- E. Frank Parking - B-2B to TZ-1

- **Park and Oakland - R-2 to TZ-1**

Property area per lot on Oakland - approximately 7,500 ft.
# of residential units currently permitted - 1
# of residential units permitted under TZ-1 zoning - 2
Property area of 404 Park - approximately 14,000 sq. ft.
# of residential units currently permitted - 2
# of residential units permitted under TZ-1 zoning - 4
Property area per lot on Park - approximately 7,200 sq. ft.
# of residential units currently permitted - 1
# of residential units permitted under TZ-1 zoning - 2

It was discussed that TZ-1, three stories, would have a similar impact as the current R-2 three story structures.

- **Willits and Chester - R-2 to TZ-1 (Church of Christ Scientist)**

Total property area - approximately 17,000 sq. ft.
# of residential units currently permitted - 2
# of residential units permitted under TZ-1 zoning - 5

- **Bowers/Post Office - 0-1/P to TZ-1**

Total property area - approximately 125,000 sq. ft.
# of residential units currently permitted - no limit
# of residential units permitted under TZ-1 zoning - 41

At 8:10 p.m. Chairman Clein invited the public to come forward and comment on anything related to the potential rezoning of the TZ-1 parcels.

Ms. Patti Shane who lives on Purdy did not understand why there has to be a major overhaul of all the zones when every issue could be approved by the Planning Board as it comes through. The neighborhood is thrilled with the little bakery at the corner of Frank and Ann and they don't want it to go away.

Mr. Benjamin Gill, 520 Park, received confirmation this is a continuation of the public hearing that began May 27 to discuss whether the Planning Board will recommend approval to the City Commission of the ordinance changes including the rezonings. The City Commission would consider the recommendation and hold a public hearing before making its decision.

Mr. Salvatore Bitonti, 709 Ann, said he is the owner of the Frank St. Bakery building. He asked for reassurance that if the bakery moves out he will not have to pay taxes on an empty space.

Ms. Ecker observed this is a difficult site with the three parcels that all allow different things. The parcels are not big enough to develop each one separately.

Mr. Brad Host said he and his wife own the house next to 404 Park which under this proposal could be developed into four condo units. They see this as an expansion of the city. If TZ-1 is enacted, it would take away part of their neighborhood. The only advocate for this is the developer. Everyone else has said they don't want it. Density has always been their biggest issue and the TZ-1 proposal will exacerbate that problem.

Ms. Ann Stolcamp, 333 Ferndale, echoed what Mr. Host said. People in her neighborhood have asked not to be rezoned. Parking is an issue there. The suggestion that her neighborhood is a transition zone is disturbing to her.

Ms. Bev McCotter, the owner of 287 Oakland, urged the board to remove Little San Francisco from the TZ-1 zoning recommendation. Under TZ-1, future property owners could join together and sell their properties to a developer of multi-family residences. That would change the whole flavor of this neighborhood of single-family homes.

Ms. Gina Russo, 431 Park, said she also would appreciate a recommendation for removal of Little San Francisco from TZ-1. It would be a shame for their neighborhood to increase 100% in density.

Mr. Paul Reagan thought the problem isn't with crowding in Little San Francisco; the problem is with the principles of zoning that are being considered, which do not fit across the town. It is not an appropriate buffer concept anywhere in town.

Mr. Larry Bertolini, 1275 Webster, had concerns about traffic on Bowers if the Post Office moves out. Forty-one units seems dense for that small area. He received clarification that if the Post Office wants to make modifications to their building there are no restrictions because they are the Federal Government.

Mr. David Bloom said it looks to him like there has been an attempt to simplify zoning. Each of the properties has unique differences and presents a challenge with trying to fit it into TZ-1 zoning. He thinks more research is needed to maybe take each area and find some zoning for it that is individualized rather than crammed into TZ-1.

Mr. Michael Shook, owner of 247 and 267 Oakland, said it seems to him the only reason they are talking about rezoning is because of the vacant lot between Park and Ferndale. When the issue came up about rezoning the empty lot, the initial reaction of the board was they did not want to do spot zoning. So it looks like they got around spot zoning by rezoning the neighborhood. Theirs isn't a transitional zone; there is no reason to rezone them. The neighbors oppose it and therefore, he asked that they be removed from that consideration.

Ms. Sharon Self, 227 Euclid, observed that it is such a small neighborhood that anything that is done along Oakland or anywhere else in the area affects everyone.

Mr. Benjamin Gill noted theirs is a neighborhood and not a commercial place where people invest and just sell houses.

Mr. DeWeese expressed his opinion that area is clearly inappropriate for rezoning.

TZ-2 Properties

- **Brown at Pierce/Purdy - 0-2 to TZ-2; P to TZ-2; R-3 to TZ-2**
- **S. Adams, Adams Square to Lincoln - O-2 to TZ-2**
- **Lincoln at Grant - B-1 to TZ-2**
- **E. Fourteen Mile Rd. east of Woodward - O-1 to TZ-2**
- **Fourteen Mile Rd. at Pierce - B-1, P, and R-5 to TZ-2**
- **Market Square and Pennzoil - B-1 to TZ-2**
- **Southfield at Fourteen Mile Rd. - O-1 to TZ-2**
- **Mills Pharmacy Plaza/W. Maple Rd. and Larchlea - B-1, O-1, P to TZ-2**
- **W. Maple Rd. and Cranbrook - B-1 to TZ-2**
- **N Eton - B-1 to TZ-2**

Mr. DeWeese received clarification that when single-family residential is developed, it falls under the R-3 specifications in all of the zones.

The chairman called for comments from the public on TZ-2 properties at 9:13 p.m.

Ms. Patti Shane talked about the density in her area on Purdy and reiterated that it seems every case is unique. Again, she does not understand why parcels cannot be considered on a case-by-case basis and then determine what the community thinks. She doesn't know what the development of the Green's Art Supply property will do to her neighborhood, let alone adding all the new allowances.

Mr. David Bloom received clarification that for the Market Square property, if it were to change to TZ-2, the use could continue but if they ever came up for site plan review they would have to do it under a Special Land Use Permit ("SLUP").

Mr. Paul Reagan stated with respect to the north side of Purdy there is no apparent reason to rezone residential into TZ-2. The best he can tell is someone is planning to have a large, multi-family apartment building going in there. This looks like it is developer driven. It is completely unacceptable to that neighborhood.

Mr. Harvey Salizon, 564 Purdy, said he understands if the owner of the corner building at Pierce and Brown did not get a two-level building approved he could put up a four- story structure at the south side of the parking lot. Mr. Baka explained under the R-7 standards the P Zone

allows multi-family. Mr. Salizon thought putting up a four-story building would literally block off the neighborhood.

Mr. Larry Bertolini saw some inconsistency with the streetscape when commercial development is allowed on Adams along with residential. In response to Mr. Bertolini's question, Ms. Ecker advised there is no annual review for SLUPs. If there is a complaint and a violation is found the SLUP could be revoked.

TZ-3 Properties

- **W. Maple Rd. and Chester - O-1 to TZ-3**

- **Quarton and Woodward - O-1 to TZ-3**

There were no comments from the audience on TZ-3 at 9:28 p.m.

Mr. Williams was comfortable with the concepts of TZ-1, TZ-2, and TZ-3 and thought they should remain.

- He did not think there is any dispute over the TZ-3 classifications on both properties.
- For TZ-2 it is pretty clear they tried to go to more neighborhood type uses. Where there may be questions a SLUP is attached. The only properties that raise a concern for him are the two residences on Purdy. The intent for including them is because the parcel to the west (P) could be developed to four stories.
- From his perspective in most instances TZ-1 is an improvement from what currently exists. The only area where there is a significant increase in density from what exists presently is at Park and Oakland. He is inclined not to include that parcel.
- The only properties he would leave out of the recommendation are the parcels along Oakland.

Ms. Whipple-Boyce agreed with a lot of what Mr. Williams said.

- TZ-3 seems not to be controversial; however, she would add veterinary clinic to uses with a SLUP.
- At Fourteen Mile and Pierce it may be a mistake to include the parking lot directly behind it. Given the conditions that surround it, it would be more appropriate as an R-2 classification and leave the others as TZ-2.
- A lot of problems might be solved if Frank St. was zoned TZ-2.
- She is not sure that the entire area at Oakland and Park should be removed from the consideration of TZ-1. Brownstones would be a real benefit to the community directly behind it.

Mr. Koseck said he is in support of what he has heard. He doesn't mind pulling properties out of the bundle because there are no advocates. Mr. Williams thought this ordinance language should permit development but not prohibit what is there now. The existing uses in some cases are there and are acceptable to the neighborhood and the owners. It seems to him to be a mistake that if an existing use disappears for 181 days it can't come back. He is troubled by the language being mandatory, it should be voluntary.

Chairman Clein agrees with the TZ-1, TZ-2, and TZ-3 concepts in general.

- He agrees that TZ-3 is a simple thing.

- He has no issue with the Parking designation at Fourteen Mile and Pierce being removed.
- He thinks the R-3 designation at Purdy should be removed. It is an example of good intention to square off a block.
- At Oakland and Park, remove the parcels between Park and Ferndale. Keep 404 on the corner in. Remove the two properties to the north that he thinks were added to square off a block.
- As to the parcel at Frank and Ann, he supports TZ-2. If that is done, the whole question of mandatory and voluntary might go away. He thinks mandatory makes more sense.

Mr. Jeffares said condos for empty nesters are very scarce. At Woodward and Oakland Woodward is loud and busy and not palatable for someone building a single-family house; it is suitable for a four unit condo.

Ms. Lazar agreed with Ms. Whipple-Boyce. TZ-1 zoning for Frank and Ann is a little more passive than it needs to be.

Mr. DeWeese thought everyone agrees they have the right form in these places. There has been some question that the uses are not appropriate. But looking at the uses, in most instances either stronger controls are recommended, or the uses have been cut back. Also there is the possibility of developing residential in every location. He agrees with the Chairman that the property on Purdy should remain residential and not be rezoned to TZ-2.

Ms. Whipple-Boyce felt the language needs to be mandatory and not optional and she wouldn't support it if it was optional. In her opinion If the overlay is allowed to be optional the board would not be doing its job, which is to find a way to protect the residents that are adjacent to all of these properties.

Mr. Williams advocated looking at all the parcels again to make sure the same mistake hasn't been made of putting them in the wrong classification. The chairman felt comfortable going forward with the modifications that have been discussed, knowing there will be a public hearing at the City Commission.

Motion by Ms. Whipple-Boyce
Seconded by Ms. Lazar to adopt the package as written with the exceptions of:

- **404 Park in only; the two parcels north and the parcels between Ferndale and Park are out.**
- **The three properties on Frank that are triple-zoned, switch from TZ-1 to TZ-2 which would allow some of the commercial uses to continue.**
- **Take out the parking lot zoned P on Pierce near Fourteen Mile and Pierce that was previously proposed to be TZ-2.**
- **Add veterinary clinic as a permitted use with a SLUP in TZ-3.**

The chairman called for discussion from the public on the motion at 10:12 p.m.

Mr. Brad Host said should this be put through on 404 Park he is the real victim because he lives next door and it will lower his property values. He doesn't want to live next door to a four unit condo project.

Mr. Salvatore Bitonti said he wants to be able to rent his property if the bakery moves out. Chairman Clein explained the TZ-2 recommendation would allow him to build single-family and a small amount of multi-family and also keep the limited commercial uses that are there now.

Mr. Larry Bertolini still had concerns about the post office site on Bowers and the amount of units that could be permitted there.

Mr. Harvey Salizon asked for clarification about the parcel at Purdy and Brown. If the residences are eliminated, the land is too valuable to develop a two-story structure on that limited parcel. The owner will probably construct a four-story building at the south side of the parking lot. Chairman Clein clarified that tonight's motion would not allow the four-story building to be built.

Mr. Michael Shook thought if four units are allowed at the Woodward and Oakland corner parcel there is no way a developer will put up anything as nice on that corner as along Brown.

Mr. David Bloom did not understand the reasoning for leaving the Pierce parking section off. He thought the reason for rezoning that whole area was so no one could put a four-story parking deck there. Ms. Whipple-Boyce explained she omitted the parking area on Pierce because she believes R-2 zoning is more appropriate than TZ-2. The board can come back to that at a later date.

Mr. Frank Gill, 520 Park, commented on the property at 404 Park. If the property wasn't selling it was probably priced too high. If it is unique as far as its location at Woodward and Oakland then the price should reflect that. Some developer could build a single-family house or a duplex and still come out with a profit. He hopes the board will understand that the market, if it is allowed to, will take care of it and develop a building that is appropriate for that corner.

Ms. Patti Shane spoke about Purdy again, The biggest nightmare to her would be if someone would put up multiple dwelling units on the property at the corner of Brown and Purdy. They have a density issue and it would impact their neighborhood.

Mr. Chuck Dimaggio with Burton Katzman spoke to represent the owners of 404 Park. He urged the board to recommend to the City Commission that they keep 404 Park in the Transitional Overlay. He assured that when they come back for site plan approval the board will be very pleased with the four unit building they will propose, and it will become a real asset for the City as one enters off of Park.

Ms. Ann Stolcamp said the people here from Little San Francisco are all homeowners that are representing themselves and what they care about. The developer sent a representative.

Mr. DeWeese commented he will not be supporting the motion. He supports the concept but thinks the Park area should be removed; Purdy at the minimum should be 588; and he agrees that Frank should not be optional but still have flexibility somehow.

Motion carried, 4-3.

ROLLCALL VOTE
Yeas: Whipple-Boyce, Lazar, Clein, Jeffares
Nays: DeWeese, Koseck, Williams
Absent: Boyle

Chairman Clein thanked the public for their comments which are definitely taken to heart. This is not the last hearing on the rezoning, as it will go to the City Commission and there will be more opportunities to provide further input. He closed this public hearing at 10:26 p.m.

City Commission Minutes
September 21, 2015

09-204-15 CONTINUED PUBLIC HEARING TO CONSIDER ZONING ORDINANCE AMENDMENTS TRANSITIONAL ZONING

Mayor Sherman reopened the Public Hearing to consider amendments to Chapter 126, Zoning, of the Code of the City of Birmingham at 7:44 PM.

Planner Baka explained the recent revision to TZ1 requested by the City Commission prohibits garage doors on the front elevation. Commissioner Rinschler pointed out the previous discussion to eliminate all non-residential uses from TZ1. City Manager Valentine noted that any modifications to TZ1 could be addressed tonight.

Mr. Baka explained that TZ1 allows for attached single-family or multi-family two-story residential and provides transition from low density commercial to single family homes. He noted the maximum height is thirty-five feet with a two-story minimum and three-story maximum.

Commissioner McDaniel questioned why other properties on Oakland Street were removed from the original proposal. Mr. Baka explained that it was based on the objections from the homeowners as the current residents did not want their properties rezoned. Commissioner Rinschler pointed out that the rezoning is not about what is there currently, but what could be there in the future.

Mayor Pro Tem Hoff commented that the setback in TZ1 is required to have a front patio or porch which is very limiting with the five foot setback. She questioned why one-story is not allowed. Planner Ecker explained that two-stories will allow for more square footage and it is intended to be a buffer from the downtown to residential.

Commissioner Rinschler suggested that post office, social security office, school, nursing center, and church be removed from the list of uses so it is only residential use. He noted that the City is trying to create a buffer so there are no businesses abutting residential. He suggested a future Commission review the residential standards. Commissioners Dilgard and McDaniel agreed.

Ms. Ecker commented on the front setback requirement. She noted that the development standards include a waiver which would allow the Planning Board to move the setback further if a larger patio or terrace is desired.

Commissioner Nickita commented on the additional uses in TZ1. He noted that this is a zoning designation which is essentially residentially focused allowing for multi-family. He stated that those uses which stand out to be residential are independent senior living and independent hospice which are aligned with multi-family residential uses. The Commission discussed the intensity of each use including assisted living.

Mayor Sherman summarized the discussion from the Public Hearing at the previous meeting. He explained that the three ordinances were presented to the Commission – TZ1 which is strictly

residential; TZ2 which is residential, but allows for some commercial; and TZ3 which does allow for residential, but is more commercial in nature. At the hearing, people were comfortable with the language in TZ2 and TZ3. There were concerns and questions with TZ1 and the Commission requested staff make revisions to TZ1. The Commission then discussed the parcels that were proposed to be rezoned into the TZ2 and TZ3 categories. Discussion was not held regarding the TZ1 parcels at that time.

Commissioner Nickita suggested that in considering the commercial permitted uses and the Special Land Use Permit (SLUP) uses that several uses would be better served with a SLUP such as convenience store, drug store, and hardware store. Commissioners Rinschler and Hoff agreed.

Commissioner Rinschler noted the trouble with defining uses. He questioned why not let all the uses require SLUP's. Commissioner McDaniel suggested developing standards to evaluate SLUP's. Commissioner Nickita noted that it is not a one size fits all.

Mayor Sherman summarized the discussion that TZ1 would be restricted to solely residential; in TZ2 residential would be allowed, but any commercial uses would require a SLUP; in TZ3 would remain as drafted.

Bill Finnicum, 404 Bates, stated that having zero to five foot setbacks is unpractical. He suggested that the biggest danger is losing the character and rhythm of the streets.

Michael Murphy, 1950 Bradford, stated that the suggestion to require a SLUP is an acceptable compromise.

In response to a question from Commissioner Moore regarding parking, Ms. Ecker explained that commercial entities must provide for their own parking on-site if they are not in the parking assessment district. On-street parking can only be counted if the property is located in the triangle district.

Reed Benet, 271 Euclid, stated that changing the zoning from single family residential to protect single family residential is illogical.

Ms. Ecker confirmed for David Crisp, 1965 Bradford, that the parcels on 14 Mile would not be able to count the on-street parking unless they came through a separate application process and tried to get approval of the City Commission.

A resident at 1895 Bradford stated that the more uses which are subject to a SLUP would decrease the predictability of the neighborhood in the future and the value of the zoning effort.

Benjamin Gill, 520 Park, stated that the height of the buildings should be controlled by the neighborhood.

Irving Tobocman, 439 Greenwood, questioned the restriction on the depth of a porch relative to the setback on the street.

David Kolar, commercial real estate broker, expressed concern with the unintended consequences of making everything a SLUP. He noted that a SLUP is a high barrier of entry for small businesses. He suggested defining the appropriate uses in the TZ1, TZ2, and TZ3 districts.

Erik Morganroth, 631 Ann, expressed support of the idea of limitations and commented that the SLUP is most appropriate.

Mr. Baka discussed the parcels proposed in TZ1. He noted the proposal increases the number of units currently permitted at 404 Park from two to four, increase the number of units currently permitted on the parcel at Willits and Chester from two units to a maximum of five, and set the number of units currently permitted on the post office parcel from no limit to one unit for every 3,000 square feet. He discussed the lot area and setbacks.

Mr. Baka confirmed for Mayor Pro Tem Hoff that if the post office moved, a single family residential would be permitted.

Commissioner Rinschler expressed concern that only one lot was included in the 404 Park area. He suggested either extend it to the other parcels on Oakland Street or direct the Planning Board to reopen the hearing to redo the process including all three parcels.

Commissioner Moore stated that there is still a strong potential of economic viability to having those remain single family residential. The purpose of the ordinance is not to invade or lessen a neighborhood, but to enhance the neighborhood by protecting it and ensuring it will be contextual and there are building standards. Commissioner McDaniel agreed.

Commissioner Dilgard stated that the Planning Board was correct with the proposed zoning on 404 Park.

Mayor Sherman pointed out that Commission Nickita recused himself from 404 Park as he was involved with a project with someone who has an interest in 404 Park.

Mayor Sherman agreed with Commissioner Rinschler and noted that the zoning that is suggested does not make a lot of sense.

The following individuals spoke regarding 404 Park:

- Debra Frankovich expressed concern with sectioning out one double lot as it appears to support one property owners best interest.
- Tom Ryan, representing the Host's who are the property owners just north of 404 Park, commented that to single out one parcel is not appropriate.
- Benjamin Gill, 525 Park, expressed opposition to the rezoning of this parcel.
- Bill Finnicum, 404 Bates, commented that the rezoning will only benefit the property owner and will harm the adjacent property owner.
- Chuck DiMaggio, with Burton Katzman Development, explained the history of the property and noted that the Planning Board has spent thirty months studying 404 Park and the other transitional properties.
- Brad Host, 416 Park, stated that the residents are not interested in being rezoned.

- Kathryn Gaines, 343 Ferndale, agreed that Oakland is the buffer. She questioned what four units on that corner bring to the neighborhood that two could not.
- Bev McCotter, 287 Oakland, stated that she does not want the development of this lot into four units.
- Jim Mirro, 737 Arlington, stated that Oakland is the buffer and stated that the parcel should not be rezoned as proposed.
- Ann Stallkamp, 333 Ferndale, stated that she is against the TZ1 rezoning on Park and stated that 404 Park should be taken off the list.
- David Bloom questioned the number of units which would be allowed on the Bowers property.
- Reed Benet, 271 Euclid, commented that it is illogical that this has gone on for three years.
- Chuck DiMaggio, with Burton Katzman Development, noted that they want to do something that benefits the community and provide the proper transition and lead in to the downtown and is compatibility with the neighborhood.
- Tom Ryan, representing the Host's who are the property owners just north of 404 Park, commented that this is not a transition zone and there are ways to put more than one unit on the parcel.

The Mayor closed the Public Hearing at 9:21 PM.

MOTION: Motion by Rinschler, seconded by Dilgard:
To adopt the ordinances amending Chapter 126, Zoning, of the Code of the City of Birmingham as suggested with the following modifications: **to modify TZ1 with the changes presented plus the elimination of all non-residential uses**; to modify TZ2 that all commercial uses require a SLUP, and TZ3 would remain as proposed: (TZ2 RESCINDED)

- TO ADD ARTICLE 02 DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, SECTION 2.41, TZ1 (TRANSITION ZONE) DISTRICT TO CREATE A DISTRICT INTENT AND LIST PERMITTED AND SPECIAL USES IN THIS ZONE DISTRICT;

- TO ADD ARTICLE 02 DEVELOPMENT STANDARDS, SECTION 2.42, TZ1 (TRANSITION ZONE) DISTRICT TO CREATE DEVELOPMENT STANDARDS IN THIS ZONE DISTRICT;

- TO ADD ARTICLE 02 DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, SECTION 2.43, TZ2 (TRANSITION ZONE) DISTRICT TO CREATE A DISTRICT INTENT AND LIST PERMITTED AND SPECIAL USES IN THIS ZONE DISTRICT;

- TO ADD ARTICLE 02 DEVELOPMENT STANDARDS, SECTION 2.44, TZ2 (TRANSITION ZONE) DISTRICT TO CREATE DEVELOPMENT STANDARDS IN THIS ZONE DISTRICT;

- TO ADD ARTICLE 02 DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, SECTION 2.45, TZ3 (TRANSITION ZONE) DISTRICT TO CREATE A DISTRICT INTENT AND LIST PERMITTED AND SPECIAL USES IN THIS ZONE DISTRICT;

- TO ADD ARTICLE 02 DEVELOPMENT STANDARDS, SECTION 2.46, TZ3 (TRANSITION ZONE) DISTRICT TO CREATE DEVELOPMENT STANDARDS IN THIS ZONE DISTRICT;

- TO ADD ARTICLE 4, SECTION 4.53, PARKING STANDARDS, PK-09, TO CREATE PARKING STANDARDS FOR TZ1, TZ2 AND TZ3 ZONE DISTRICTS;

- TO ADD ARTICLE 4, SECTION 4.58, SCREENING STANDARDS, SC-06, TO CREATE SCREENING STANDARDS FOR TZ1, TZ2 AND TZ3 ZONE DISTRICTS;

- TO ADD ARTICLE 4, SECTION 4.62, SETBACK STANDARDS, SB-05, TO CREATE SETBACK STANDARDS FOR TZ1 ZONE DISTRICTS;

- TO ADD ARTICLE 4, SECTION 4.63, SETBACK STANDARDS, SB-06, TO CREATE SETBACK STANDARDS FOR TZ2 AND TZ3 ZONE DISTRICTS;

- TO ADD ARTICLE 4, SECTION 4.69, STREETSCAPE STANDARDS, ST-01, TO CREATE STREETSCAPE STANDARDS FOR TZ1, TZ2 AND TZ3 ZONE DISTRICTS;

- TO ADD ARTICLE 4, SECTION 4.77, STRUCTURE STANDARDS, SS – 09, TO CREATE STRUCTURE STANDARDS FOR THE TZ1 ZONE DISTRICT;

- TO ADD ARTICLE 4, SECTION 4.78, STRUCTURE STANDARDS, SS – 10, TO CREATE STRUCTURE STANDARDS FOR TZ2 AND TZ3 ZONE DISTRICTS;

- TO ADD ARTICLE 5, SECTION 5.14, TRANSITION ZONE 1, TO CREATE USE SPECIFIC STANDARDS FOR THE TZ1 ZONE DISTRICT;

- TO ADD ARTICLE 5, SECTION 5.15, TRANSITION ZONES 2 AND 3, TO CREATE USE SPECIFIC STANDARDS FOR THE TZ2 AND TZ3 ZONE DISTRICTS;

Commissioner Moore commented that an important part of this package is the building standards for the transitional areas where commercial abuts residential. Requiring SLUP's in the TZ2 district will be more cumbersome for the small proprietor. There may be some unintended consequences.
VOTE: Yeas, 7
Nays, None
Absent, None
MOTION: Motion by Rinschler, seconded

……..

MOTION: Motion by Dilgard, seconded by Moore:

To approve the rezoning of Parcel # 1925451021, Known as **404 Park Street**, Birmingham, MI. from R-2 Single-Family Residential to TZ1 - Attached Single-Family to allow attached Single-Family and Multi-Family Residential which are compatible with adjacent Single-Family Residential uses.

Commissioner Rinschler stated that if a buffer zone is being created, it should include properties further down Oakland. He stated that he considers rental properties as commercial development.

Mayor Pro Tem Hoff stated that she will not support the motion. She noted that the plans look good, however she has heard from residents who are very unhappy about this.

Mayor Sherman noted that he will not support the motion. If a buffer zone is going to be created, it should be the entire side of the street. He noted that Oakland is an entranceway into the City. Eventually, there may be that transition, but now is not the time.

VOTE: Yeas, 3 (Dilgard, McDaniel, Moore)
Nays, 3 (Hoff, Rinschler, Sherman)
Absent, None
Recusal, 1 (Nickita)

April 27, 2016
Planning Board Minutes

REZONING APPLICATION
404 Park St., Parcel No. 19-25-451-021, lots 66 and 67 of Oak Grove Addition (vacant)
Request to rezone from R-2 Single-Family Residential to TZ-1 Transition Zone

Chairman Clein recused himself from this appeal because presently his firm has a business relationship with an entity related to the applicant. Vice-Chairperson Lazar took over the gavel.

Ms. Ecker advised the property owner is requesting that the Planning Board hold a public hearing to consider the rezoning of said property. The property has been vacant since 1989 when a previously existing single-family home was razed.

Ms. Ecker advised that over the past several years, the Planning Board embarked on a study to identify all of the transitional parcels located within the City, and create new transitional zoning districts to address the unique characteristics of these sites and corresponding development standards. The board hired a planning consultant to conduct a study of the Oakland and Park area to study existing conditions and to develop a vision and plan for the future. The Oakland/Park Subarea Study was completed by LSL Planning in the spring/summer of 2013. With regards to 404 Park, the study found that it was unlikely to be developed as single-family residential due to site factors: location, shallow lot depth along Oakland, lack of screening along Woodward Ave., views of multi-story buildings across Oakland, and traffic volumes along Oakland. Attached single-family uses are recommended for this site to provide a buffer zone between the lower density neighborhood to the north and the higher density Downtown to the south.

On June 24, 2015 the Planning Board voted to recommend to the City Commission that 404 Park St. be rezoned to TZ-1 to allow development of the property with attached single-family units.

Finally, on September 21, 2015, the City Commission approved the creation of both the TZ-1 and TZ-3 Transitional Zoning Districts, and approved the rezoning of several properties into these new zoning classifications. With regards to 404 Park, the City Commission discussed rezoning the site to TZ-1 as recommended by the Planning Board, but a motion to do so failed as several commissioners felt that adjacent properties along both Oakland and Park St. should also have been included for consideration of rezoning to TZ-1.

At this time, the applicant is seeking a rezoning of the subject property from R-2 Single Family Residential to TZ-1Transitional Zone, as originally recommended by the Planning Board on June 24, 2015.

The Planning Division finds that the proposed rezoning of the subject property at 404 Park from R-2 to TZ-1 would create an appropriate transition from the five-story Central Business District to the neighborhood.

Mr. Rick Rattner, 380 N. Old Woodward Ave., appeared for the property owner and presented a PowerPoint that offered a chronology of the rezoning history of the subject property. The property has been vacant for 27 years and the people in the neighborhood have not been buffered for 27 years. They can construct a building that will in fact use the Transitional Zoning in that area as it is intended and protect the residential neighborhood by providing a clear buffer between traditional single-family uses and commercial uses. They believe that TZ-1 is a reasonable regulation under which they can operate and that complies with the Master Plan.

Mr. Rattner went on to explain why this is not spot zoning because it is a use that is consistent with surrounding uses.

Mr. Jeffares noted this parcel has been vacant for one-third of the City's existence. What is being proposed is a density of two units/40 ft. lot. The applicant is asking for something that already exists in the neighborhood. Also proposed are rental units and there are rentals in that area. What is there now is either 90% commercial or an eight-lane highway. He knows four people in the neighborhood who think it would be fine to have four rental units on the property, but they are reticent to speak in favor of the project because of the backlash. This parcel, if it were built as proposed, would have a lot of scrutiny by the Planning Board to make sure it fits in, provides the buffer, and lives up to everything that the applicant has proposed. Further, Mr. Jeffares believes it would increase property values.

Vice Chairman Lazar took discussion to the public at 9:30 p.m.

Mr. Michael Shuck said he lives at 247 Oakland, and also owns 267 Oakland. Changes in the neighborhood have shown that people are willing to buy a house that backs to Woodward Ave. The subject parcel contains two 40 ft. lots that back to Woodward Ave. and two houses could be built there with plenty of buffer zone. The applicant's argument is that no one wants to live there, but they expect four families to live there. The neighbors want two houses there; not four. Property values will decrease with the multi-family use. The reason the property has remained vacant is because developers would not do anything with it without a rezoning.

Mr. Louis Meldman, 1825 Yosemite, said they are dealing with a question that has already been answered. People in the neighborhood don't want multi-family. It is irrational for the applicant to say there cannot be a single-family residence but they can build four residences there.

Ms. Catherine Gains, 343 Ferndale, had questions about the proposed rendering. It doesn't depict that the building will be 5 ft. from the sidewalk. Also one of the neighbors' biggest concerns is the burden on parking in the neighborhood. There is nowhere to park on Park. There is no reason there can't be screening along Woodward Ave., so she doesn't agree with that as an argument. Also, if one or two families don't want to live on this parcel, why would four families want to live there. That seems like an odd argument to her.

Mr. Benjamin Gill, 520 Park, said most of the neighbors have indicated they don't want a multiple dwelling type of building or changes to the zoning. They all want the zoning as it is now. Mr. Brad Host owns the house just behind this development, and the applicant wants to put up a building and not care about his rights. In essence, the side of his house will face a parking lot, back doors, garages, traffic and noise. He suggested making the parcel into two

duplexes so that the harmony of the street is not changed. The problem is the developer paid too much for the property and now is trying to get his money out.

Mr. Paul Gillen said he owns 273 and 271 Euclid. He suggested a lovely single-family home across the two lots with opportunity for landscaping. He thinks the requirement for the transition is already met by the boulevard.

Mr. Brad Host, 416 Park, said he has yet to find one single-family resident in the neighborhood who thinks this is a good idea. The reason the four residents in the area that Mr. Jeffares said will never speak is because they already spoke and everybody took care of them.

Motion by Ms. Prasad
Seconded by Mr. Koseck to include into the record the letter from Hafeli Staran & Christ, PC, Attorneys at Law delivered to the Birmingham City Commission and dated September 16, 2015.

Motion carried, 6-0.

VOICE VOTE
Yeas: Prasad, Koseck, Boyle, Jeffares, Lazar, Whipple-Boyce
Nays: None
Recused: Clein
Absent: Williams

Mr. Brad Host thought that all letters from past hearings should be included in the packets.

Mr. Jeffares questioned if a single family didn't want to live on the property, why would several families want to live on the property. Mr. Rattner answered that the structures are not the same. In further response to Mr. Jeffares, Mr. Chuck DiMaggio with Burton Katzman Development Co., the owners of the property said they have always seen this as a rental property. Their target market for this parcel is people who want to sell their homes and move some place close to the amenities that Downtown Birmingham has to offer. These are 3 and 4 thousand sq. ft. units that will lease to very high end renters.

Mr. Boyle noted that in 1929 Wallace Frost built six connected homes in the single-family residential Poppleton neighborhood. It worked marvelously and the neighborhood loves it, and property values have continued to escalate.

Mr. Koseck said he will expect quality in what would be developed and that all of the TZ-1 standards would play out. If the development is beautifully done he would think it will favorably impact the neighborhood and be a good thing for that piece of land.

Ms. Whipple-Boyce indicated she doesn't believe this property should be anything other than TZ-1.

Mr. Benjamin Gill thought the neighborhood would not be against TZ-1 if the developer built two duplexes or a single home. The residents don't want a four-plex.

Motion by Mr. Boyle
Seconded by Ms. Whipple-Boyce to recommend to the City Commission that the application to rezone from R-2 Single-Family Residential to TZ-1 Transition Zone be approved for 404 Park St., Parcel No. 19-25-451-021, lots 66 and 67 of Oak Grove Addition.

There were no comments on the motion from members of the public at 10:20 p.m.

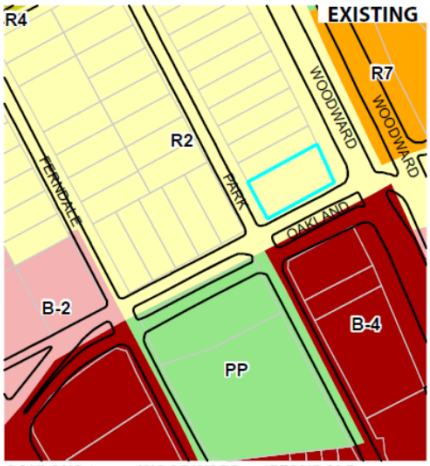
Motion carried, 6-0.

ROLLCALL VOTE
Yeas: Boyle, Whipple-Boyce, Jeffares, Koseck, Lazar, Prasad
Nays: None
Recused: Clein
Absent: Williams

	Min. Lot Area (sq/unit)	Min. Open Space (%)	Max. Lot Coverage (%)	Min. Front Setback (ft.)	Min. Rear Setback (ft.)	Min. Combined Front & Rear Setback	Min. Side Setback (ft.)	Min. Floor Area (sq/unit)	Max. Building Height (ft.)	Max Floor Area (%)
R1A	20,000	40	30	Average within 200' or 25	30	55	5' (9' or 10% of lot width for 1 side)	1,500	30 (to midpoint for sloped roofs)*	-
R1	9,000	40	30	Average within 200' or 25	30	55	5' (9' or 10% of lot width for 1 side)	1,500	30 (to midpoint for sloped roofs)*	-
R2	6,000	40	30	Average within 200' or 25	30	55	5' (9' or 10% of lot width for 1 side)	1,000 (1 story) 1,200 (> 1 story)	30 (to midpoint for sloped roofs)*	-
R3	4,500	40	30	Average within 200' or 25	30	55	5' (9' or 10% of lot width for 1 side)	1,000 (1 story) 1,200 (> 1 story)	30 (to midpoint for sloped roofs)*	-
R4	3,000	-	-	25	30	-	5' (9' or 25% of lot width for 1 side)	800	35' & 2.5 stories	40
R5	1,500 (1 bed), 2,000 (2	-	-	25	30	-	5' (9' or 25% of lot width for	600 (1 bed), 800 (2 bed),	30 & 2 stories	40

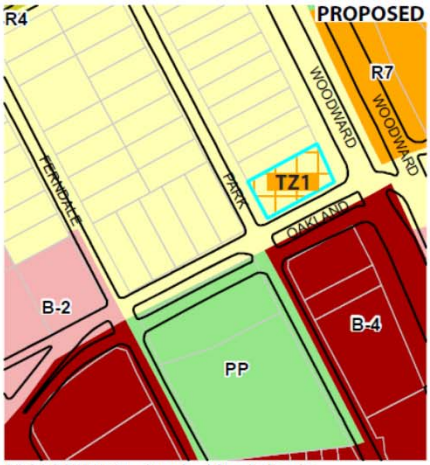
	bed), 2,500 (3 bed)							1 side)	1,000 (3 bed)		
R6	1,375 (1 bed), 1,750 (2 bed), 2,250 (3 bed)	-	-	25	30	-	5’ (9’ or 25% of lot width for 1 side)	600 (1 bed), 800 (2 bed), 1,000 (3 bed)	40 & 3 stories	-	
R7	1,280	-	-	Average within 200’ or 25	30	-	½ building height per side yard	500 (1 bed), 700 (2 bed), 900 (3 bed)	50 & 4 stories	-	
R8	3,000	-	-	Average within 200’ or 25	20	-	7 (interior lots) 10 (corner lots) 14’ or 25% of lot width between residential buildings on adjacent lots	900	30 & 2.5 stories	-	

PARK AND OAKLAND – R2 TO TZ1



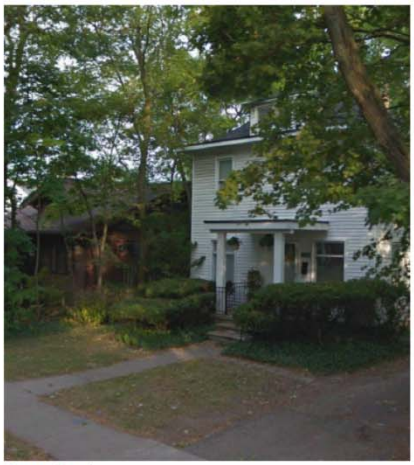
OAKLAND *between* **WOODWARD** *and* **FERNDALE**

Source: Bing



PROPOSED: TZ1 - Attached Single-Family

0 50 100 200 Feet



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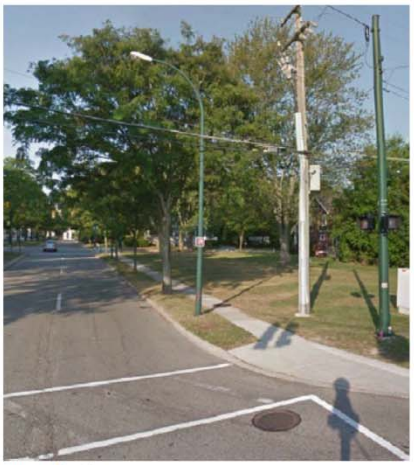


Source: Google

Property area of 404 Park – approx. 14,000 sq. ft.

# of residential units currently permitted – 2

# of residential units permitted under TZ1 zoning – 4

R2- SINGLE FAMILY RESIDENTIAL

Residential Permitted Uses
- ~~adult foster care group home~~
- dwelling - one-family
- ~~single family cluster*~~

Institutional Permitted Uses
- government office
- school - public

Recreational Permitted Uses
- ~~park~~

Accessory Permitted Uses
- family day care home*
- ~~garage - private~~
- ~~greenhouse - private~~
- home occupation*
- parking facility - private off-street
- parking - public, off-street*
- ~~renting of rooms*~~
- ~~sign~~
- ~~swimming pool - private~~
- ~~any use customarily incidental to the permitted principal use~~

Uses Requiring a Special Land Use Permit
- assisted living
- church
- ~~continued care retirement community~~
- independent hospice facility
- independent senior living
- ~~medical rehabilitation facility~~
- ~~parking (accessory) - public, off-street~~
- ~~philanthropic use~~
- ~~public utility building~~
- ~~publicly owned building~~
- school - private
- skilled nursing facility

TZ1 TRANSITION ZONE

Residential Permitted Uses
Dwelling – attached single family
Dwelling – single family (R3)
Dwelling – multi-family

Accessory Permitted Uses
Family day care home
Home occupation*
Parking facility – private off-street
Parking – off-street

Uses Requiring a Special Land Use Permit
Assisted Living
Independent hospice facility
Independent senior living
Skilled nursing facility

	R2	TZ1
Maximum Building Height	▪Lots > 9,000 sq.ft. in area: 30' to midpoint for sloped roofs, 24' for flat roofs only; 2 stories; 24' for eaves ▪Lots 6,000 – 9,000 sq.ft. in area: 28' to midpoint for sloped roofs; 24' for flat roofs only; 2 stories; 24' for eaves ▪Lots < 6,000 sq.ft. in area: 26' to midpoint for sloped roofs; 24' for flat roofs only; 2 stories; 24' for eaves	▪2 stories minimum ▪3 stories and 35' maximum
Minimum Lot Area/Unit	▪6,000 sq.ft.	3,000 sq.ft.
Minimum Open Space	▪40%	N/A
Maximum Lot Coverage	▪30%	N/A
Minimum Front Yard Setback	▪Average setback of homes within 200', if no homes within 200', then 25'	▪0-5'
Minimum Rear Yard Setback	▪30'	▪10' ▪20' abutting single family zoning district
Minimum Side Yard Setback	▪9' or 10% of total lot width whichever is larger for one side yard ▪14' or 25% of total lot width whichever is larger for both side yards ▪No side yard shall be less than 5'	▪0' from interior side lot line ▪10' from side street on corner lot ▪10' from side lot line abutting a single family district
Minimum Combined Front and Rear Setback	▪55'	N/A
Minimum Floor Area/Unit	▪1,000 sq.ft. (one story) ▪1,200 sq.ft. (> 1 story)	N/A
Maximum Total Floor Area	N/A	N/A

Oakland/Park Subarea Study

Purpose

The Oakland/Park area in Birmingham, like much of the city, has some unique features. Tucked behind wooded views along Woodward and the shops and offices along Old Woodward and Oakland is a tightly knit historic neighborhood. Most passersby do not even realize there is a quality historic neighborhood. Woods along Woodward Avenue provide an effective screen along the neighborhood's east edge. Other edges between the mostly single-family neighborhood and non-residential uses are generally fairly well buffered, through landscaping, walls and setbacks. There are, however, some lots adjacent to the neighborhood "edges" that are not as well buffered or have distinct site conditions that make them candidates for a possible land use change. Those parcels are the focus of this study.

One such lot, at the northeast corner of Park and Oakland Streets, was recently the topic of a rezoning request. The applicant proposed a conditional rezoning to B2C to allow a reduced front yard setback for a set of six attached residential units. In response to extensive neighborhood comments voicing opposition to the rezoning, and feeling any zoning action on an individual parcel would be premature, the City Commission recommended that the area first needed an overall planning study.

Scope and Methodology

LSL Planning, Inc. was retained by the City of Birmingham to create a subarea analysis for the study area illustrated below. The subarea is bounded by Oakland to the south, N. Old Woodward to the west, Woodward Avenue to the east and the neighborhood south of Oak Street. This study evaluates the types of land uses, views, transition areas, traffic, access, pedestrian conditions, building heights and setbacks, and zoning.

Study area

Our technical analysis also considered the ideas and concerns of the neighborhood expressed at public meetings. While there were a variety of comments, all of which were thoughtfully considered, the key topics emphasized are listed below:

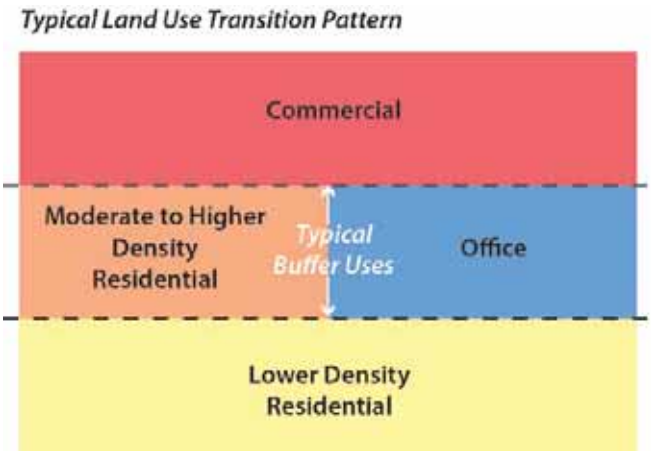
1. Protecting the integrity of the neighborhood and property values;
2. Strong preferences for single-family development on the vacant lot at Oakland/Park and a belief that it is a reasonable use;

3. Desire by some to retain the Brookside Terrace condominiums;
4. Ideas or support for traffic calming and pedestrian crossing improvements; and
5. Concern about rental housing especially if there are more than four units (which the City Assessor stated is classified as "commercial").

We also considered information from the City Assessor on factors that influence property values. Typically, assessed values are based on standard factors such as comparable sales in the vicinity. When a single family home is adjacent to another use, there can be a 5 to 15% drop in the assessed value. The extent of the impact depends on factors such as, condition of the structure, traffic, and adjacent uses (type, condition, buffering, views). Different types of adjacent land uses can be made more compatible through site design and buffering aimed at reducing or avoiding negative impacts on assessed values.

Edges and Transitions

In land use planning, an important consideration is to manage land use arrangements to minimize conflicts. Land use conflicts may occur when incompatible uses are adjacent. The result can be short- and long-term consequences or nuisances that can influence the desirability and value of one or more properties. In a downtown or mixed use district, the buyers are aware that the array of uses is part of the appeal. But in single-family neighborhoods near the downtown or mixed use district, there is an expectation of solidarity among uses in the neighborhood.



There are a number of factors that influence the extent of the conflict and its impacts. A key factor is the intensity of the use. Certain more intense uses are generally directed to be separated from other uses. This is one reason why in planning and zoning communities have a series of land use classes or zoning districts that specify the permitted uses.

Due to the impacts of non-single-family uses (views, noise, traffic, parking, late-night hours, etc.) single-family neighborhoods are often separated from retail, entertainment, and service businesses by uses transitioning the intensity between the districts – higher density housing or offices are typical applications of these transitional buffer uses (see diagram at right). In more urban/mature cities like Birmingham, residential uses often abut commercial uses with little room for transitional uses. In such cases, the uses can be more compatible by incorporating design features such as setbacks, landscaping, parking and access location,

Typical Transitional Land Uses between Single-Family and Commercial

- Single-family detached homes (with suitable buffers as defined below)
- Attached single-family homes
- Multiple-family residential at an appropriate scale and density (see design considerations below)
- Single-family homes converted to offices
- Offices (with suitable buffers as defined below)
- Parks/open space
- Institutional uses (schools, libraries, etc)
- Buffers: setbacks, walls, landscape, etc.

lighting, or building design. Typically, the buffering is provided on the lot of the more intense use.

Where single-family or lower density residential neighborhoods directly abut higher intensity uses, the edges of districts (on both the commercially zoned side and residential side) are often the focus of a city's master plan and zoning regulations. These lots are scrutinized to ensure a suitable transition between the districts exists. Properties on the edges of districts may feel development pressures from adjacent zoning districts typically from the more intense district. Having well-defined transitional uses or design buffers can preserve the integrity of single-family neighborhoods from encroachment of unwelcome uses. Birmingham has dozens of examples where single-family has long remained stable when abutting non-single-family. But there are also other examples where former owner-occupied single-family homes have been converted to rentals, duplexes, or offices. In many cases, these non-single-family uses have long served as a transitional use.

Design Considerations for Transitions

One of the objectives of the City is to protect its neighborhoods. Changes in use and zoning can potentially erode that character. But the City also has goals for vibrant, mixed use districts, a walkable city and a diversity of land uses for fiscal security. In the neighborhood edge area where the single or two-family abut other uses, the non-residential use should be designed so that it provides a transition but also forms a solid demarcation for a zoning boundary.

These design considerations were taken into account when analyzing the subarea's key parcels susceptible to change in the next section.

Typical site design buffers between residential and non-residential uses

- Landscaping
- Attractive, well-maintained walls and fences
- Some additional setbacks especially for buildings with more height or mass than neighbors
- Low lighting impact

Site Analysis of Key Parcels Susceptible to Change

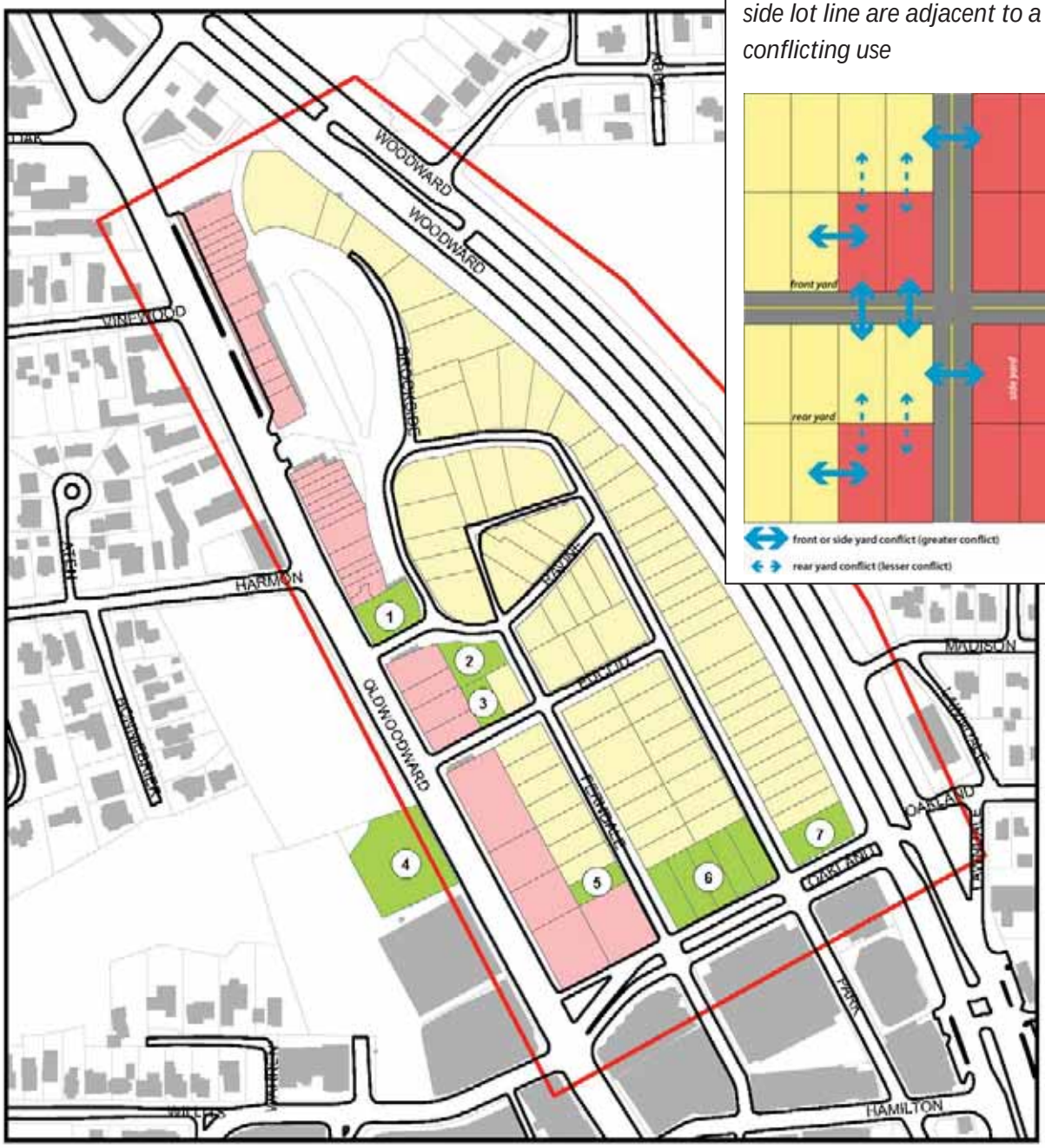
The areas in the Oakland/Park Subarea that front or are adjacent to commercial uses are defined on the following map (titled "Adjacency Analysis") in green as parcels most susceptible to change. This does not mean a change is necessary, just that those are the parcels that should be focused on in a land use evaluation such as this report. Seven properties were identified for further study to determine if on-site design considerations provide sufficient buffers to support long-term viability of the uses, or if a change in land use, zoning, or site design may be appropriate to provide an appropriate buffer between the uses. These properties were evaluated for buffering design considerations, as described above, to determine what can be done to prevent change or what might be changed to protect the adjacent uses.

Each parcel classified as susceptible to change was evaluated and classified as follows:

1. Buffering sufficient, no change in land use is warranted or recommended;
2. Generally the uses are compatible and some buffering exists, but could be greatly enhanced; or
3. Conditions unique to the parcel (traffic, views, lot size, etc) warrant a consideration of a change in the land use; the condition may be beyond a buffering solution.

The findings for each such parcel are provided on the following pages.

Generally, when a rear lot line abuts a conflicting use it is of less concern than if a front or side lot line are adjacent to a conflicting use



Core Residential
Office/Commercial
Parcels Susceptible to Change

Transitional parcels are defined by either fronting or being adjacent to a non-residential use (front or side yard) or fronting a non-local street.

Oakland/Park Subarea
Adjacency Analysis
Map Created 4-5-13

Road Edges
Building Footprints
TaxParcel

Data Sources: City of Birmingham, Michigan CGI, LSL Planning, Inc.

0 125 250 500 Feet

LSL Planning, Inc.

① Brookside/Ravine Area

Existing Conditions

The attached condos on the north side of Ravine at N. Old Woodward are a good transitional use between the retail uses on N. Old Woodward and the single-family homes in the subarea. The condos are buffered from the retail by the wooded area adjacent to the Rouge River. This wooded area also does a very good job of buffering between the shops along N. Old Woodward and the homes on Brookside, but ends at the lots edge.

Recommendation

- There is no reason to support any change of land use or zoning in this area.

While the views from homes on Brookside to the businesses along N. Old Woodward are less obstructed in winter months with less foliage, what remains of the vegetation decently screens the rear loading/parking areas of the businesses.

② Ravine/Ferndale Area

Existing Conditions

The site contains a brick wall and depressed parking lot. It is well landscaped, contains a substantial setback, and is closely tied to adjacent residential.

Recommendation

- There is no reason to consider land use changes in this area.
- Additional landscaping along Ravine would help with views of the parking/loading from the street.

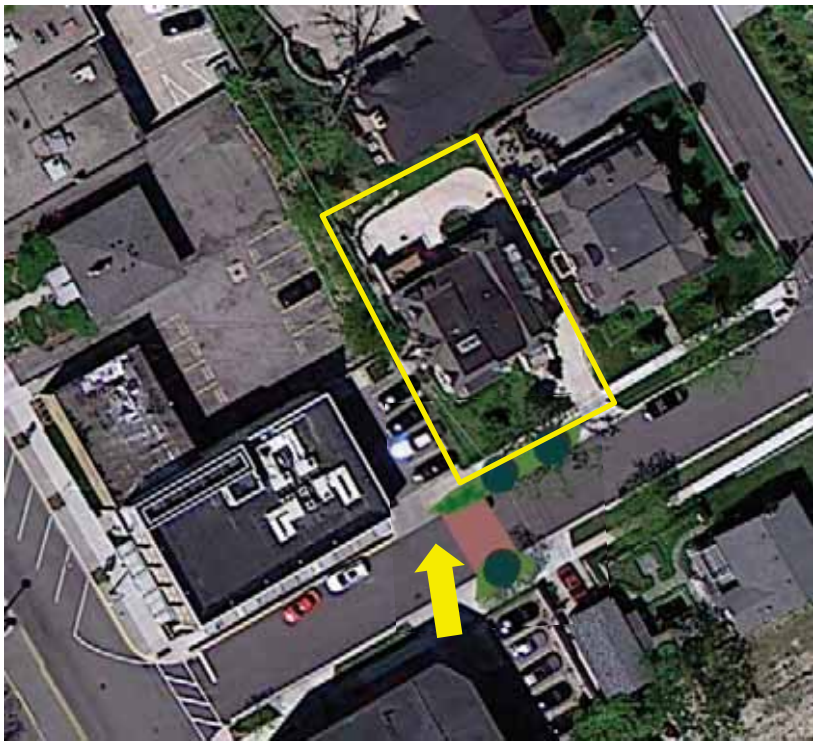
③ Euclid Area

Existing Conditions

This site has a shallow setback with parked cars adjacent to the front yard. Minimal buffers do not include a wall or significant landscaping, as is ideally desired.

Recommendations

- No change in land use is suggested.
- Work toward additional buffer with larger parking setback with landscaping and/or screen wall.
- Consider traffic calming treatments, such as curb bump outs to better distinguish office from residential street.



Consider improvements to Euclid that will help calm traffic. See the Complete Streets and Traffic Calming Concepts section of our report for more information:

1. *Curb-bump outs*
2. *Speed table*
3. *Clearly marked crossings*
4. *Signage*

④ Brookside Terrace Area

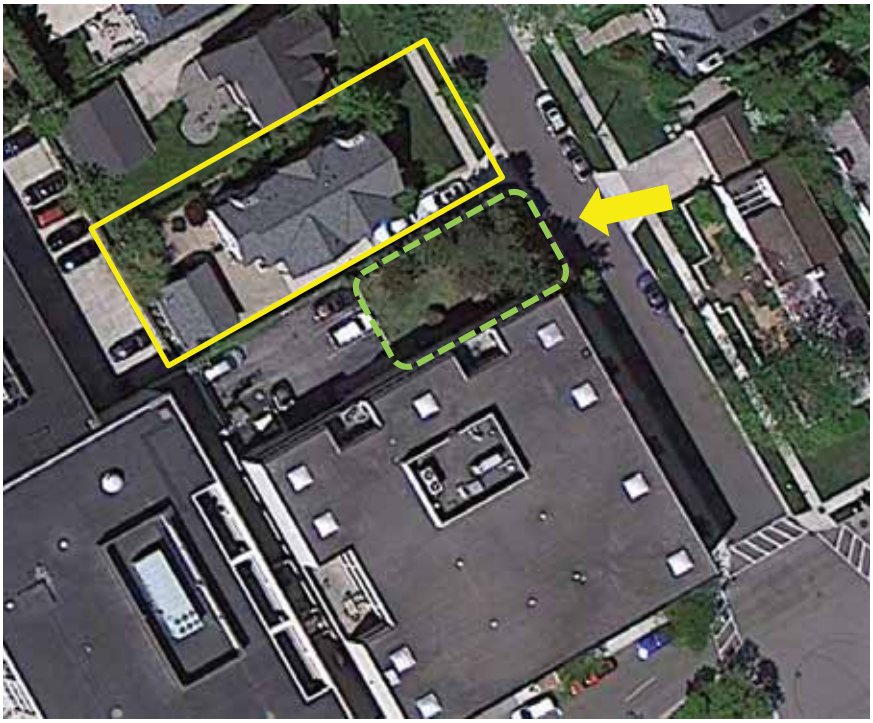
Existing Conditions

The Brookside Terrace condominiums front onto N. Old Woodward, with a large setback from the street, which provide a nice greenspace along N. Old Woodward. The site backs onto the river, providing nice vistas, both of the river and residential homes on the other bank. Parking, via a structure and on-street facilities are provided to accommodate the moderate density on the site.

Recommendations

- Plan for redevelopment into office or mixed-use.

⑤ Ferndale Area



Existing Conditions

This site includes an office building. A substantial landscaped area and setback separates the residential from the office. Rear yard parking, located adjacent to the garage/drive, includes a hedgerow buffer.

Recommendation

- No changes are recommended in this area.

⑥ Oakland Area

Existing Conditions

The properties fronting Oakland are somewhat buffered from the parking deck across the street by the width of the right-of-way and the landscaped median. Unlike most of the homes in the neighborhood, the views from those lots look onto a four story office building and multi-story parking deck. These properties have historically been residential (2 are rentals) but the traffic volumes on Oakland are high for residential uses.

While the median contains some landscaping, the tall trees are insufficient to fully block the view of the imposing parking deck across the street.

Recommendations

As a key entrance to downtown from Woodward, Oakland Avenue could support more intense uses along its frontage, similar to those on the westernmost block of Oakland at N. Old Woodward. From an urban design perspective, this street could benefit from shallow setbacks on both sides of the street to better frame Oakland as a gateway to downtown. Should the current single-family houses (a mixture of renter- and owner-occupied homes) redevelop, a logical extension of that zero-foot front yard setback characteristic would be acceptable at the other borders of the neighborhood and across Oakland, with deeper rear yard setbacks adjacent to single-family residential. Similar to those office/commercial and attached residential buildings fronting Old Woodward, businesses or attached residential units (no more than 3 stories) would complement the character of other conditions located at the periphery of downtown while protecting the established single-family neighborhood behind. This would provide a better transition to the neighbors to the rear than the current houses fronting Oakland have as a transition. Some additional zoning suggestions are provided later in this report.

Consider marked pedestrian crossings with "Failure to Yield to Pedestrians, minimum $50 fine" signs

⑦ 404 Park Area

While the median contains some landscaping, the tall trees do not fully block the view of the office building across the street.

Existing Conditions

This vacant property is located at the corner of busy Woodward Avenue and Oakland. The views across Oakland of the office building and parking structure are not well shielded by the landscaped median. Unlike the other lots along the east side of Park Street, there are no woods to help screen views and noise from Woodward Avenue. The addition of screening along Woodward may be limited in order to protect sight distance along eastbound Oakland given the skewed intersection angle.

This study area measures 150' wide by 80' deep, which is a challenge to redevelopment.

Recommendations

While Birmingham has a strong single family market, we do not believe this site can be expected to redevelop as a single family home due to site factors (location, shallow lot depth along Oakland, lack of screening along Woodward, views of multi-story buildings across Oakland, and the traffic volumes along Oakland). These site characteristics are unique only to this lot. Under these conditions, attached, owner-occupied residential units (approximately 4 units per building) seem to be the most appropriate use. If designed to complement the existing neighborhood architecture and housing types, this site could have more potential to redevelop into a more complementary development.

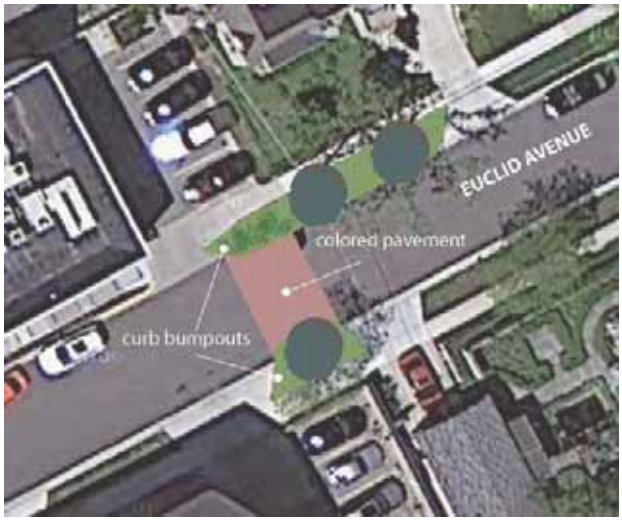
Examples of 3- and 4-unit buildings at Brown and Bates shows how attached single-family residential types can be compatible with residential. Materials and buildings would need to be revised to fit on the study site, but these images illustrate the type of quality that can be achieved.

Development that can present a residential façade along both Oakland and Park, parking located closer to Woodward, and setbacks consistent with established development, could help accomplish two important goals in this area to protect the single-family neighborhood; minimize impacts from associated parking facilities; and strengthen Oakland as a gateway into downtown.

Complete Streets and Traffic Calming Concepts

Generally the neighborhood streets are designed for appropriate low speed auto travel. Sidewalks are provided along both sides of the streets. To help prevent non-residents from parking in the neighborhood, on-street parking requires a permit. The City has made many improvements to calm traffic and improve the environment for pedestrians, especially along North Ole Woodward. The angled parking, medians and signalized pedestrian crosswalks have helped transform this district into another City asset. We did hear or see some comments from the neighborhood about cut-through traffic, but traffic speeds do not seem to be a problem. There are some additional enhancements that could help meet the City's objectives for "Complete Streets" designed for all types of users, and also to better distinguish the residential and non-residential segments.

- **Curb-bump outs.** At critical neighborhood entry points, where commercial uses end, curb bump-outs and perhaps a band of different pavement could help better mark the neighborhood and discourage cut-through traffic. Some of the streets, such as Park, are too narrow for a bump out, but others, such as Euclid, can accommodate a shallow bump-out.
- **Improved crossings.** An additional pedestrian crossing of Oakland at Ferndale could be evaluated by the City's Engineering Department. This could include a marked crosswalk and a sign to yield to pedestrians.
- **Speed tables.** A speed table is a slightly raised (2 to 3 inches) segment of pavement that combined with a change in pavement or a bump out can help distinguish the residential part of the street. These traffic calming measures can help discourage cut-through traffic and slightly lower speeds. A differentiation in pavement color and levels requires the motorist to notice their speed and reduce it to drive over the tables.



Curb-bump outs, such as the one recommended along Euclid Avenue, can help distinguish the entry into the neighborhood. It may also allow installation of a tree to improve screening for the adjacent home. This could also include some type of decorative pavement or a speed table as shown below.

.

Zoning Analysis and Recommendations

Current Zoning and Dimensional Requirements. With the exception of the Brookside/Ravine parcel (①), which is zoned B-1, Neighborhood Business, and the Brookside Terrace (④) which is zoned R-6, Multiple-Family Residential, parcels evaluated are zoned R-2, Single Family Residential. Key dimensional standards for these districts are as follows:

	Allowed Uses	Min. Lot Size	Min. Front Setback	Minimum Side Setback	Min. Rear Setback	Max Height
R-2	▪ SF Residential ▪ Adult Care ▪ Limited Institutional	6,000 s.f.	Average along block or 25'	▪ One side = 9' or 10% of lot width ▪ Both sides = 14' or 25% of lot width ▪ Lots over 100' wide = 10' for one side and 25' for both ▪ Minimum 5'	30'	26' to 30'
R-6	▪ SF Residential ▪ Duplexes ▪ Multi-Family	1,375 s.f. to 2,500 s.f.	25'		30'	30' / 2 stories
B-1	▪ Institutional Uses ▪ Offices ▪ Limited retail & service uses	N/A	0	0	20'	30' / 2 stories

Current Buffer Requirements. As noted, required setbacks, screening, building height, and other design can influence a development's compatibility with adjacent uses. The following summarize the key requirements in the Birmingham Zoning Ordinance as they might relate to the evaluated parcels:

- **Screening.** Section 4.05 requires screening around waste receptacles and mechanical equipment, and a six foot tall masonry screen wall between parking lots and abutting single-family residential zoning districts.
- **Landscaping.** Section 4.20 requires multiple family projects to provide one deciduous and one evergreen tree for each two units proposed, in addition to one street tree for each 40 feet of road frontage.
- **Lighting.** There is very little regulation for parking lot lighting in the Zoning Ordinance that would relate to redevelopment within the study area.

Recommendations

We were asked to explore zoning options for the 404 Park Area (⑦) in more detail, to provide more specific guidance to the City for the site at Oakland and Park. The dimensional characteristics, parcel configurations, proximity to the downtown and location along higher volume streets will influence the potential development. Our recommended approach would be to allow modest density, attached residential types (4-unit buildings) at a density higher than what is allowed in the R-2 district, to be offset to some degree with higher quality screening and overall development quality. The following discuss the various ways that this could be achieved and our suggested approach:

1. **Grant Variances.** The City has the authority to grant variances of the dimensional and use restrictions in the Zoning Ordinance. Use and dimensional variances should only be issued in extremely unusual cases, and should be avoided where the desired redevelopment is expected to require several variances.

   In this case, the shape of the parcel along does not prevent development into single-family

homes according to the requirements of the R-2 district. However, there are some physical factors that make development of a single family home questionable. We believe an alternatives development option, attached single-family units, is more reasonable and can serve as a buffer for the adjacent residences. A use variance, along with dimensional variances, is an option. Even if the property owner can demonstrate there is a "demonstrated hardship" to warrant a use variance, such a procedure is often not viewed as a good policy approach.

2. **Rezone the Property.** Rezoning of the site from R-2 to a higher intensity designation, such as the R-8 zoning district would allow additional uses including multiple-family uses, but not commercial uses, which can help alleviate concern from the neighborhood residents. In addition, the dimensional requirements are less than those in the R-2. Particularly, the minimum lot size is reduced to 3,000 s.f., the rear setback is reduced to 20', and open space and lot coverage requirements are eliminated, which could accommodate more intense uses. They could also, however, create a development that, without performance standards, may not achieve the compatibility, transitions and buffers desired for this site.
3. **Establish a New District or Overlay.** The recommended approach is to develop a new, urban residential district that could be applied to select sites in anticipation of redevelopment. The provisions could apply if sites are rezoned, or it could be applied as an overlay. The primary benefit of this option is that the City can establish the provisions it feels appropriate for these sites rather than trying to force them into an existing district. Key aspects of this district could include:
    a. Shifting of the approval focus from the dimensional requirements to a set of performance-based standards. If chosen, standards including but not limited to the following should be included:
        1) The development includes building heights, screening and landscaping that consider adjacent land uses and development patterns to ensure proper transition to nearby residential neighborhoods; and
        2) The development provides an alternative housing type not typically found in the City, such as senior housing, attached single-family, or other targeted types.
    b. Because the conditions of the 404 Park Area are not specific to that study area, applicability provisions could be included to allow this district to be applied to other sites that either:
        1) Abut both a single-family residential district and a non-residential district, or
        2) Are located along a major non-residential road that abuts a single family district.
    c. Specific standards of the district should include design considerations such as:
        1) Additional screening standards for transitional sites, such as inclusion of additional landscaping, building step-backs, and other provisions that we expect will be needed;
        2) Additional parking location options, which are limited to on-site facilities in the R-2 district; and
        3) Maximum illumination levels, limits on late-night activity, noise restrictions or other standards that may help protect nearby residents.
        4) Incentives or other market-based zoning approaches that are more likely to result in the development activity that is desired.
    d. A development agreement should be required with each approval, to detail the parameters for development relative to the specific conditions and factors for each site. The agreement should address issues such as maximum density, buffer quality, architecture, etc.

Beier Howlett
ATTORNEYS AND COUNSELORS

TIMOTHY J. CURRIER
tcurrier@bhlaw.us.com
Telephone (248) 645-9400
Fax (248) 645-9344

August 20, 2015

Birmingham City Commission
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012-3001

Re: Spot Zoning

Dear Mayor and Commissioners:

The Commission will be considering the proposed transitional zoning amendments to the Birmingham Zoning Ordinance. Questions have been raised as to whether this constitutes some form of "Spot Zoning." This letter is intended to give an overview of the Spot Zoning concept.

What actually constitutes "Spot Zoning" was stated by the Michigan Supreme Court in *Penning v Owens*, 340 Mich 355 (1954) to be:

"A small zone of inconsistent use within a larger zone."

Contrary to widespread belief, Spot Zoning is not per se illegal.

In the comprehensive work of "Zoning and Land Use Controls" Volume VI Dean Emeritus and Professor of Law Patrick J. Rohan, and Professor of Urban Planning, Eric Damian Kelley provided the following excellent overview:

> "Spot zoning is the rezoning of a parcel—usually small—to a zoning classification that is dissimilar to the zoning of the surrounding property. Although small area zoning can be sustained as valid, particularly when supported by the comprehensive plan, 'spot zoning' is most often a shorthand used by the courts to refer to a small area rezoning that is struck down….
>
> 'Spot zoning' is exactly what it sounds it like-the zoning (usually rezoning) of a 'spot' of land in a way that is significantly different from the zoning that surrounds it. There are 'broad' and 'narrow' definitions of the term 'spot zoning.' Both state that spot zoning involves amendments to existing zoning ordinances singling out a small area for a use classification which is different—whether more or less restrictive—from that of the surrounding area. The narrow definition, however, limits the meaning of spot zoning to those amendments that are per se invalid. In contrast, an amendment that results in spot zoning under the broad definition can be either a valid or invalid legislative enactment.

In the narrow sense of the term, spot zoning is the arbitrary and unreasonable reclassification of a small area within a zoning district to a use which is inconsistent with the surrounding district, where the rezoning does not conform to a comprehensive plan, serves no public purpose and is solely for private gain. Spot zoning, in this sense, has been used almost as a kind of epithet to condemn a zoning amendment. It is a judicial doctrine used to challenge or invalidate a zoning ordinance amendment on the grounds that it arbitrarily and capriciously violates a community's comprehensive or well-considered zoning plan. Used in the narrow sense of the term, spot zoning is impermissibly inconsistent with the legitimate purpose of zoning, i.e., the furtherance of the public health, safety, morals or general welfare.

…..

Typically, an amendment to a zoning ordinance is adopted at the request of a land owner who wishes to use the land for a use prohibited by the existing zoning scheme… The courts have found impermissible spot zoning in instances where the amendment is designed to relieve a particular property from applicable zoning restrictions for the benefit a particular property owner or specifically interest party, to the detriment of other owners in the vicinity, and the community as a whole.
….

Two elements must be satisfied before spot zoning can be said to exist. **First, the zone change must concern a small area of land**. Second, the **change must be out of harmony with the comprehensive plan** for zoning adopted to serve the needs of the community as a whole. The **comprehensive plan is to be found in the scheme of the zoning regulations themselves.**

Thus has evolved the doctrine, which generally holds that:

> **Spot zoning has come to mean arbitrary and unreasonable zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from and inconsistent with the classification of surrounding land, and not in accordance with the comprehensive plan. Spot zoning is a zoning for private gain designed to favor or benefit a particular individual or group and not the welfare of the community as a whole.**

Do the roots of the doctrine make a difference? Absolutely. There are a great many instances in which the zoning of a small area differently from what

surrounds it makes a great deal of sense, a fact that many courts have acknowledged by recognizing that spot zoning is not invalid per se. Consider these examples:

- Zoning to allow a small neighborhood shopping center in a residential area;

- Zoning to allow a small hospital in an area surrounded by apartments and offices in a small town;

- Zoning to allow a grain elevator and chemical supply store in an area otherwise restricted to production agriculture and residential uses;

- Zoning to allow a truck stop, motel or restaurant at an Interstate highway interchange in a rural, agricultural area; or

- Zoning for a jail, powerplant or other unique, free-standing use.

All of these are examples of uses that are likely to be surrounded by dissimilar uses. Is that necessarily undesirable? No. A good comprehensive plan should provide for such uses and should indicate the circumstances in which they will be allowed. For example, without mapping such uses, the plan might suggest that:

- Neighborhood shopping centers be allowed at the intersection of a collector street with an arterial street;

- Grain elevators and agricultural chemical supply dealers should be located near major rail stops, along a state or federal highway;

- Truck stops, motels and other highway-service uses should be located along arterial roads within a specified distance of the intersection of the arterial road with an Interstate or other federal or state highway.

Such planning policies are logical, rational and necessary. Each of those policies suggests that it may be appropriate and necessary to create small 'spots' of zoning that differ from the surrounding zoning.

…..

The relationship between comprehensive planning and zoning is one that has long been the subject of thoughtful commentary. It is at the heart of the spot-zoning doctrine, well represented by the leading case of *Rodgers v. Village of Tarrytown,* in which New York's highest court held, 'If, therefore an ordinance is enacted in

> accordance with a comprehensive zoning plan, it is not 'spot zoning,' even though it (1) singles out and affects but one small plot…or (2) creates in the center of a large zone small areas or districts devoted to a different use.' The Main Supreme Court has noted the relationship between the consistency doctrine and the concept of spot zoning and suggested that, as local planning becomes universal (by state mandate) in that state, the doctrine of spot zoning will be less significant.
>
> This holding in *Rodgers* has been followed in numerous cases. The majority rule is that the litmus test of the validity of a zoning amendment is whether it has been enacted in accordance with a comprehensive or well-considered plan. Indeed, several courts have expressly labeled invalid spot zoning as the very antithesis of planned zoning, treating the two concepts as obverse sides of the same issue. Some courts, moreover, have harmonized zoning reclassifications with comprehensive plans by viewing reclassifications as constituting concomitant and proper amendments of the comprehensive plan." (Emphasis Added)

*** * * * * * * * ***

The amendments which the Commission is considering are part of the comprehensive plan for transitional zoning. Simply stated, the plan is to make an appropriate transition from one zoning classification to another where the two different districts are next to each other. The Planning Board has considered this matter for several years and has heard the comments from many individuals. The Planning Board has taken into account the health, safety and welfare of the entire community and the adjacent owners and occupants of nearby properties. They have presented a plan for the gradual transition of uses between bordering zone districts. It is, therefore, our opinion that the proposed transitional zoning amendments do not constitute "spot zoning."

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier
Birmingham City Attorney

TJC/jc

Since 1973
W|W|R|P
Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors
380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009
Tel: (248) 642-0333
Fax: (248) 642-0856

Richard D. Rattner
rdr@wwrplaw.com

June 22, 2016

HAND DELIVERED

City Commission
City of Birmingham
151 Martin St.
Birmingham, MI 48012

Re: Application to Include 404 Park Street, Birmingham, MI ("Subject Property" or "Property") in the TZ-1 Zoning District ("Application") – 404 Park, LLC ("Applicant")

Dear Members of the City Commission:

This letter supplements the Application filed by the Applicant on February 4, 2016. In filing the Application, the Applicant requests the rezoning of the Subject Property from R-2 Single-Family to TZ-1. The rezoning requested in the Application is intended to allow the long-time vacant Subject Property to be redeveloped into an attractive, 4 unit residential structure, consistent with the Birmingham Master Plan (1980) and the Downtown Birmingham 2016 Plan (1996).

Executive Summary

This matter, in one form or another, has been before this Commission several times since 2012 and has been the subject of extensive research, study and evaluation by the Applicant, the Planning Department and the Planning Board (the "Planning Board"). That research led to the 2015 establishment of the Transitional Zoning Districts by this City Commission. According to Section 2.41 of the Zoning Ordinance for the City of Birmingham (the "Zoning Ordinance"), part of the District Intent of the Transitional Zoning Districts is to "Provide for a reasonable and orderly transition from, and buffer between commercial uses and predominantly single-family residential areas or for property which either has direct access to a major traffic road or is located between major traffic roads and predominantly single-family residential areas." At every stage of this process the Planning Department and the Planning Board have recommended to this body that the Subject Property be rezoned as B2-C (Applicant's initial request prior to the establishment of the Transitional Zoning Districts) or TZ-1, including the Application now

before the City Commission. The requested rezoning complies with all applicable ordinances and the Master Planning Documents of the City of Birmingham. Rezoning of the Subject Property to TZ-1 will help to maintain the residential character of the Little San Francisco Neighborhood. To again refuse to make a decision on the Applicant's request or to deny same at this stage will represent an unreasonable infringement of the Applicant's substantive due process right to be free from arbitrary and capricious restriction of the use of its property.

The results of the City's research, study and evaluation, and more specifically, studies prepared by the City's consultants, show that redevelopment of the Subject Property as currently zoned for single-family residence (R-2), is highly improbable if not impossible due to the Property's unique characteristics. It is also clear that the City's decisions over the past thirty years have made it impossible to develop the Subject Property in *any* reasonably practicable manner. The City has implemented zoning ordinances and policies in the Birmingham Plan (1980) and the Downtown Birmingham 2016 Plan (1996) that seek to preserve the residential character of the Little San Francisco and other sensitive neighborhoods, while promoting the development of transitional zones that will serve to shield residential districts from encroaching commercial activities in the downtown area. The Planning Board has consistently and repeatedly determined that the requested rezoning of the Subject Property to TZ-1 and its subsequent development would meet all applicable zoning requirements and is in harmony with the City's stated planning objectives.

While the Applicant initially sought to rezone the Property from R-2 Residential to B2-C general business, following the creation of Transitional Zoning Districts it filed the Application on February 4, 2016 seeking rezoning to TZ-1. Under the new TZ-1 designation, the Applicant could erect one of three possible residential dwellings: (1) attached single-family, (2) multiple-family, and (3) one-family (R3). See §2.41 of the Birmingham Zoning Ordinance (the "Zoning Ordinance"). Rezoning the Subject Property to TZ-1 would help preserve the residential character of the area as required by the Birmingham Master Plan (1980) (the "Birmingham Plan") and the Downtown Birmingham 2016 Plan (the "2016 Plan", and referred to collectively with the Birmingham Plan as the "Master Planning Documents"), and foster the development of transitional zones as desired under the 2016 Plan.

Despite the recommendations of the Planning Board and the compelling information the Applicant has presented to it, the City Commission has repeatedly refused to formally act on the Applicant's rezoning applications, most recently on September 21, 2015, instead opting to send the matter back to the Planning Board for additional consideration. These decisions have been made contrary to studies prepared by its own consultants and the determinations of the Planning Board that the Subject Property cannot be feasibly developed as currently zoned and that the proposed rezoning will have no adverse effect on the neighborhood.

To deny this application to rezone the Property to TZ-1 in light of the substantial record supporting such a rezoning is simply not reasonable, and effectively denies the Applicant's right to develop its property in the manner recommended by the City's planners and consultants.

The facts and history of 404 Park Street

1. **The history of 404 Park Street**

The Property, known as 404 Park Street, is shallow lot, with 155 feet of frontage on Oakland Avenue, 80 feet of frontage on Woodward Avenue, and 80 feet of frontage on Park Street. While Park Street is a well-traveled residential street, Oakland Avenue and Woodward Avenue are busy throughways providing ingress and egress to the Birmingham's busy downtown area and points beyond. The Property is situated in a de facto transitional area moving from the bustling downtown area to the established and historic neighborhood known as "Little San Francisco."

The evidence shows that the City has refused to rezone the Property for nearly three decades, and in effect made *any* use of the Property realistically impossible. Unfortunately, this Property has ***remained vacant and unused since 1989*** when the then owner razed a deteriorating single-family structure. Prior owners have twice-before requested that the Property be rezoned. First, in 1960 due to "heavy traffic and noise" and again in 1988 for redevelopment for moderate density residential use. Moreover, prior to Applicant's purchase of the Property in 2013, it had been on the market, without any willing purchaser, since 2006.

2. **The City Planning Department Recommended that the Applicant's First Rezoning Request from R-2 to B-2C Would Have No Adverse Effect on the Area**

In August 2012, the Applicant sought conditional rezoning of the Property from R-2, which requires a minimum lot size of 6,000 sq. ft. and permits only one residential unit per lot (the "Initial Application"). Section 2.07 of the Zoning Ordinance provides that uses in the R-2 Zone are limited to:

- adult foster care group home
- dwelling - one-family
- single-family cluster
- government office
- school - public
- park

Meanwhile, the B2-C (General Business) Zone requires a minimum lot size of 500 to 1,000 sq. ft. and permits the following residential uses:

- dwelling - multiple-family
- dwelling - one-family
- dwelling - two-family
- live/work unit

It was and remains the Applicant's intent to develop the Property in a manner that is appropriate for its unique location, consistent with the character of the surrounding neighborhood and in compliance with the City's Master Planning Documents. Initially, the Applicant sought to erect a 14-unit apartment structure. Such development would have fully complied with the requirements of a B2C designation, and the proposed residential development would have been a significantly less intensive use than a foster care home, school, or government offices as are already permitted.

The City Planner, in the Planning Department's report (the "2012 Report"), found "development of this parcel as a single family home has proven improbable and would result in a home that is *less desirable* then (sic) the neighboring homes." The 2012 Report continued to say that "rezoning would not adversely affect the surrounding property," and redevelopment would "provide a suitable transition from the commercial zone to the south while protecting the neighborhood to the north." (*Id.*). The Planning Department even noted that Applicant had, in light of its request for conditional zoning, previously agreed to deed restrictions that would limit the Property to residential uses. However, at its September 19, 2012 meeting, the Planning Board postponed a vote on the Initial Application until November 2012.

In the interim and after meeting with neighboring property owners, the Applicant adjusted its site plan and building design to address concerns raised by neighbors and comments of the Planning Board. Accommodations included reducing the number of proposed units to six, cutting the bulk of the development by 40%, reducing the height, and decreasing the number of parking spaces needed. However, a vote on the request was again postponed to the Planning Board's January 9, 2013 meeting. Finally, after six months of deliberation, the Planning Board, by a 4 – 2 vote, approved the Applicant's request for conditional rezoning to allow development of a six unit residence on January 9, 2013. As such, the application was reported favorably to the City Commission.

Once again, the Applicant was forced to endure additional delays. When the City Commission (the "Commission") took up the request at its February 25, 2013 meeting, it ignored the Planning Board's recommendation and denied the request. Instead, the Commission directed the Planning Board to "consider in the short term zoning for this particular area and in the long

term the overall plan on conditional rezoning." (*Id.*). Diligently taking on this task, the City contracted LSL Planning, Inc. to conduct a study of the Oakland/Park area with a particular focus on short term and long term rezoning. LSL Planning presented its report (the "Oakland/Park Subarea Study") to the Planning Board on May 8, 2013.

3. **The Oakland/Park Subarea Study found that redevelopment as a single-family residence was unreasonable and recommended either granting a use variance or rezoning the Property to allow moderate density residential use**

The focus of the Oakland/Park Subarea Study was providing zoning recommendations to the Planning Board. The Oakland/Park Subarea Study specifically discussed the transitional nature of certain "edge properties." With regard to 404 Park Street, the study provided:

> "While Birmingham has a strong single-family market, we do not believe this site can be expected to redevelop as a single family home due to site factors (location, shallow lot depth along Oakland, lack of screening along Woodward, views of multi-story buildings across Oakland, and the traffic volumes along Oakland). ***These site characteristics are unique only to this lot. Under these conditions, attached, owner occupied residential units (approximately 4 units per building) seem to be the most appropriate use.***" (Emphasis added).

(*Id.* at 11). Moreover, the Oakland/Park Subarea Study provided that:

> "We were asked to explore zoning options for the 404 Park area in more detail, to provide more specific guidance to the City for the site at Oakland and Park. The dimensional characteristics, parcel configurations, proximity to downtown and location along higher volume streets will influence the potential development. ***Our recommended approach would be to allow modest density, attached residential types (4-unit buildings) at a density higher than what is allowed in the R-2 district, to be offset to some degree with higher quality screening and overall development quality.***" (Emphasis added)

(*Id.* at 13). The Oakland/Park Subarea Study continued by providing three options with regard to the development of 404 Park Street, (1) granting a variance, (2) rezoning the property to a higher density residential zone, or (3) Establishing a new transitional zoning district or voluntary overlay. (*Id.* at 13-14). The transitional zoning option was clearly the preferred option and the

Oakland/Park Subarea Study took pains to explain how certain criteria could be utilized to make the new zoning districts applicable to other similarly situated transitional properties. (*Id.* at 14).

4. **Transitional Zoning Districts were created and implemented in Birmingham as a result of the study and specifically targeted property with characteristics similar to 404 Park Street**

After further protracted deliberation between May 8, 2013, and June 24, 2015, the Planning Board eventually recommended that the Commission establish a new transitional zoning overlay containing a number of zones. The Planning Board further recommended that, in addition to the Property, that seven other properties from the Oakland/Park subarea be rezoned so as to be included in the transitional overlay. During the course of the legislative process regarding the Planning Board's recommendation, the overlay became traditional zoning districts and were limited to TZ-1 and TZ-3.

During its deliberative process in developing transitional zoning the Planning Board recommended that approximately 80 properties throughout Birmingham, identified as located in transitional areas between commercial and residential zones be rezoned to one of the transitional zoning districts. The Property was one such property identified as being located in a transitional area and was recommended to be rezoned TZ-1. Seven other properties in the Oakland/Park area that were originally included in the rezoning recommendation were removed by the Planning Board at the request of the individual landowners. *Id.*

On August 24, 2015, the Commission held a public hearing on the Planning Board's recommendations. At this hearing, several property owners from the neighborhood objected to the proposed rezoning of the Property. Despite the fact that the original recommendation included seven other properties, some protesting parties attempted to dissuade the Commission by raising false accusations of "spot zoning." *Id.* Fortunately, the City Attorney, citing the three year comprehensive planning process which preceded the Planning Board's recommendation, clarified that the rezoning of 404 Park Street is not spot zoning. *Id.* Yet again, voting on the proposed rezoning of 404 Park Street was postponed.

It is important to note that rezoning the Property to TZ-1 is NOT spot zoning. The basic feature of "spot zoning" is zoning that is inconsistent with surrounding *uses*. The proposed use of the Property is residential, which is consistent with the surrounding neighborhood. The recommendations of the Planning Board were made after several years of deliberation and study. The Planning Board recommended that numerous properties around the city be rezoned to the new transitional zoning districts. That 404 Park Street is the only property being rezoning in the Little San Francisco neighborhood is not, and cannot, be considered evidence of spot zoning as the other recommended properties were removed at the request of the owners.

On February 4, 2016, the Applicant filed this Application to request that the Property be rezoned from R-2 to the TZ-1 classification. The Planning Board again recommended that 404 Park Street be rezoned to TZ-1 to allow for the development of a 4-unit attached single family residence. (*Id.*). This recommendation marks the fourth such time that the Planning Board recommended rezoning of the Property. The Planning Board has recommended that the Property be rezoned on January 9, 2013, April 23, 2014, June 14, 2014 and April 27, 2016.

As the Planning Board's project of research, study and evaluation continued, and as it developed the transitional zoning districts, the Planning Board created a statement of the District Intent . Of particular relevance to this matter is that TZ-1 district permits only residential uses, specifically, dwellings for one family or multiple families, and attached single-family. *See* §2.41 of the Zoning Ordinance. Section 2.41 of the Zoning Ordinance contains the District Intent of the TZ-1 Zoning District (the "District Intent"). Section 2.41 provides as follows:

> The TZ1 (Transition Zone) District is established to:
>
> (a) Provide for a reasonable and orderly transition from, and buffer between commercial uses and predominantly single family residential areas or for property which either has direct access to a major traffic road or is located between major traffic roads and predominantly single-family residential areas.
>
> (b) Develop a fully integrated, mixed-use, pedestrian-oriented environment between residential and commercial districts by providing for graduated uses from the less intense residential areas to the more intense commercial areas.
>
> (c) Plan for future growth of transitional uses which will protect and preserve the integrity and land values of residential areas.
>
> (d) Regulate building height and mass to achieve appropriate scale along streetscapes to ensure proper transition to nearby residential neighborhoods.
>
> (e) Regulate building and site design to ensure compatibility with adjacent residential neighborhoods.
>
> (f) Encourage right-of-way design that calms traffic and creates a distinction between less intense residential areas and more intense commercial areas.

Rezoning the Subject Property to TZ-1 from R-2 fulfills each of the six parts of the District Intent. The stated purpose of a TZ-1 district, as applied to the Property, is also wholly compatible with the Master Planning Documents because it would maintain a residential

character while providing for a transition from one district to another. Moreover, this statement of District Intent provides a solid foundation and plan for zoning and rezoning property in those areas designated as transition zones.

5. The Commission refused to rezone the Subject Property despite the recommendation of the Planning Board, the proposal's compliance with all applicable Zoning Ordinances, as well as the Master Planning Documents

At its September 21, 2015 meeting, the Commission voted on a motion to rezone the Property from R-2 to TZ-1. The motion failed 3-3-1, with one commissioner abstaining from the vote. Worthy of note is the fact that both the Mayor Sherman and Mayor Pro Tem Hoff, who voted against the motion, spoke well of the proposed 4-unit residence. Specifically, Mayor Sherman stated "it is not about this particular project, because I think this is an ***ideal project as a buffer or transition area***." (Video transcript of the Sept. 21, 2015 City Commission Meeting, at 2:51:30) (emphasis added). Mayor Pro Tem Rackeline Hoff likewise stated, "It's not that I don't like the development. ***I think the development is terrific. . . . It's the type of building I'd like to live in***." (*Id.* at 2:50:24) (emphasis added).

However, each expressed concern about the opposition raised by the neighbors present at that meeting, despite the fact that the rezoning was not opposed by any government entity and came before the Commission on the recommendation of the Planning Board. (*Id.*). No evidence has ever been raised before the Commission or the Planning Board that the requested rezoning would conflict with city planning policies or that it would alter the fundamental character of the neighborhood. Additionally, the evidence presented shows that the Property will not have a noticeable effect on traffic and that there are no sewage or sanitation concerns. However, despite the overwhelming evidence supporting rezoning, the application was once again sent back to the Planning Board for further consideration.

Following that remand, another memo from the City Planning Director, Jana Ecker, echoed previous recommendations. Specifically, Ms. Ecker wrote

> The planning Division finds that the proposed rezoning of . . . 404 Park from R-2 to TZ-1 would create an appropriate transition from the five story central business district to the south to the two and a half story residential neighborhood to the north. Such a buffer *would not adversely affect the surrounding property and would provide a suitable transition from the commercial zone in the south, while protecting the stable neighborhood in the north.* (emphasis added).

Ms. Ecker's memo further reported that no concerns were raised with regard to this project from any of the applicable City departments.

After the public hearing at the Planning Board on April 27, 2016, the Planning Board once again, ***by unanimous vote***, recommended that the Property be rezoned to TZ-1.

a. Rezoning 404 Park Street from R-2 to TZ-1 is consistent with the Master Planning Documents

Section 1.04 of the Zoning Ordinance provides that the purpose of the Zoning Ordinance is to "...guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Master Plan ("Birmingham Plan"), and Downtown Birmingham 2016 Plan ("2016 Plan")."

The Birmingham Plan acknowledged that redevelopment of areas near the business district was often "preceded by rezoning for higher residential densities." The Birmingham Plan recognized that this sensitive neighborhood specifically may be "under repeated pressure for piecemeal rezoning to non-residential use." (*Id.*). As it pertains to the Subject Property, ***the proposed rezoning only allows for residential uses.***

The Vision Statement, contained in Appendix I of the 2016 Plan (the "Vision Statement"), lays out the principles guiding the development of the downtown area, which borders the Property directly to the south. The fourth tenet of the Vision Statement is particularly relevant; "[e]nsure good land use transitions and structural form and mass to the traditional residential neighborhoods surrounding downtown." (*Id.*). The Vision Statement also contains the City's desire to "[c]reate and reinforce identifiable districts within the downtown to provide a sense of place and a variety of experiences." (*Id.*). Additionally, the 1963 Birmingham Design Plan provides "[o]n the fringe of the retail center, new offices and medium density residential structures are being developed as transition zones to the single family residential areas beyond." Due to expansive commercial development in the region, the Subject Property is now on the fringe of two vastly different zoning districts and represents the ideal site for transitional zoning. It is accurate to attribute the City's decision to create the Transition Zoning Districts to the Subject Property and almost thirty years of its inability to be developed.

The record before the Commission is clear, the goal of rezoning the Subject Property is to foster the development of a transitional buffer between distinct districts of the City. For these reasons and more, the proposed rezoning and development is consistent with the City's land use policies.

b. The uncontested evidence shows that rezoning is necessary to preserve the Applicant's property rights, that the current zoning classification is no longer appropriate, and that the proposed zoning will not be detrimental to the surrounding properties

On numerous occasions Applicant has presented evidence to the Planning Commission that rezoning is necessary. None of this evidence has been contradicted or countered by the City. As such, while the Commission has discretion in reaching its decision, there is no factual basis for it to deny the application.

The Subject Property is uniquely situated in a location that prevents its feasible development into a single-family residence as has been done on the neighboring lots. None of the other properties in the area share three boundaries with major roadways, and none have as extensive of frontage on busy thoroughfares as the Subject Property. The few other "edge properties" to the immediate west of 404 Park Street all have deep lots (from north to south) and share only one of their shortest Planning Boarders (about 80 feet) with Oakland Avenue. The longer Planning Boarders abut quiet residential streets or other lots.

Looking to the surrounding development, it also becomes clear that R-2 residential zoning is no longer appropriate for edge properties. Directly south of the Property, across Oakland Avenue from the Subject Property is a four-story office building. To the southwest is a five-story parking garage. Just two streets over, the other edge property for the neighborhood are three-story office buildings. In fact, the majority of properties that border the Little San Francisco neighborhood have already been converted to commercial uses.

Additionally, the proposed development will have no measurable impact on existing traffic. The Southeast Michigan Council of Government ("SEMCOG") estimated annual average daily traffic ("AADT") flow on the relevant stretch of Oakland Avenue to be 5,100 in 2013, which has certainly increased in the interim. Moreover, MDOT estimated the AADT of Woodward to be over 61,000 cars in 2013. These statistics demonstrate two things. ***First, that four added residential units will have no noticeable impact on traffic. Second, there are clear negative externalities associated with passing traffic that impede development as currently zoned.*** Referring back to the 2016 Plan, it is clear that a multi-unit residential structure on this Property would provide the neighborhood to the north with significantly more effective barrier to encroaching uses than a single family home or, more importantly, a vacant lot.

Finally, as suggested, the proposed development will preserve the quality and character of the neighborhood. If rezoned, the Property will remain residential and be self-parking. It will direct any minimal new traffic toward Oakland and away from the neighborhood through the installment of new signage, and it will shield the other properties from the undesirable views and sounds of traffic, offices and a parking structure. Rather than deter from the neighborhood, the

redevelopment of 404 Park Street will serve as a shield for the neighborhood as traffic volume continues to increase and the downtown area continues to expand.

Conclusion

The City Commission's decision regarding the requested rezoning must be based on consideration of legitimate concerns about the health, safety, and general welfare of the City. The Commission has been presented with overwhelming evidence that the proposed redevelopment is consistent with City planning policies, all applicable zoning ordinances, and will have a beneficial, rather than negative, impact on the surrounding neighborhood. In light of the substantial record before the Commission to date, it is requested that the Commission grant the Applicant's rezoning request as has been recommended by the Planning Board on four separate occasions.

Respectfully submitted,

By: Richard D. Rattner

Richard D. Rattner
Attorney for Applicant

RDR/
(01061358.03)
Enclosures

Since 1973
WWRP
Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors
380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009
Tel: (248) 642-0333
Fax: (248) 642-0856

Richard D. Rattner
rdr@wwrplaw.com

March 11, 2016

Hand-Delivered

Planning Board
City Commission
City of Birmingham
151 Martin St.
Birmingham, MI 48009

Re: Application to Include 404 Park St., Birmingham, MI ("Subject Property" or "Property") in the TZ1 Zoning District ("Application") – 404 Park, LLC ("Applicant")

Dear Members of the Planning Board and City Commission:

This letter supplements the Application filed by the Applicant on February 4, 2016. In filing the Application, the Applicant requests the rezoning of the Subject Property from R-2 Single-Family to TZ1. The rezoning requested in the Application is intended to allow the long-time vacant Subject Property to be redeveloped into an attractive, 4 unit residential structure, consistent with the 2016 Master Plan.

The Subject Property and Chronology of Rezoning History

The Subject Property is located on the north side of Oakland Avenue between Woodward Avenue and Park Street, just to the north of "Downtown Birmingham" as identified in the 2016 Plan. The Property has approximately 80 feet of frontage on Woodward Avenue, 80 feet of frontage on Park Street and 155 feet of frontage on Oakland Avenue. It contains approximately 12,560 square feet. The Property has been vacant since 1989, when the then-owner razed a deteriorating single family structure. See survey, attached hereto and incorporated by reference as Exhibit 1, and aerial photographs, attached hereto and incorporated by reference as Exhibits 2A and 2B.

Applicant seeks to rezone the Subject Property to permit its development as a four (4) unit residence pursuant to the TZ1 zoning classification. Two recent attempts have failed to rezone the Subject Property to permit either a multiple-family dwelling or such uses as permitted under the new TZ1 zone. One such rezoning attempt was initiated by the Applicant and the other attempt to rezone was initiated by the City itself. The following is a chronology of recent events

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regarding the Subject Property:

- August 30, 2012, Burton-Katzman Manager LLC, an affiliate and on behalf of Applicant, makes application to the City for a "Conditional Rezoning" of the Property from R-2 Single Family Residential to B2C General Business for the sole and express purpose of entering into a conditional zoning agreement with the City to permit construction of a 14 unit apartment building. In its September 13, 2012 memorandum to the Planning Board, the City's Planning Department concludes that the rezoning "would not adversely affect the surrounding property", that "development of this parcel as a single family home has proven improbable" and that the proposed conditional rezoning "would provide a suitable transition from the commercial zone to the south while protecting the neighborhood to the north."

- January 9, 2013, the Planning Board, after an extensive 5 month study of the Conditional Zoning Request, recommended to the City Commission that it approve a Conditional Rezoning of the Property to permit a 6 unit residence.

- February 25, 2013, the City Commission denied the Conditional Rezoning, but in its motion to deny, the City Commission requested that the Planning Board "…consider in the short term…" which zoning would be proper for this Property, and, "… in the long term, the overall plan on conditional rezoning."

- February 27, 2013, the Planning Board began the planning and zoning task assigned to it by the City Commission. As part of its work, the Planning Board retained a planning consultant company, LSL Planning, Inc. to prepare the Oakland/Park Subarea Study (the "Study").

- May 8, 2013, LSL Planning, Inc. presented its study, attached as Exhibit 3, to the Planning Board. In part and specifically as to the Subject Property, the Study, at Pg. 11, provides:

  > "While Birmingham has a strong single-family market, we do not believe this site can be expected to redevelop as a single family home due to site factors (location, shallow lot depth along Oakland, lack of screening along Woodward, views of multi-story buildings across Oakland, and the traffic volumes along Oakland). **These site characteristics are unique only to this lot. Under these conditions, attached, owner occupied residential units (approximately 4 units per building) seem to be the most appropriate use.**" (Emphasis added)

  The Study further provides, at Pg. 13:

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> "We were asked to explore zoning options for the 404 Park area in more detail, to provide more specific guidance to the City for the site at Oakland and Park. The dimensional characteristics, parcel configurations, proximity to downtown and location along higher volume streets will influence the potential development. **Our recommended approach would be to allow modest density, attached residential types (4-unit buildings) at a density higher than what is allowed in the R-2 district**, to be offset to some degree with higher quality screening and overall development quality." (Emphasis added)

- May 8, 2013 to April 23, 2014, the Planning Board continued to work on the task assigned by the City Commission.

- April 23, 2014, the Planning Board recommended to the City Commission that it establish and apply various Transitional Overlay Zones to numerous properties through the City. The Planning Board concurred with the recommendation of LSL Planning, Inc. and recommended a Transitional Overlay Zone that would, among other things, permit development of a 4 unit residence on the Property.

- June 9, 2014, the City Commission received the Planning Board Transitional Zoning Overlay recommendations, but postponed action, referring the matter back to the Planning Board due to concerns regarding legal noticing of public hearings and changes to be recommended by the City Administration.

- October 8, 2014 to June 24, 2015, the Planning Board held additional public hearings and deliberations on transitional zoning. During these deliberations the Planning Board determined that transitional zoning districts should not be in the form of optional overlays, but rather in the form of new zoning districts. The Planning Board also determined that 7 additional properties in the Oakland/Park area should be included in its transitional zoning recommendations to the City Commission. These consist of 2 properties north of the Subject Property and 5 properties immediately west of the Subject Property along Oakland Avenue.

- June 24, 2015, the Planning Board adopted transitional zoning recommendations for approximately 80 properties, including the Subject Property. As to the Subject Property, the Planning Board again recommended that it be rezoned to permit a 4 unit residence; i.e. TZ1 Attached Single Family. However several of the 7 property owners that had their properties included in the transitional zoning recommendations for the Oakland/Park area during the October 8 to June 24 study period, requested to have their properties removed. The Planning Board obliged, leaving 404 Park as the sole property in the Oakland/Park

area recommended for transitional zoning; i.e. TZ1 Attached Single Family.

- July 13, 2015, the City Commission received the Planning Board recommendations and set a public hearing for August 24, 2015.

- August 24, 2015, during the public hearing several property owners in the area of the Subject Property objected to the rezoning, and alleged a rezoning to TZ1 was "spot zoning" on the basis that the Property was the sole property in the Oakland/Park area recommended to be rezoned to TZ1. To correct this misuse of the term "spot zoning", the Birmingham City Attorney opined that the rezoning of 404 Park **does not** constitute "spot zoning," citing the Planning Board's 3-year long comprehensive planning process which preceded its recommendation. The City Commission adjourned the public hearing on September 21, 2015.

- September 21, 2015, the City Commission voted on rezoning the Property. A motion is made to approve the rezoning of 404 Park from R-2 Single Family to TZ1, which failed on a 3-3-1 vote. The result of the vote is a denial of the Planning Board's recommendation to rezone the Subject Property. In reviewing the meeting minutes and video it should be noted that while the Mayor and Commissioner Hoff were opposed to the rezoning, they each spoke well of the proposed 4 unit residence.

Section 1.04 – Compliance with the Goals, Objectives and Strategies of the Master Plans

Section 1.04 of the Birmingham Zoning Ordinance ("Zoning Ordinance") provides that the purpose of the Zoning Ordinance is to "…guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Master Plan ("Birmingham Plan"), and Downtown Birmingham 2016 Plan ("2016 Plan")." A review of the Birmingham Plan (1980) and the 2016 Plan (1996) reveals that the request in the Application to rezone the Subject Property to TZ1 meets the spirit and intent of the Zoning Ordinance as well as "The Downtown Birmingham Vision Statement" ("Vision Statement") of the 2016 Plan (See p. 181 of the 2016 Plan). A copy of the Vision Statement is attached hereto and incorporated by reference as Exhibit 4. This rezoning will provide for residential uses and encourage an updated pedestrian friendly development to coordinate a transitional buffer zone between the higher density office and commercial uses to the south and the mature single family uses to the north, as provided for in the 2016 Plan Vision Statement

Although the 2016 Plan does not specifically include the Subject Property, the proposed rezoning of the Property is consistent with the Vision Statement from that Plan. It is also consistent with recently enacted planning objectives of the City regarding transitional areas as set forth in the "District Intent" for the TZ1 Transitional zone (See, Section 2.41) of the Zoning Ordinance.

One of the applicable bullet points of the Vision Statement is to "[e]nsure good land use transitions and structural form and mass to the traditional residential neighborhoods surrounding downtown." The new TZ1 Transitional Zone was created, in part, to accommodate this concept as expressed in the Vision Statement. A TZ1 zoning for the Property is clearly appropriate as it fulfills the planning principal of buffering and providing orderly "good land use" transitions and structural form and mass between the higher density office, commercial and public (a parking structure) uses, on the one hand, and the "...traditional residential neighborhoods..." on the other.

A second part of the Vision Statement is to "[c]reate and reinforce identifiable districts within the downtown to provide a sense of place and a variety of experiences." Although the Property sits just north of Downtown Birmingham, the rezoning of the Property and its transitional location respects and protects the identifiable residential neighborhood to the north. Said another way, it acts as a protection for that residential neighborhood as it creates a natural transitional buffer that shields those residents from higher density uses to the south.

Further, the Vision Statement encourages "...a diverse mix of uses...especially residential." The 2016 Plan deals mainly with the Property to the south (across Oakland). However, this rezoning will accomplish a goal of the 2016 Plan by allowing, as a permitted use, a structure that is obviously intended for use in a transitional area.

Simply stated, the proposed rezoning complies with the spirit and intent of the Vision Statement regardless of the fact that the 2016 Plan does not specifically study the Property. The principals of the 2016 Plan, together with the District Intent of the TZ1 Zoning District (discussed below) give clear and convincing guidance for the planning vision of Birmingham, The rezoning of this Property to TZ1 accomplishes the City's carefully created Master Plan for land use.

The TZ1 Zoning District

Transitional zoning districts were the result of the planning consultant's (LSL Planning, Inc.) Study of the Oakland/Park subarea. As the project proceeded from a general discussion of the use and zoning of the properties in that area to a TZ1 zoning district, the Planning Board created a statement of the District Intent. Section 2.41 of the Zoning Ordinance contains the stated intent of the TZ1 Zoning District (the "District Intent"). The pertinent provisions of Section 2.41 provide as follows:

(a) Provide for a **reasonable and orderly transition from, and buffer between** commercial uses and predominantly single-family residential areas or for property which either has direct access to a major traffic road or is located between major traffic roads and predominantly single-family residential areas.

(b) Develop a **fully integrated, mixed-use, pedestrian-oriented environment between residential and commercial districts** by providing for graduated uses from the less intense residential areas to the more intense commercial areas.

(c) Plan for **future growth of transitional uses which will protect and preserve the integrity and land values of residential areas**.

(d) Regulate building height and mass to **achieve appropriate scale along streetscapes to ensure proper transition to nearby residential neighborhoods**.

(e) **Regulate building and site design to ensure compatibility** with adjacent residential neighborhoods.

(f) Encourage **right-of-way design that calms traffic and creates a distinction between less intense residential areas and more intense commercial areas**. (Emphasis added)

The rezoning of the Subject Property to TZ1 from R-2 fulfills each of the six part statement of the "District Intent" adopted by the City. This statement of District Intent provides a solid foundation and plan for zoning and rezoning property in those areas designated as transition zones. The rezoning of this Property will: (a) provide a reasonable and orderly transition, and a buffer between commercial use to the south and the mature single family residential to the north; (b) provide a fully integrated, mixed-use, pedestrian environment between residential and commercial districts; (c) provide for future growth of transitional uses and thereby serve to "…protect and preserve…" the single family use to the north; (d) ""achieve an appropriate scale along streetscapes…"; (e) "…regulate building and site design to ensure compatibility …" with residential neighborhoods to the north; and (f) create a "…distinction between less intense residential areas and more intense commercial areas…".

In summary the rezoning of the Property is in compliance with all principals of the relevant portions of the City's Master Plans and Zoning Ordinance statements of intent for land use. Further a specific planning study and three years of hard work on the part of the Planning Board and the City Commission have clearly identified this Property as one that should be rezoned to TZ1, as was originally recommended. This Application is an opportunity to amend the Zoning Ordinance so that this Property is allowed to enjoy the uses that the Master Plan and District Intent statement clearly anticipated was a fair, just and reasonable zoning that would benefit of the health, safety and welfare of this community..

Rezoning Amendment – Sec. 7.02B.2.b.i.–iii.

The Zoning Ordinance, at Sec. 7.02, requires that as part of an application for rezoning,

the petitioner address certain issues to be considered by the Planning Board and the City Commission, in addition to the unambiguous guidance set forth in the City Master Plans. Please consider the following comments with respect to these issues.

Sec. 7.02B.2.b.i. – An Explanation of Why the Rezoning is Necessary for the Preservation and Enjoyment of the Rights and Usage Commonly Associated with Property Ownership

The Applicant has been unable to develop the Subject Property in accordance with the Master Plan and the 2016 Plan, depriving the Applicant of the enjoyment of a right commonly associated with property ownership. The rezoning of the Subject Property from R-2 to TZ1 would result in the preservation and enjoyment of such rights of property ownership. These rights of usage include, among others, the right to develop the Subject Property in a manner consistent with the 2016 Plan. The Planning Department has advised the Planning Board that development of the Subject Property as a single family home "has proven improbable." During the first attempt to rezone the Property with conditions the Planning Department also advised that the then-proposed conditional zoning "would provide a suitable transition from the commercial zone to the south while protecting the neighborhood to the north."

The other properties in the area of the Subject Property are not similarly situated. None of them are bounded by three major streets. None of them are located on a shallow lot (from north to south). None of them have a side facing Woodward with no screening. In fact, the development Applicant intends to build, once the Subject Property is rezoned TZ1, is not only in total accord with the District Intent but also with the 2016 Plan. The rezoning to TZ1 zoning allows the Applicant the preservation and enjoyment of the rights and usage commonly associated with property ownership.

Sec. 7.02B.2.b.ii. – An Explanation of Why the Existing Zoning Classification is No Longer Appropriate

After reviewing the 2016 Plan, the Zoning Ordinance and the minutes of the Planning Board during the three years of transitional zoning deliberations, it is clear that the existing zoning should be updated so that a residential use can be built that complies with the TZ1 District Intent and the 2016 Plan. The TZ1 zoning allows the contemplated use. The development of the Subject Property would be pursuant to an ordinance that was enacted to establish, encourage and foster buffers between commercial and residential areas. A vacant lot cannot effectively buffer or protect the residential neighborhood to the north. Redevelopment of the Subject Property as a single family residence does not accomplish any of the important goals of the TZ1 Zoning District or the goals of other land use plans which are the basis for the Zoning Ordinance.

Redevelopment as a single family residence does not: provide for a reasonable and orderly transition from, and buffer between commercial uses and predominantly single-family residential areas; develop a fully integrated, mixed-use, pedestrian-oriented environment between residential and commercial districts; plan for future growth of transitional uses which will protect and preserve the integrity and land values of residential areas; regulate building height and mass to achieve appropriate scale along streetscapes to ensure proper transition to nearby residential neighborhoods; regulate building and site design to ensure compatibility with adjacent residential neighborhoods; or encourage right-of-way design that calms traffic and creates a distinction between less intense residential areas and more intense commercial areas. The current zoning of the Property is not in compliance with the City's master plan and is no longer appropriate. A rezoning to TZ1 would remedy this problem.

It is fair and reasonable that the Subject Property should be able to enjoy the same benefits that other properties in the surrounding areas enjoy. The simple R-2 zoning is no longer appropriate because of the incredibly sophisticated development that has occurred to all properties in the area of the Subject Property. The use of the Subject Property for a single family residence is not only inconsistent with the Zoning Ordinance and 2016 Plan, but it limits the use of the Subject Property so that its value to the community and to the Applicant is unfairly diminished.

Inclusion of the Subject Property in the TZ1 Zoning District will enhance the form based zoning that has reinvigorated Birmingham. The R-2 zone is simply no longer appropriate in this area as a part of this dynamic mixed use, pedestrian friendly, urban setting.

Sec. 7.02B.2.b.iii. – An Explanation of Why the Proposed Zoning will not be Detrimental to the Surrounding Properties

Rezoning the Subject Property to TZ1 will not be detrimental to the surrounding properties, in fact, it will protect the single family neighborhood to the north by providing a clear buffer between traditional single family uses and commercial uses. Therefore this rezoning will be a positive development for all the citizens of Birmingham. The rezoning of the Subject Property will allow for the development of a modern and attractive residential structure which will be enjoyed by all of the residents of Birmingham. The contemplated plans for the Subject Property, which comply with the TZ1 requirements, are at a height, density and aesthetic that coordinates with the surrounding properties. Certainly the intended use developed in a modern way is a great improvement over its current vacant condition.

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Conclusion

All of these facts taken together with the coordination of streetscape and use of future development lead to the conclusion that the rezoning of the Subject Property from R-2 to TZ1 will be a clear benefit to the health, safety and welfare of all the citizens of Birmingham.

Applicant respectfully requests that this Petition for rezoning the Subject Property from R-2 to TZ1 be approved.

Respectfully submitted,

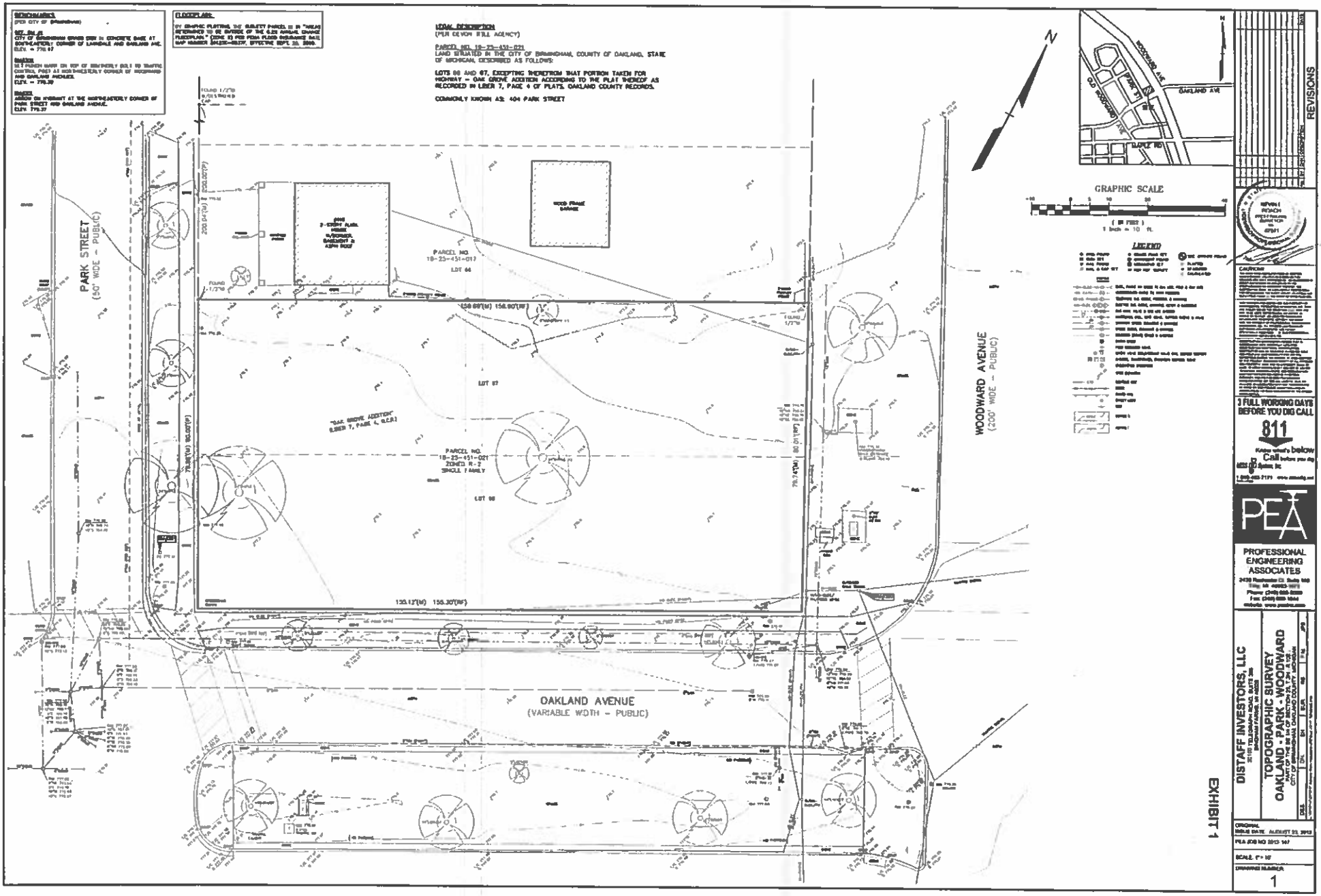
WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

By: _____

Richard D. Rattner
Attorney for Applicant

EXHIBIT 1

SURVEY



LEGAL DESCRIPTION
(PER DEVON TITLE AGENCY)
PARCEL NO. 18-25-451-021
LAND SITUATED IN THE CITY OF BIRMINGHAM, COUNTY OF OAKLAND, STATE OF MICHIGAN, DESCRIBED AS FOLLOWS:
LOTS 66 AND 67, EXCEPTING THEREFROM THAT PORTION TAKEN FOR HIGHWAY - OAK GROVE ADDITION ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 7, PAGE 4 OF PLATS, OAKLAND COUNTY RECORDS.
COMMONLY KNOWN AS: 404 PARK STREET
PARK STREET
(50' WIDE - PUBLIC)
WOODWARD AVENUE
(200' WIDE - PUBLIC)
OAKLAND AVENUE
(VARIABLE WIDTH - PUBLIC)
PARCEL NO. 18-25-451-017
LOT 66
LOT 67
LOT 68
PARCEL NO. 18-25-451-021
ZONED R-2
SINGLE FAMILY
"OAK GROVE ADDITION"
(LIBER 7, PAGE 4, O.C.R.)
GRAPHIC SCALE
LEGEND
REVISIONS
3 FULL WORKING DAYS BEFORE YOU DIG CALL
811
PEA
PROFESSIONAL ENGINEERING ASSOCIATES
DISTAFF INVESTORS, LLC
TOPOGRAPHIC SURVEY
OAKLAND - PARK - WOODWARD
EXHIBIT 1
1

EXHIBIT 2A

AERIAL PHOTOGRAPH

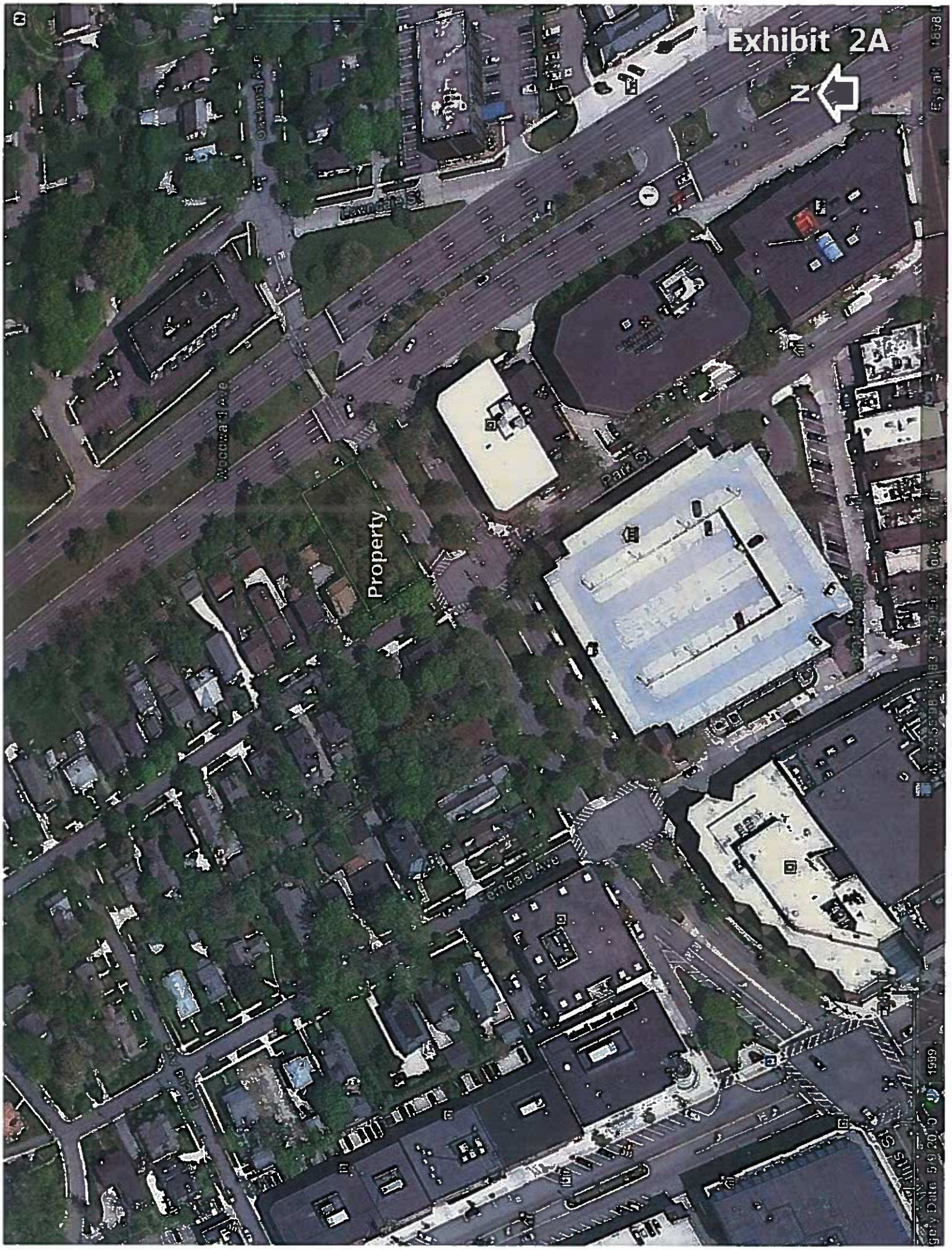


Exhibit 2A
N
Property
Park St
Woodward Ave
Oakland Ave
Lawndale St
Lawndale Ave
Eyeall

EXHIBIT 2B

AERIAL PHOTOGRAPH

EXHIBIT 2B
N
Woodward Ave
Property
Park St
Oakland Ave
ndale Ave

EXHIBIT 3

LSL PLANNING, INC. STUDY

EXHIBIT 6

Oakland/Park Subarea Study

Purpose

The Oakland/Park area in Birmingham, like much of the city, has some unique features. Tucked behind wooded views along Woodward and the shops and offices along Old Woodward and Oakland is a tightly knit historic neighborhood. Most passersby do not even realize there is a quality historic neighborhood. Woods along Woodward Avenue provide an effective screen along the neighborhood's east edge. Other edges between the mostly single-family neighborhood and non-residential uses are generally fairly well buffered, through landscaping, walls and setbacks. There are, however, some lots adjacent to the neighborhood "edges" that are not as well buffered or have distinct site conditions that make them candidates for a possible land use change. Those parcels are the focus of this study.

One such lot, at the northeast corner of Park and Oakland Streets, was recently the topic of a rezoning request. The applicant proposed a conditional rezoning to B2C to allow a reduced front yard setback for a set of six attached residential units. In response to extensive neighborhood comments voicing opposition to the rezoning, and feeling any zoning action on an individual parcel would be premature, the City Commission recommended that the area first needed an overall planning study.

Scope and Methodology

LSL Planning, Inc. was retained by the City of Birmingham to create a subarea analysis for the study area illustrated below. The subarea is bounded by Oakland to the south, N. Old Woodward to the west, Woodward Avenue to the east and the neighborhood south of Oak Street. This study evaluates the types of land uses, views, transition areas, traffic, access, pedestrian conditions, building heights and setbacks, and zoning.

Study area

Our technical analysis also considered the ideas and concerns of the neighborhood expressed at public meetings. While there were a variety of comments, all of which were thoughtfully considered, the key topics emphasized are listed below:

1. Protecting the integrity of the neighborhood and property values;
2. Strong preferences for single-family development on the vacant lot at Oakland/Park and a belief that it is a reasonable use;

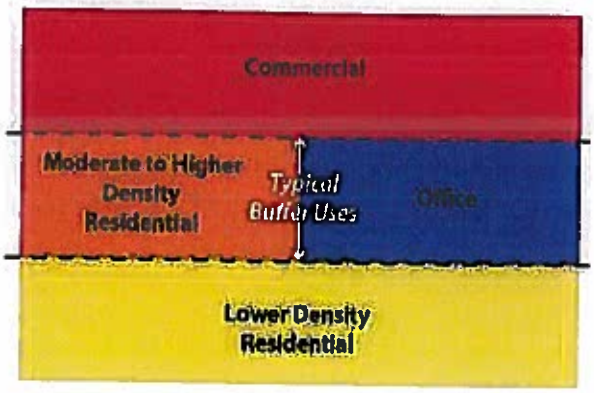
3. Desire by some to retain the Brookside Terrace condominiums;
4. Ideas or support for traffic calming and pedestrian crossing improvements; and
5. Concern about rental housing especially if there are more than four units (which the City Assessor stated is classified as "commercial").

We also considered information from the City Assessor on factors that influence property values. Typically, assessed values are based on standard factors such as comparable sales in the vicinity. When a single family home is adjacent to another use, there can be a 5 to 15% drop in the assessed value. The extent of the impact depends on factors such as, condition of the structure, traffic, and adjacent uses (type, condition, buffering, views). Different types of adjacent land uses can be made more compatible through site design and buffering aimed at reducing or avoiding negative impacts on assessed values.

Edges and Transitions

In land use planning, an important consideration is to manage land use arrangements to minimize conflicts. Land use conflicts may occur when incompatible uses are adjacent. The result can be short- and long-term consequences or nuisances that can influence the desirability and value of one or more properties. In a downtown or mixed use district, the buyers are aware that the array of uses is part of the appeal. But in single-family neighborhoods near the downtown or mixed use district, there is an expectation of solidarity among uses in the neighborhood.

Typical Land Use Transition Pattern



There are a number of factors that influence the extent of the conflict and its impacts. A key factor is the intensity of the use. Certain more intense uses are generally directed to be separated from other uses. This is one reason why in planning and zoning communities have a series of land use classes or zoning districts that specify the permitted uses.

Due to the impacts of non-single-family uses (views, noise, traffic, parking, late-night hours, etc.) single-family neighborhoods are often separated from retail, entertainment, and service businesses by uses transitioning the intensity between the districts – higher density housing or offices are typical applications of these transitional buffer uses (see diagram at right). In more urban/mature cities like Birmingham, residential uses often abut commercial uses with little room for transitional uses. In such cases, the uses can be more compatible by incorporating design features such as setbacks, landscaping, parking and access location,

Typical Transitional Land Uses between Single-Family and Commercial

- Single-family detached homes (with suitable buffers as defined below)
- Attached single-family homes
- Multiple-family residential at an appropriate scale and density (see design considerations below)
- Single-family homes converted to offices
- Offices (with suitable buffers as defined below)
- Parks/open space
- Institutional uses (schools, libraries, etc)
- Buffers: setbacks, walls, landscape, etc.

lighting, or building design. Typically, the buffering is provided on the lot of the more intense use.

Where single-family or lower density residential neighborhoods directly abut higher intensity uses, the edges of districts (on both the commercially zoned side and residential side) are often the focus of a city's master plan and zoning regulations. These lots are scrutinized to ensure a suitable transition between the districts exists. Properties on the edges of districts may feel development pressures from adjacent zoning districts typically from the more intense district. Having well-defined transitional uses or design buffers can preserve the integrity of single-family neighborhoods from encroachment of unwelcome uses. Birmingham has dozens of examples where single-family has long remained stable when abutting non-single-family. But there are also other examples where former owner-occupied single-family homes have been converted to rentals, duplexes, or offices. In many cases, these non-single-family uses have long served as a transitional use.

Design Considerations for Transitions

One of the objectives of the City is to protect its neighborhoods. Changes in use and zoning can potentially erode that character. But the City also has goals for vibrant, mixed use districts, a walkable city and a diversity of land uses for fiscal security. In the neighborhood edge area where the single or two-family abut other uses, the non-residential use should be designed so that it provides a transition but also forms a solid demarcation for a zoning boundary.

These design considerations were taken into account when analyzing the subarea's key parcels susceptible to change in the next section.

Typical site design buffers between residential and non-residential uses

- Landscaping
- Attractive, well-maintained walls and fences
- Some additional setbacks especially for buildings with more height or mass than neighbors
- Low lighting impact

Site Analysis of Key Parcels Susceptible to Change

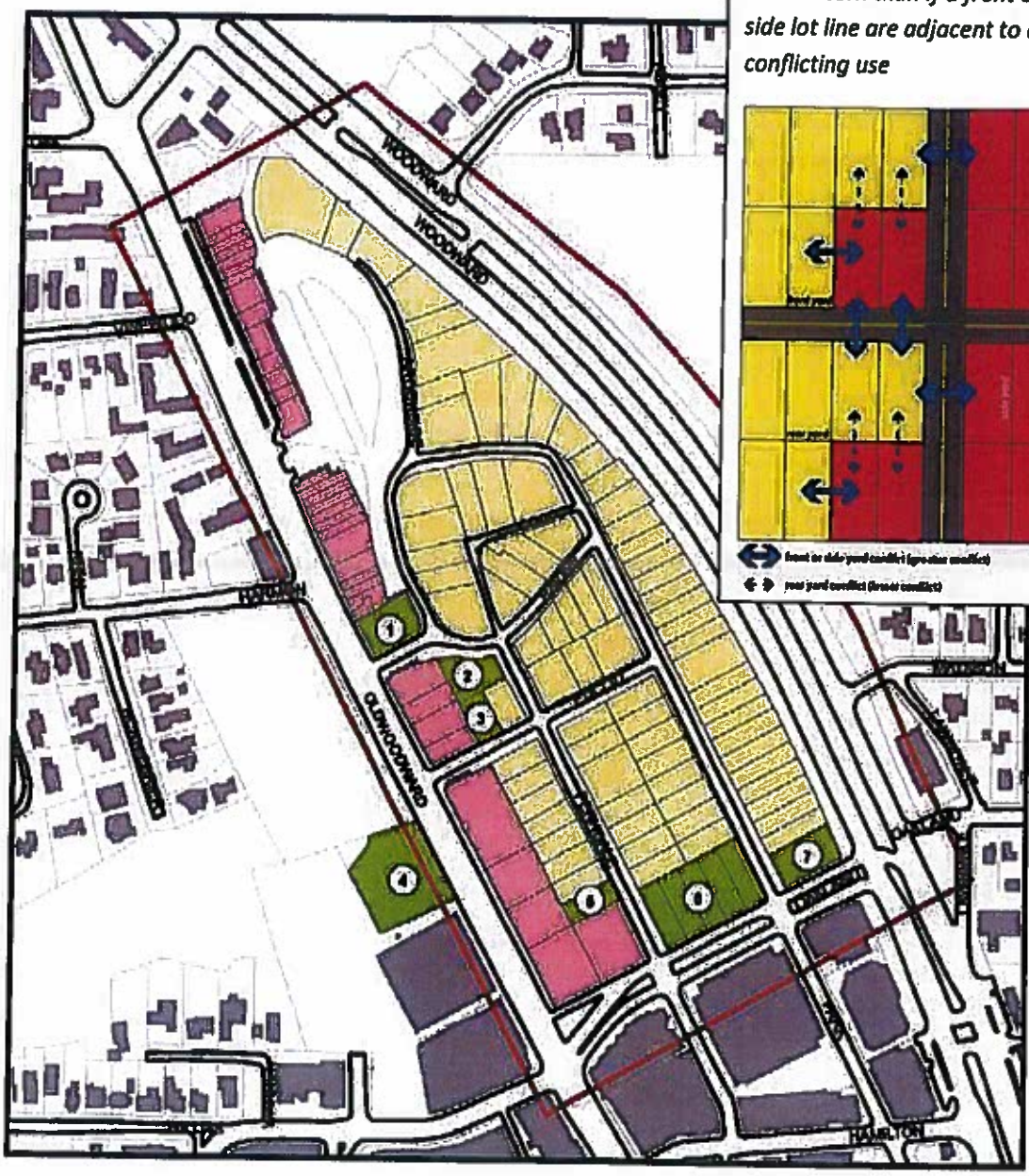
The areas in the Oakland/Park Subarea that front or are adjacent to commercial uses are defined on the following map (titled "Adjacency Analysis") in green as parcels most susceptible to change. This does not mean a change is necessary, just that those are the parcels that should be focused on in a land use evaluation such as this report. Seven properties were identified for further study to determine if on-site design considerations provide sufficient buffers to support long-term viability of the uses, or if a change in land use, zoning, or site design may be appropriate to provide an appropriate buffer between the uses. These properties were evaluated for buffering design considerations, as described above, to determine what can be done to prevent change or what might be changed to protect the adjacent uses.

Each parcel classified as susceptible to change was evaluated and classified as follows:

1. Buffering sufficient, no change in land use is warranted or recommended;
2. Generally the uses are compatible and some buffering exists, but could be greatly enhanced; or
3. Conditions unique to the parcel (traffic, views, lot size, etc) warrant a consideration of a change in the land use; the condition may be beyond a buffering solution.

The findings for each such parcel are provided on the following pages.

Generally, when a rear lot line abuts a conflicting use it is of less concern than if a front or side lot line are adjacent to a conflicting use

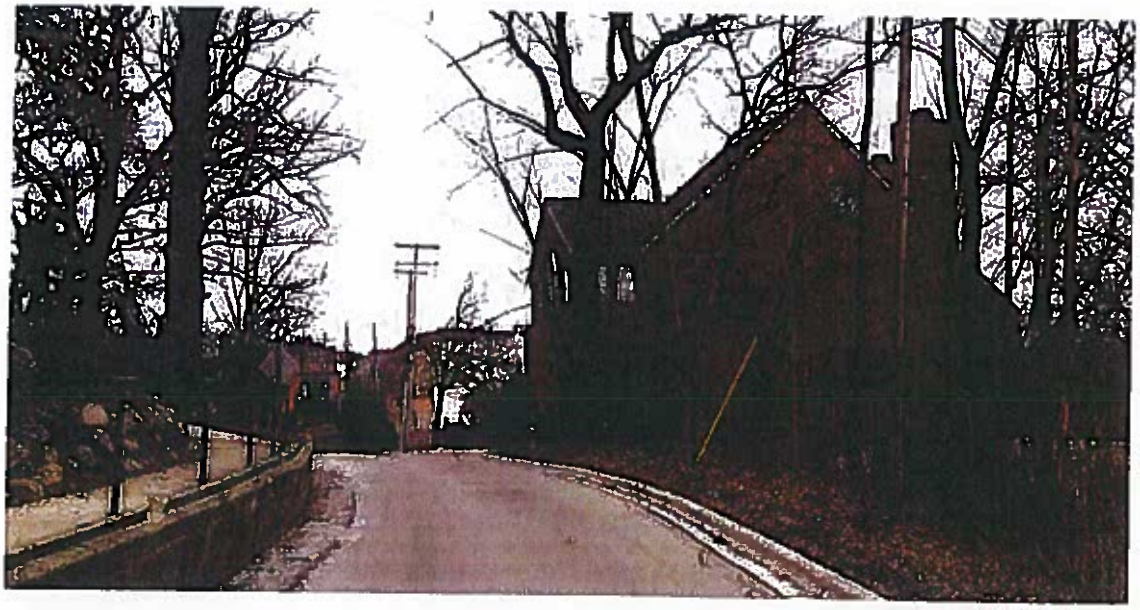


Core Residential
Office/Commercial
Parcels Susceptible to Change

Transitional parcels are defined by either fronting or being adjacent to a non-residential use (front or side yard) or fronting a non-local street.

Oakland/Park Subarea **Adjacency Analysis** Map Created 4-5-13	Road Edges Building Footprints Tax Parcel	Data Sources: City of Birmingham, Michigan CGI, LSL Planning, Inc.	LSL Planning, Inc.

① Brookside/Ravine Area



Existing Conditions

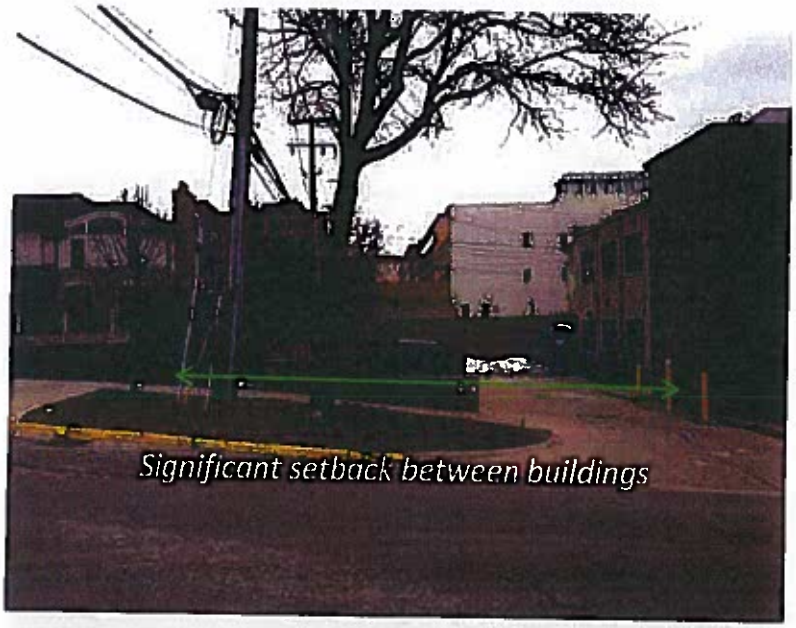
The attached condos on the north side of Ravine at N. Old Woodward are a good transitional use between the retail uses on N. Old Woodward and the single-family homes in the subarea. The condos are buffered from the retail by the wooded area adjacent to the Rouge River. This wooded area also does a very good job of buffering between the shops along N. Old Woodward and the homes on Brookside, but ends at the lots edge.

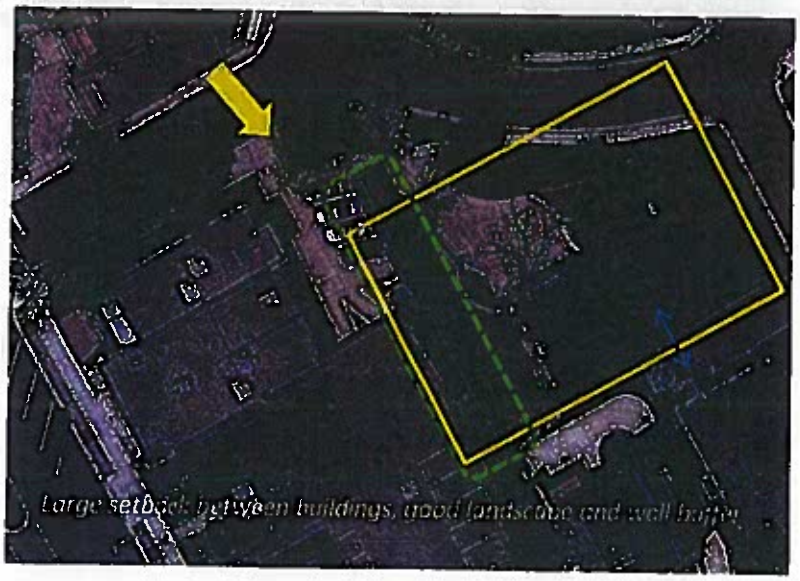
Recommendation

- There is no reason to support any change of land use or zoning in this area.

While the views from homes on Brookside to the businesses along N. Old Woodward are less obstructed in winter months with less foliage, what remains of the vegetation decently screens the rear loading/parking areas of the businesses.

② Ravine/Ferndale Area





Existing Conditions

The site contains a brick wall and depressed parking lot. It is well landscaped, contains a substantial setback, and is closely tied to adjacent residential.

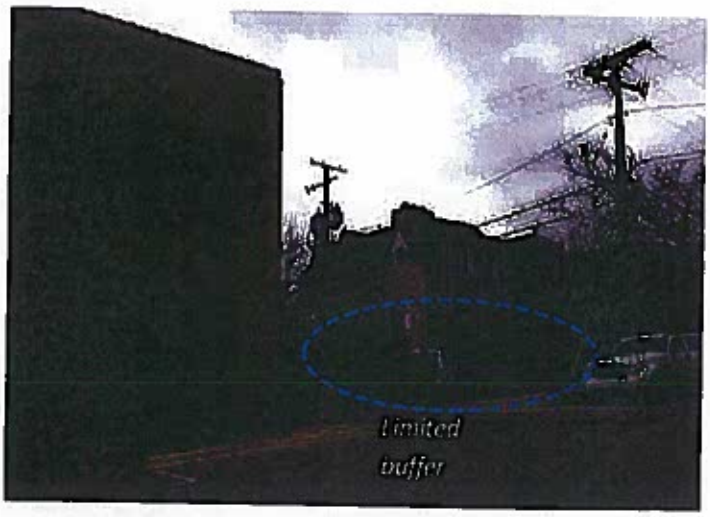
Recommendation

- There is no reason to consider land use changes in this area.
- Additional landscaping along Ravine would help with views of the parking/loading from the street.

③ Euclid Area

Existing Conditions

This site has a shallow setback with parked cars adjacent to the front yard. Minimal buffers do not include a wall or significant landscaping, as is ideally desired.



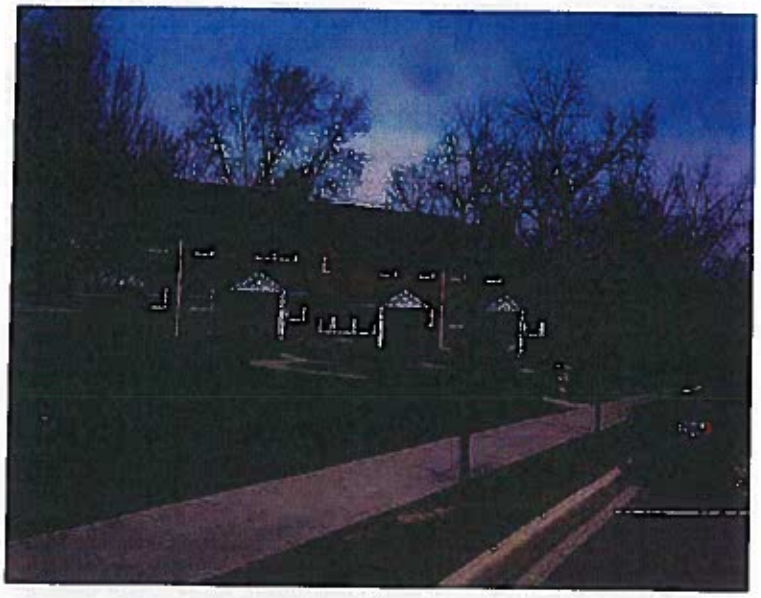
Recommendations

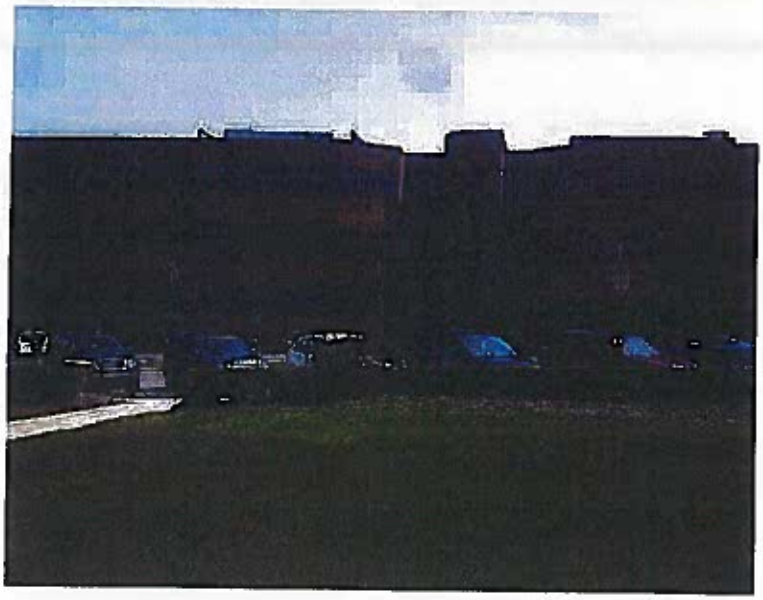
- No change in land use is suggested.
- Work toward additional buffer with larger parking setback with landscaping and/or screen wall.
- Consider traffic calming treatments, such as curb bump outs to better distinguish office from residential street.

Consider improvements to Euclid that will help calm traffic. See the Complete Streets and Traffic Calming Concepts section of our report for more information:

1. *Curb-bump outs*
2. *Speed table*
3. *Clearly marked crossings*
4. *Signage*

④ Brookside Terrace Area





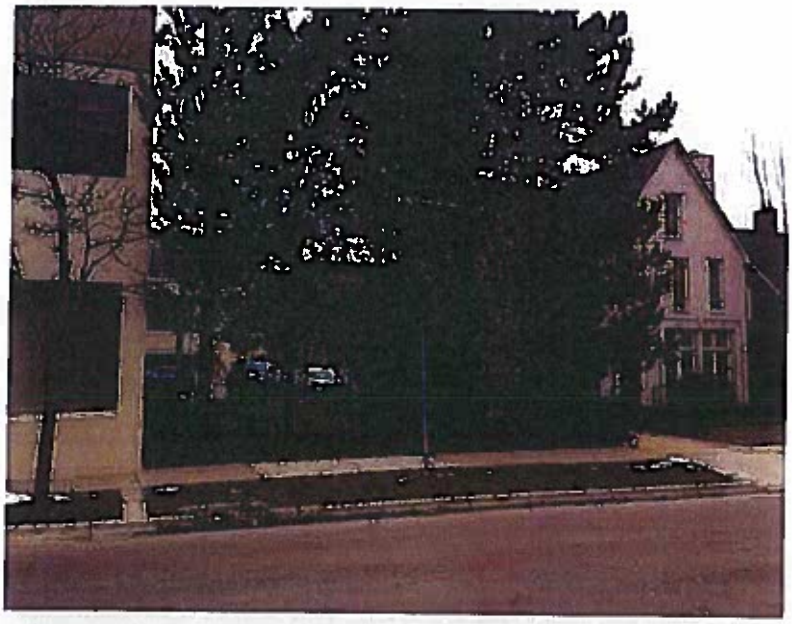
Existing Conditions

The Brookside Terrace condominiums front onto N. Old Woodward, with a large setback from the street, which provide a nice greenspace along N. Old Woodward. The site backs onto the river, providing nice vistas, both of the river and residential homes on the other bank. Parking, via a structure and on-street facilities are provided to accommodate the moderate density on the site.

Recommendations

- Plan for redevelopment into office or mixed-use.

⑤ Ferndale Area



Existing Conditions

This site includes an office building. A substantial landscaped area and setback separates the residential from the office. Rear yard parking, located adjacent to the garage/drive, includes a hedgerow buffer.

Recommendation

- No changes are recommended in this area.

⑥ Oakland Area

Existing Conditions

The properties fronting Oakland are somewhat buffered from the parking deck across the street by the width of the right-of-way and the landscaped median. Unlike most of the homes in the neighborhood, the views from those lots look onto a four story office building and multi-story parking deck. These properties have historically been residential (2 are rentals) but the traffic volumes on Oakland are high for residential uses.

While the median contains some landscaping, the tall trees are insufficient to fully block the view of the imposing parking deck across the street.

Recommendations

As a key entrance to downtown from Woodward, Oakland Avenue could support more intense uses along its frontage, similar to those on the westernmost block of Oakland at N. Old Woodward. From an urban design perspective, this street could benefit from shallow setbacks on both sides of the street to better frame Oakland as a gateway to downtown. Should the current single-family houses (a mixture of renter- and owner-occupied homes) redevelop, a logical extension of that zero-foot front yard setback characteristic would be acceptable at the other borders of the neighborhood and across Oakland, with deeper rear yard setbacks adjacent to single-family residential. Similar to those office/commercial and attached residential buildings fronting Old Woodward, businesses or attached residential units (no more than 3 stories) would complement the character of other conditions located at the periphery of downtown while protecting the established single-family neighborhood behind. This would provide a better transition to the neighbors to the rear than the current houses fronting Oakland have as a transition. Some additional zoning suggestions are provided later in this report.

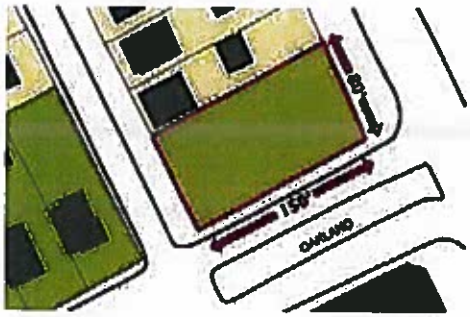
Consider marked pedestrian crossings with "Failure to Yield to Pedestrians, minimum $50 fine" signs

⑦ 404 Park Area

While the median contains some landscaping, the tall trees do not fully block the view of the office building across the street.

Existing Conditions

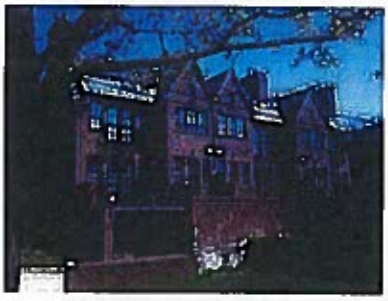
This vacant property is located at the corner of busy Woodward Avenue and Oakland. The views across Oakland of the office building and parking structure are not well shielded by the landscaped median. Unlike the other lots along the east side of Park Street, there are no woods to help screen views and noise from Woodward Avenue. The addition of screening along Woodward may be limited in order to protect sight distance along eastbound Oakland given the skewed intersection angle.



This study area measures 150' wide by 80' deep, which is a challenge to redevelopment.

Recommendations

While Birmingham has a strong single family market, we do not believe this site can be expected to redevelop as a single family home due to site factors (location, shallow lot depth along Oakland, lack of screening along Woodward, views of multi-story buildings across Oakland, and the traffic volumes along Oakland). These site characteristics are unique only to this lot. Under these conditions, attached, owner-occupied residential units (approximately 4 units per building) seem to be the most appropriate use. If designed to complement the existing neighborhood architecture and housing types, this site could have more potential to redevelop into a more complementary development.



Examples of 3- and 4-unit buildings at Brown and Bates shows how attached single-family residential types can be compatible with residential. Materials and buildings would need to be revised to fit on the study site, but these images illustrate the type of quality that can be achieved.

Development that can present a residential façade along both Oakland and Park, parking located closer to Woodward, and setbacks consistent with established development, could help accomplish two important goals in this area to protect the single-family neighborhood; minimize impacts from associated parking facilities; and strengthen Oakland as a gateway into downtown.

Complete Streets and Traffic Calming Concepts

Generally the neighborhood streets are designed for appropriate low speed auto travel. Sidewalks are provided along both sides of the streets. To help prevent non-residents from parking in the neighborhood, on-street parking requires a permit. The City has made many improvements to calm traffic and improve the environment for pedestrians, especially along North Ole Woodward. The angled parking, medians and signalized pedestrian crosswalks have helped transform this district into another City asset. We did hear or see some comments from the neighborhood about cut-through traffic, but traffic speeds do not seem to be a problem. There are some additional enhancements that could help meet the City's objectives for "Complete Streets" designed for all types of users, and also to better distinguish the residential and non-residential segments.

Curb-bump outs, such as the one recommended along Euclid Avenue, can help distinguish the entry into the neighborhood. It may also allow installation of a tree to improve screening for the adjacent home. This could also include some type of decorative pavement or a speed table as shown below.

- **Curb-bump outs.** At critical neighborhood entry points, where commercial uses end, curb bump-outs and perhaps a band of different pavement could help better mark the neighborhood and discourage cut-through traffic. Some of the streets, such as Park, are too narrow for a bump out, but others, such as Euclid, can accommodate a shallow bump-out.
- **Improved crossings.** An additional pedestrian crossing of Oakland at Ferndale could be evaluated by the City's Engineering Department. This could include a marked crosswalk and a sign to yield to pedestrians.
- **Speed tables.** A speed table is a slightly raised (2 to 3 inches) segment of pavement that combined with a change in pavement or a bump out can help distinguish the residential part of the street. These traffic calming measures can help discourage cut-through traffic and slightly lower speeds. A differentiation in pavement color and levels requires the motorist to notice their speed and reduce it to drive over the tables.

.

Zoning Analysis and Recommendations

Current Zoning and Dimensional Requirements. With the exception of the Brookside/Ravine parcel (①), which is zoned B-1, Neighborhood Business, and the Brookside Terrace (④) which is zoned R-6, Multiple-Family Residential, parcels evaluated are zoned R-2, Single Family Residential. Key dimensional standards for these districts are as follows:

	Allowed Uses	Min. Lot Size	Min. Front Setback	Minimum Side Setback	Min. Rear Setback	Max Height
R-2	▪ SF Residential ▪ Adult Care ▪ Limited Institutional	6,000 s.f.	Average along block or 25'	▪ One side = 9' or 10% of lot width ▪ Both sides = 14' or 25% of lot width ▪ Lots over 100' wide = 10' for one side and 25' for both ▪ Minimum 5'	30'	26' to 30'
R-6	▪ SF Residential ▪ Duplexes ▪ Multi-Family	1,375 s.f. to 2,500 s.f.	25'		30'	30' / 2 stories
B-1	▪ Institutional Uses ▪ Offices ▪ Limited retail & service uses	N/A	0	0	20'	30' / 2 stories

Current Buffer Requirements. As noted, required setbacks, screening, building height, and other design can influence a development's compatibility with adjacent uses. The following summarize the key requirements in the Birmingham Zoning Ordinance as they might relate to the evaluated parcels:

- **Screening.** Section 4.05 requires screening around waste receptacles and mechanical equipment, and a six foot tall masonry screen wall between parking lots and abutting single-family residential zoning districts.
- **Landscaping.** Section 4.20 requires multiple family projects to provide one deciduous and one evergreen tree for each two units proposed, in addition to one street tree for each 40 feet of road frontage.
- **Lighting.** There is very little regulation for parking lot lighting in the Zoning Ordinance that would relate to redevelopment within the study area.

Recommendations

We were asked to explore zoning options for the 404 Park Area (⑦) in more detail, to provide more specific guidance to the City for the site at Oakland and Park. The dimensional characteristics, parcel configurations, proximity to the downtown and location along higher volume streets will influence the potential development. Our recommended approach would be to allow modest density, attached residential types (4-unit buildings) at a density higher than what is allowed in the R-2 district, to be offset to some degree with higher quality screening and overall development quality. The following discuss the various ways that this could be achieved and our suggested approach:

1. **Grant Variances.** The City has the authority to grant variances of the dimensional and use restrictions in the Zoning Ordinance. Use and dimensional variances should only be issued in extremely unusual cases, and should be avoided where the desired redevelopment is expected to require several variances.

   In this case, the shape of the parcel along does not prevent development into single-family

homes according to the requirements of the R-2 district. However, there are some physical factors that make development of a single family home questionable. We believe an alternatives development option, attached single-family units, is more reasonable and can serve as a buffer for the adjacent residences. A use variance, along with dimensional variances, is an option. Even if the property owner can demonstrate there is a "demonstrated hardship" to warrant a use variance, such a procedure is often not viewed as a good policy approach.

2. **Rezone the Property.** Rezoning of the site from R-2 to a higher intensity designation, such as the R-8 zoning district would allow additional uses including multiple-family uses, but not commercial uses, which can help alleviate concern from the neighborhood residents. In addition, the dimensional requirements are less than those in the R-2. Particularly, the minimum lot size is reduced to 3,000 s.f., the rear setback is reduced to 20', and open space and lot coverage requirements are eliminated, which could accommodate more intense uses. They could also, however, create a development that, without performance standards, may not achieve the compatibility, transitions and buffers desired for this site.
3. **Establish a New District or Overlay.** The recommended approach is to develop a new, urban residential district that could be applied to select sites in anticipation of redevelopment. The provisions could apply if sites are rezoned, or it could be applied as an overlay. The primary benefit of this option is that the City can establish the provisions it feels appropriate for these sites rather than trying to force them into an existing district. Key aspects of this district could include:
    a. Shifting of the approval focus from the dimensional requirements to a set of performance-based standards. If chosen, standards including but not limited to the following should be included:
        1) The development includes building heights, screening and landscaping that consider adjacent land uses and development patterns to ensure proper transition to nearby residential neighborhoods; and
        2) The development provides an alternative housing type not typically found in the City, such as senior housing, attached single-family, or other targeted types.
    b. Because the conditions of the 404 Park Area are not specific to that study area, applicability provisions could be included to allow this district to be applied to other sites that either:
        1) Abut both a single-family residential district and a non-residential district, or
        2) Are located along a major non-residential road that abuts a single family district.
    c. Specific standards of the district should include design considerations such as:
        1) Additional screening standards for transitional sites, such as inclusion of additional landscaping, building step-backs, and other provisions that we expect will be needed;
        2) Additional parking location options, which are limited to on-site facilities in the R-2 district; and
        3) Maximum illumination levels, limits on late-night activity, noise restrictions or other standards that may help protect nearby residents.
        4) Incentives or other market-based zoning approaches that are more likely to result in the development activity that is desired.
    d. A development agreement should be required with each approval, to detail the parameters for development relative to the specific conditions and factors for each site. The agreement should address issues such as maximum density, buffer quality, architecture, etc.

EXHIBIT 4

VISION STATEMENT

THE DOWNTOWN BIRMINGHAM VISION STATEMENT

Because downtown Birmingham plays such an integral part in the lives of its residents and serves as a regional destination for so many others, those determining the course of our downtown must continue to build on our treasured heritage when addressing the challenges of the future.

The Downtown Birmingham 2016 Master Plan must:

- Ensure the economic viability of the downtown business community.
- Be designed for the safety, comfort, convenience, and enjoyment of pedestrians, rather than vehicular traffic.
- Strengthen the spatial and architectural character of the downtown area and ensure buildings are compatible, in mass and scale. with their immediate surroundings and the downtown's traditional two- to four-story buildings.
- Ensure good land use transitions and structural compatibility in form and mass to the traditional, residential neighborhoods surrounding downtown.
- Recognize Birmingham's unique past through architecture, landscape, signage, lighting, and/or public art.
- Create and reinforce identifiable districts within the downtown to provide a sense of place and a variety of experiences.
- Encourage a diverse mix of uses including retail, commercial, entertainment, cultural, civic, and especially residential
- Encourage first floor retail businesses, services, and other activities which are required for everyday living.

Enhance the natural environment and integrate park land and green space into the downtown experience.

- Create a strong identification for civic buildings and public spaces and contextualism in the design of public projects.
- Strengthen residents civic life by promoting private and public cultural and civic events, and providing sites for civic and public buildings.
- Cultivate the development of cultural and artistic resources, both public and private, and create appropriate and contextually designed spaces for the integration of art and music into the downtown area.
- Provide easily accessible, identifiable, and convenient parking in an amount to support downtown density and use.
- Recognize the types of vehicular traffic, both regional and destination, circulating in and around downtown and attempt to facilitate that vehicular traffic without sacrificing downtown's pedestrian experience.
- Provide for the future by maintaining and enhancing the infrastructure for necessary services and future technologies.
- Develop plans and set strategies for the downtown's success by utilizing the resources of Birmingham's business, civic, and governmental organizations.
- Strive to achieve a downtown for people of all ages, ethnic backgrounds, and incomes.

Adopted by the Downtown Planning Advisory Committee on October 10, 1996.

Since 1973
W|W|R|P
Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors
380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009
Tel: (248) 642-0333
Fax: (248) 642-0856

Mark R. James
mrj@wwrplaw.com

June 16, 2016

City of Birmingham
Attn: Planning Department
151 Martin Street
Birmingham, Michigan 48009

RE: 404 Park Street, Birmingham, MI ("Subject Property")
Public Notice Sign

Dear Planning Department:

I am an attorney working with Rick Rattner, my law partner, on the petition to rezone 404 Park St. from R-2 to TZ-1 (the "Rezoning Application"). Our firm represents 404 Park, LLC, the owner of the Subject Property. Due to its location, I drive past the Subject Property and the sign at least once a day. Since I drive by, I take the opportunity to make sure the sign is still present and upright.

Due to my observation of the condition of the sign earlier this week, we thought it prudent to provide this letter to make a record of my observations regarding the sign since it has been installed on the Subject Property for several months.

- March 1, 2016 - The sign is installed on the Subject Property. Pictures are taken and emailed to Jana Ecker.

- March 31, 2016 – I walked to the Subject Property (the Subject Property is 2 blocks from my office) to check on the status of the sign. The sign was lying on the ground. One of the 8" metal legs at the bottom of the frame was broken completely off. I placed the remaining leg in the ground with the sign upright.

- May 16, 2016 – I drove by the Subject Property to check on the sign, which was leaning against the large tree along Park St. in the general southwest corner of the Subject Property. Both of the legs were broken off of the sign frame. Later in the day, I took the sign to the Planning Department and exchanged it for a new one. I returned to the Subject Property and reinstalled the sign in the approximate location of where it had been, in the southwest corner of the property.

RECEIVED
JUN 20 2016
CITY OF BIRMINGHAM
COMMUNITY DEVELOPMENT DEPARTMENT

W|W|R|P

- June 14, 2016 – I drove by the Subject Property at approximately 5:30 a.m. I wasn't able to see the sign (it was dawn and light enough to see without a flashlight). I exited my car to locate the sign, which I found in 2 pieces. The frame of the sign remained in the ground approximately where I had installed it on May 16. The sign itself was lying on the ground approximately 10 to 15' south of the sign frame. I reassembled the sign on its frame and replaced it in the ground.

If my observations warrant, I will update or supplement this letter. If you have any questions regarding this letter or my observations, please do not hesitate to contact me.

Respectfully,

Mark R. James

MRJ/tim
(01060528)
cc: Mr. Charles DiMaggio
Mr. Timothy J. Currier
Mr. Richard D. Rattner

January 12, 1960

Planning Board
Birmingham, Michigan

SUBJECT: Zone Change Request - Archie Addison - 404 Park

Gentlemen:

At the December 21, 1959 City Commission meeting a communication was received requesting a zone change for the property described as 404 Park by Mr. Archie Addison from R-2 Single Family Zone District to commercial classification. The subject property comprises lots 66 and 67, Oak Grove Addition, and is located on the northeast corner of Park and Oakland. The zone change request was referred to the Planning Board for report and recommendation. Mr. Addison advises in the petition that the property is no longer suitable for residential dwelling due to heavy traffic and noise.

It is suggested that the matter be scheduled for an informal public discussion with the abutting property owners and subject property owner at the meeting of Wednesday, January 20, 1960 at 8 p.m. in Room 200 of the Municipal Building.

Respectfully submitted,

Herbert Herzberg

Herbert Herzberg
City Planner

HH/sf

February 11, 1960

Planning Board
Birmingham, Michigan

SUBJECT: Zone Change Request - Archie Addition, 404 Park

Gentlemen:

At the December 21, 1959, City Commission meeting a communication was received requesting a zone change for the property described as 404 Park by Mr. Archie Addison, from R-2 Single Family Residential Zone District to a commercial classification. The subject property comprises Lots #66 & #67, Oakgrove Addition and is located on the northeast corner of Park and Oakland. The zone change request was referred to the Planning Board for report and recommendation.

In Mr. Addison's zone change request he states that, in his opinion, the property is no longer suitable for residential dwelling due to the heavy traffic and noise.

The Planning Board considered the zone change request at the regular meeting of Wednesday, February 3, 1960. Mr. Addison was represented by Mr. Harry Wise, Legal Counsel. Mr. Wise advised that Mr. Addison requests a rezoning to B-1 Non-Retail Business Zone District. Several property owners in the immediate area and Mr. George W. Talburtt, representing the subdivision group north of Oakland west of Hunter Blvd. and east of Woodward, submitted a petition of property owners opoosed to the subject rezoning.

The Planning Board decided to take the matter under advisement and consider the zone change request at a later date.

Respectfully submitted,

Herbert Herzberg

Herbert Herzberg
City Planner

HH/br
cc: Harry Wise

4 C (2)

May 18, 1960

City Commission
Birmingham, Michigan

SUBJECT: ZONE CHANGE REQUEST - MR. ARCHIE ADDISON

Gentlemen:

At the City Commission meeting of December 21, 1959, Mr. Archie Addison submitted a petition dated December 14, 1959, requesting that Lots 66 and 67, Oak Grove Addition (404 Park Street), be changed in zoning from the present R-2 Single Family Residential zone district to a commercial classification. The petition was referred to the Planning Board for report and recommendation.

The subject property is generally described as being located on the northeast corner of Oakland and Park. The Planning Board has held several informal public discussions with the property owner and the abutting property owners. As a result of these meetings, it has been determined that the property owner desires a B-1 Non-Retail Business zone district classification.

The Planning Board has just concluded its study on the need for additional B-1 Non-Retail Business zone district properties in the City of Birmingham and, as a result of this survey, recommends to the City Commission that the subject zone change request be denied.

Based upon the B-1 Non-Retail Business zone district needs study, properties to be considered for rezoning to B-1 Non-Retail Business would have to abut an existing retail business zone district classification. All abutting zone classifications are Single Family Residential.

Respectfully submitted,

Robert W. Page

Robert W. Page, Chairman
Planning Board

5/23/60

Larry

March 28, 1988

Planning and Historic District Commission
Birmingham, Michigan

From: Larry L. Bauman, City Planner

Re: Proposed Rezoning of 404 Park Street from R-2, Single-Family Residential to R-8, Attached Single-Family Residential

Dear Commissioners:

The petitioner is seeking to rezone the parcel referenced above from R-2, single-family residential to R-8, Attached single-family residential. The purpose of the proposed rezoning is to permit development of two-story townhouses at the higher density permitted in the R-8 district. The 14,120 square foot lot would yield four dwelling units, based upon the 3,000 square feet of lot area per unit required in the R-8 district.

EXISTING LAND USE

The subject parcel is the site of an existing single family home. This existing frame structure is in relatively poor repair, compared to other single family homes in the immediate vicinity, both north and west. The lots are flanked on the east by Hunter Boulevard and on the south by two large-scale office buildings (300 Park and the Great American Building) and a city parking structure.

FUTURE LAND USE PLAN

The Birmingham Future Land Use Plan designates the neighborhood, of which the subject parcel is a part, as a Sensitive Residential Area. The Future Land Use Plan observes:

> The City of Birmingham contains no declining neighborhoods. In fact, many of the older residential areas of the city have experienced dramatic reinvigoration due to the substantial improvements made by private homeowners. However, there are certain residential areas of the city which merit special attention from the Planning Board and the city administration in order to ensure continued preservation and enhancement of residential quality. These areas are delineated on the map entitled "Sensitive Residential Areas."

The plan goes on to note that "the residential area between Hunter Boulevard and Woodward Avenue, north of Oakland contains many fine old homes." The Plan, however, cautions that

because of its proximity to the downtown area and the fact that it is surrounded by Hunter Boulevard and Woodward Avenue, the neighborhood may be under repeated pressure for piecemeal rezoning to non-residential use. Such rezoning could destroy the area's sound residential character and result in a deterioration of property values for remaining homes.

It should be noted that one block north of the subject parcel on the north side of Euclid, between Ferndale and Park, there are three existing two-family dwellings on a site currently zoned R-4, two-family residential. The City is considering rezoning this site to R-2 to bring it into conformance with the Future Land Use Plan. This rezoning is being considered in an effort to maintain the single-family character of the surrounding neighborhood, including the subject parcel.

ZONING MAP

The subject parcel is currently zoned R-2, Single-Family Residential, as are other single-family homes in the neighborhood. The only non-single-family zoning in the interior of the neighborhood is the two-family site on Euclid which was discussed earlier. The neighborhood's Woodward frontage is zoned B-2, General Business, as is the Oakland Street frontage, between Woodward and Ferndale. Zoning of parcels on the south side of Oakland, across from the subject parcel consists of B-4, Business-Residential and Public Property.

RECOMMENDATION

The analysis above documents that the subject parcel is currently developed and zoned single-family and is part of a "sensitive" neighborhood.

The analysis also documents that the City's intent has been to effect rezonings only in conformance with Future Land Use Plan recommendations.

With these facts and conditions in mind, we recommend that the present R-2 Single-Family Residential zoning of the subject parcel be maintained. We further recommend that the request for rezoning to R-8, Attached Single-Family Residential be denied.

Respectfully submitted,

Larry L. Bauman
City Planner

LLB/nn

SCALE 1" = 100'

COPIES AVAILABLE FROM
OAKLAND COUNTY PLANNING DIVISION
EXECUTIVE OFFICE BUILDING
1200 N. TELEGRAPH ROAD
PONTIAC, MICHIGAN
PHONE (313) 858-0722

BLOOMFIELD TWP.

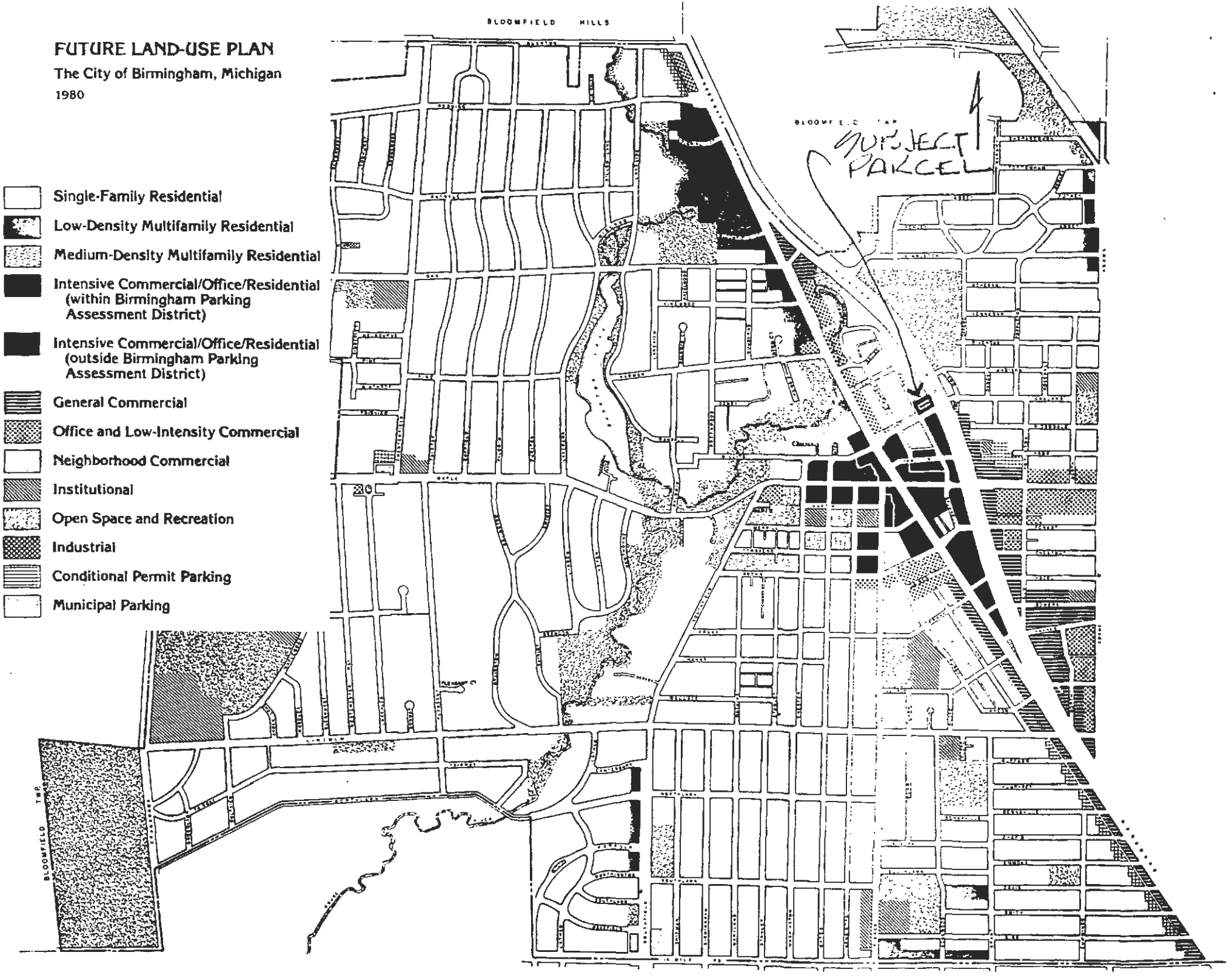
19 - 25G

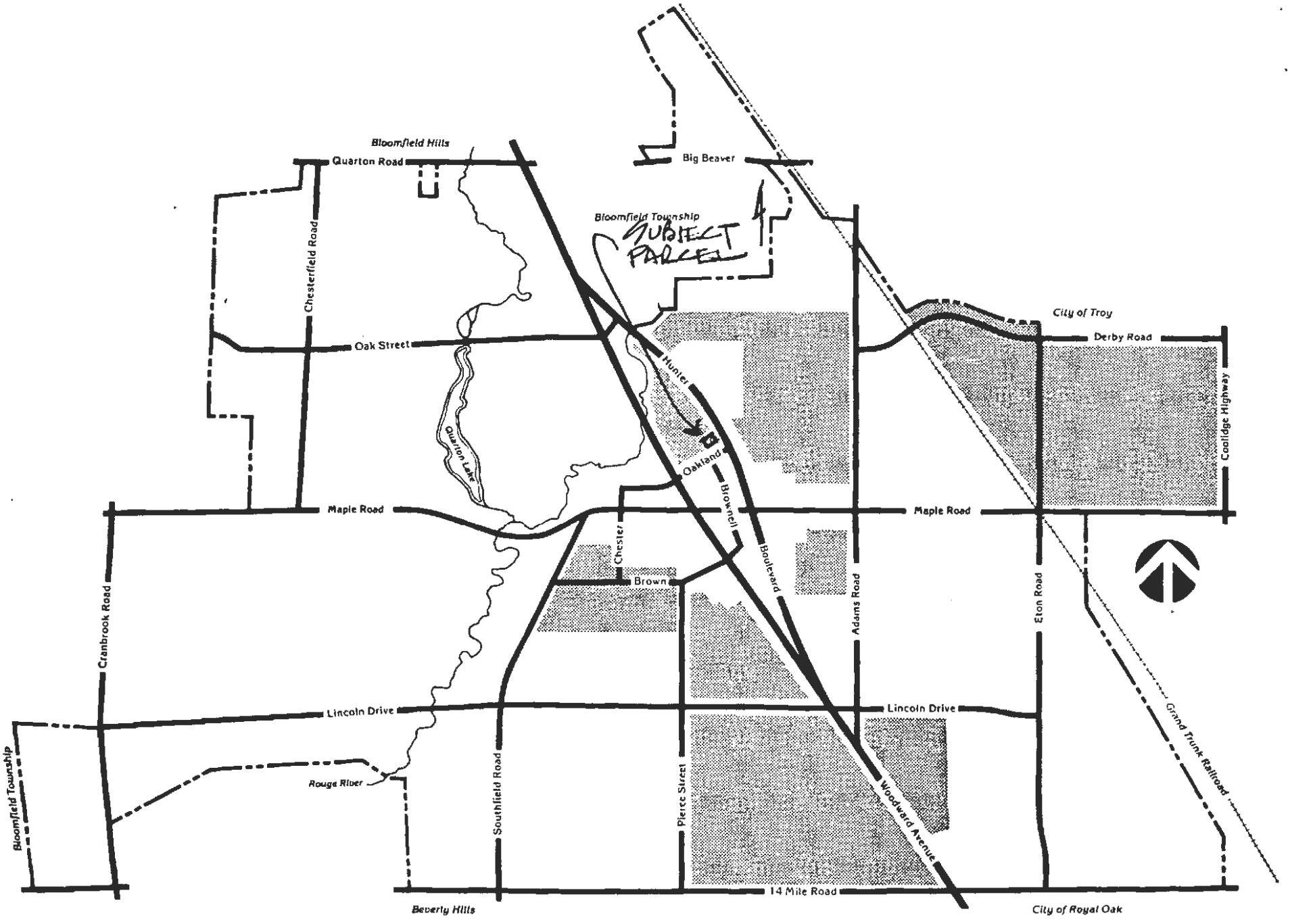
W. 1/2 S.E. 1/4 SEC. 25 T.2N. R.10E.

FUTURE LAND-USE PLAN

The City of Birmingham, Michigan

1980





SENSITIVE RESIDENTIAL AREAS

The City of Birmingham, Michigan

LPR PROPERTIES
404 Park

Summary Sheet - R-8 Attached Single Family Residential Regulations.

Total Lot Area - 14,120 sq. ft.

Minimum Lot Area - required: 3,000 sq. ft./1 dwelling unit
- permitted: 14,120 sq. ft./4 dwelling units

Maximum Building Height - permitted: 28 ft., 2 stories

Front setback - required: 25 ft. or ave. of neighbors within 200 ft.
(Park St.)

Side setback - required: 10 ft.
(Oakland Ave.)

Side setback - required: 7 ft.

Rear setback - required: 20 ft.
(Hunter Blvd.)

Parking - required: 2 spaces per unit or 8 space total to be supplied in a garage or carport or in the principal building.

*Rear Open Space - required: 180 sq. ft. private open space enclosed with a wood/masonry fence of at least 6 ft.

Required Conditions:

A variation of front setbacks of at least 4 feet is required.

Front yard screening shall be provided to shield parking from the street.

No accessory buildings/structures other than a garage or carport shall be placed in the rear yard setback.

Parking, other than driveways, shall not be permitted in the required front or side open space.

*Each dwelling unit shall have on the same lot and immediately accessible to the living area a usable enclosed private open space.

PM/nn
3/28/88

May 19, 1988

MEMORANDUM

To: Mr. R.S. Kenning, City Manager

From: Larry L. Bauman, City Planner

Approved: _____
R.S. Kenning, City Manager

Subject: Proposed Rezoning of 404 Park Street from R-2, Single-Family Residential to R-8, Attached Single-Family Residential

Dear Mr. Kenning:

The Planning Board recommendation regarding the proposed rezoning referenced above is outlined in the attached letter dated May 18 from Mr. Blaesing, the Planning Board Chairman.

We have also attached the following items for the City Commission's information:

- Public Hearing notice
- Approved April 27, 1988 Planning Board minutes
- March 28, 1988 Planner's review letter
- Various letters from nearby residents

Respectfully submitted,

Larry L. Bauman
City Planner

LLB/nn

May 18, 1988

City Commission
Birmingham, Michigan

From: Brian L. Blaesing, Chairman Planning Board

Re: Proposed Rezoning of 404 Park Street from R-2, Single-Family Residential to R-8, Attached Single Family Residential

Dear Commissioners:

The Planning Board convened a public hearing regarding the proposed rezoning referenced above on April 27, 1988.

During the hearing, several single-family homeowners from the neighborhood spoke against the rezoning, citing the fragile nature of the neighborhood, erosion of the environment by intense land use and increased traffic, and non-compliance with the development guidelines established in the Master Plan. In addition, several letters opposing the rezoning were filed with the Planning Department.

One neighborhood property owner did not object to the idea of the rezoning, but was concerned with the potential on-street parking burden. He thought that the proposed townhouses would improve neighborhood property values.

The petitioner noted that the proposed rezoning would provide a land use buffer between the residential neighborhood to the north and the non-residential uses located on the south side of Oakland Avenue. It was also pointed out that there are several areas fronting the Ring Road which had been developed with townhouses, similar to those proposed on the subject parcel.

Following an extensive discussion among the members, the Planning Board voted as follows:

- Moved by Tholen, Seconded by Kendall to recommend to the City Commission that the present R-2, Single-Family Residential zoning classification be retained.

- Vote on the Motion: Yeas 5 (Tholen, Kendall, Barr, Rattner, Gienapp) Nays 2 (Blaesing, Steffy). Motion passes.

Calculation of protest petitions reveals that a 5/7 vote will not be required on the part of the City Commission.

The adoption of this ordinance does not require a public hearing by the City Commission. The statutory requirement for a public

hearing was met by the Planning Board. The City Commission, however, may hold a public hearing on this issue if it is deemed desirable.

Respectfully submitted,

Brian L. Blaesing (LB)

Brian L. Blaesing
Chairman Planning Board

BLB/LLB/nn

Attachments

-Public Hearing Notice/Area Map
-Planner's letter
-Public Hearing Minutes
-Protest Letters

P. H. 4/27/88

LETTERS OF PROTEST

404 Park

Opposed:	Address:
Hartland Smith	467 Park (19-25-452-011)
Bruce Thal	300 Ferndale (19-25-452-025)
Mr. Wetsman	233 Oakland (19-25-452-026)

Dr. Marc Lindy — 343 Ferndale
c/o 340 John Cushione

Pamela Livingston-Hardy — ann St.

Steve Ike — 348 Park

Nick Krieta — Ferndale (letter)

Bell Dwight — 452, 430, 436 Park

LPR Property

Mr. Lambert - partner.

- currently rental structure
- Georgetown Style attached housing
- property owner to N. does not object to proposed
- many R-8 developments along Ring Road.

HARTLAND B. SMITH
467 PARK AVENUE
BIRMINGHAM, MI 48009

RECEIVED
MAR 21 1988
CITY OF BIRMINGHAM
PLANNING DEPARTMENT

March 19, 1988

Planning And Historic District Commission
City of Birmingham
P.O. Box 3001
Birmingham, MI 48012

Gentlemen:

I wish to express my opposition to the proposed Zoning Classification change from R-2 to Attached Single Family Residential for lots 66 and 67, "Oak Grove Addition".

The small residential enclave north of Oakland and East of Woodward has, through the years, been under pressure from non-residents who have sought financial gain by making changes in this pleasant neighborhood.

An amendment to the Zoning Classification north of Oakland will be a signal to outsiders that all they need do is purchase property, beg for a Zoning Change and then they'll be able to proceed with whatever project they may envision.

Numerous City Administrations and City Plans have sought to maintain the section north of Oakland as Residential. This will be more difficult to accomplish in the future, once a Zoning Change has been approved here.

To demonstrate that the present R-2 Classification is entirely adequate, for those who care to construct new housing units, I would point to the home presently under construction at the corner of Euclid and Park as well as to the home at 460 Park which was built a few years ago. These two structures definitely show that if someone desires to erect residential housing in the area, they can do so within the present R-2 Zoning Classification.

The recent fiasco at the NW corner of Oakland and Ferndale should be proof enough that the residents north of Oakland desire no further speculative incursions into the area. A Zoning Change, even a minor one, can only serve to further endanger the precarious existence of the neighborhood.

Your decision AGAINST the proposed Zoning Amendment will be appreciated.

Cordially,

Hartland B. Smith

Hartland B. Smith

BRUCE E. THAL
200 Renaissance Center - 16th Floor
Detroit, Michigan 48243

RECEIVED
APR 25 1988
CITY of BIRMINGHAM
PLANNING DEPARTMENT

Patt

Re: 404 Park

April 22, 1988

Ms. Patricia McCullough
Assistant City Planner
City of Birmingham
151 Martin Street
Birmingham, MI 48011

Dear Ms. McCullough:

Unfortunately, neither my wife nor I will be able to attend the Birmingham Planning Board public hearing on Wednesday, April 27, 1988. However, we wish to express our very strong objection to the change from R-2 Single Family Residential to $-8 Attached Single Family Residential for the property known as 404 Park that is being considered at that meeting.

The residential areas on Park and Ferndale are small and any intrusion on them will lead to the erosion of the nature of the community. As a consequence, we are unalterably opposed to this proposed change.

We reside at 300 Ferndale. Thank you for your consideration in this matter.

Very truly yours,

Bruce E. Thal

Bruce E. Thal
BET/mak

Phones: 564-6800
642-5100

WILLIAM M. WETSMAN

WISPER and WETSMAN Inc.

132 N. WOODWARD • BIRMINGHAM, MICHIGAN 48011

MAILING ADDRESS: P.O. BOX 2086-282 • BIRMINGHAM, MICHIGAN 48012

April 12, 1988

Mr. Larry Bauman
Planning Department
City of Birmingham
151 Martin Street
Birmingham, MI 48012

Dear Mr. Bauman;

This letter is in response to your notice of Public Hearing with regard to the possible rezoning of Lots 66 and 67, "Oak Grove Addition", commonly known as 404 Park St.

I am very much against the rezoning of this parcel. Our small community is a compact neighborhood of single family (R-2) dwellings. Any inroads into the existing single family (R-2) zoning, I fear, will be just the beginning of the end for our community. There is little enough land in the central city for single family (R-2) dwellings now and to further erode this would, in my opinion, be a major mistake.

Sincerely,

William M. Wetsman

William M. Wetsman
233 Oakland
Birmingham, MI 48009

April 27, 1988

4-2-88

Public Hearing.

Lots 66 and 67, "Oak Grove Addition" commonly known as 404 Park Street - LPR Properties. These properties are located north of Oakland Avenue between Park Street and Hunter Boulevard.

Mr. Bauman noted the purpose of the hearing is to receive public comments on a proposed amendment to Title V, Chapter 39, Zoning and Planning Ordinance of the Code of the City of Birmingham, by amending Section 5.7, the Zoning Map to rezone these properties from R-2 Single Family Residential to R-8 Attached Single Family Residential. Petitioner is seeking to rezone this so that four two-story townhouses could be constructed there. Existing land use on the site is a single family home that is in relatively poor repair. The Birmingham Future Land Use Plan designates the neighborhood as a Sensitive Residential Area.

Mr. Blaesing noted in his packet three letters in opposition to the rezoning: Hartland Smith, 467 Park, William M. Westman, 233 Oakland, and Bruce Thal, 300 Ferndale. A fourth letter was passed around this evening from C. Nicholas Kriete and Ellen Kock, 367 Ferndale.

Dr. Marc Lindy spoke in opposition for himself, 343 Ferndale, the Wetsmans at 233 Oakland, the Thals, and John Kasujian at 340 Ferndale. This is a sensitive neighborhood and a zoning change would set precident.

Ms Pamela Livingston Hardy, 887 Ann Street was opposed. She wanted the Board to consider the importance of maintaining the neighborhood.

Mr. Nick Kriete read his letter of opposition. This neighborhood is being slowly eroded by intense land use and increased traffic.

Mr. Bill Dwight, owner of the properties at 430, 436 and 452 Park did not object to the change in principal. He was concerned that the future tenants not be allowed parking permits on Park Street, however. He thought the proposed structures would improve the value of the neighborhood.

Mr. Steve Ike, 439 Park was opposed because there is a parking problem on the street already.

Mr. Lambert represented LPR Properties and stated they purchased the home a number of years ago and have rented it out with the idea there was a better use, such as Georgetown style single family attached structures with their own parking. The zoning change would provide a clear definition between the existing residential on Park and the commercial immediately across the

street. They believe denial of their petition would not be consistent with what has taken place over recent years. They feel specific problems associated with that corner were not adequately addressed at the time the Master Plan was drawn up.

Dr. Lindy thought the highest and best use of the land in this neighborhood is set down by the Master Plan. The property value can still be improved by keeping a single family home on each lot.

Ms Steffy determined this house lies on two buildable lots.

Mr. Rattner said that when there is a close call as to whether or not a property should be rezoned, you have to look at undue hardship. Traffic and the close proximity to commercial would be the closest we would get to undue hardship for this particular property. He could not support the petition.

Mr. Blaesing said he is a strong believer in buffers. This is not a departure to some other use, it would remain residential. To remain a viable downtown we have to have as many residents living close to downtown as possible. He could support a change in zoning in this location.

Mr. Tholen feels this property could be developed on an economically viable basis in its present zoning classification. He supports the present zoning.

Moved by Mr. Tholen
Seconded by Mr. Kendall to recommend to the City Commission that the present zoing be retained in its present zoning classification of R-2 Single Family Residential.

Dr. Lindy thought the only hardship on these lots is an economic hardship on the owners who cannot make as much money from two single houses as they could off of four residences. The welfare of this neighborhood should not be based on economic developers' pockets.

Ms Steffy said we are looking at a very difficult site and felt the proposed zoning would offer a buffer zone between the commercial and the single family area immediately adjacent.

All were in favor of the motion with the exception of Mr. Blaesing and Ms Steffy.

Motion passes 5-2 - The Planning Board recommends to the City Commission that the current zoning of R-2 Single Family Residential be upheld.

LPR Properties

300 Park Street
Suite 215
Birmingham, Michigan 48010
Telephone (313) 644-8973

April 5, 1988

Mr. Larry Bouman
Engineering/Planning
City of Birmingham
Birmingham, MI

Dear Mr. Bouman:

As you probably know from notices mailed to you by the City of Birmingham, LPR Properties is attempting to rezone 404 Park Street from single residential to attached single family. We are attempting to construct two residential structures consisting of two units each. These two structures will be of Georgetown architecture and the construction materials will consist largely of brick, with some siding, and an upgraded shingle roof.(See attached drawings)

LPR Land Company has been involved in the construction of custom single family residential houses, apartments, and office buildings. The Company's principals own outright and a major portion of all projects it builds. The units contemplated on Park Street will be no exception. Two of the units will be retained by the owners and the other two will be sold as residential units for owner occupancy.

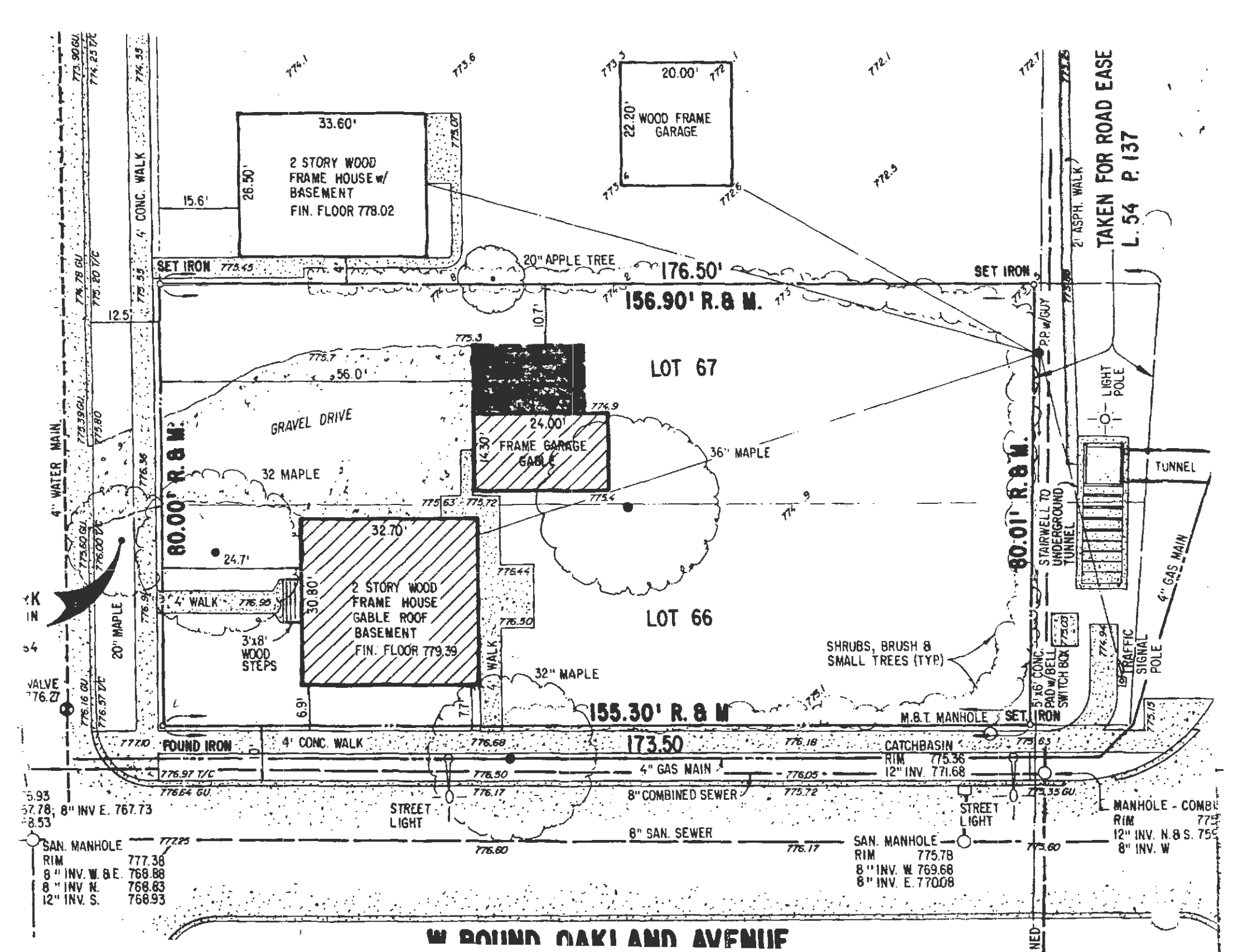
We would like the opportunity to meet with all parties concerned and outline our intentions for this project. This will enable us to hear your views and incorporate those ideas into our plans. We would appreciate your setting aside the evening of April 21st so as we can meet as a group and discuss this development.

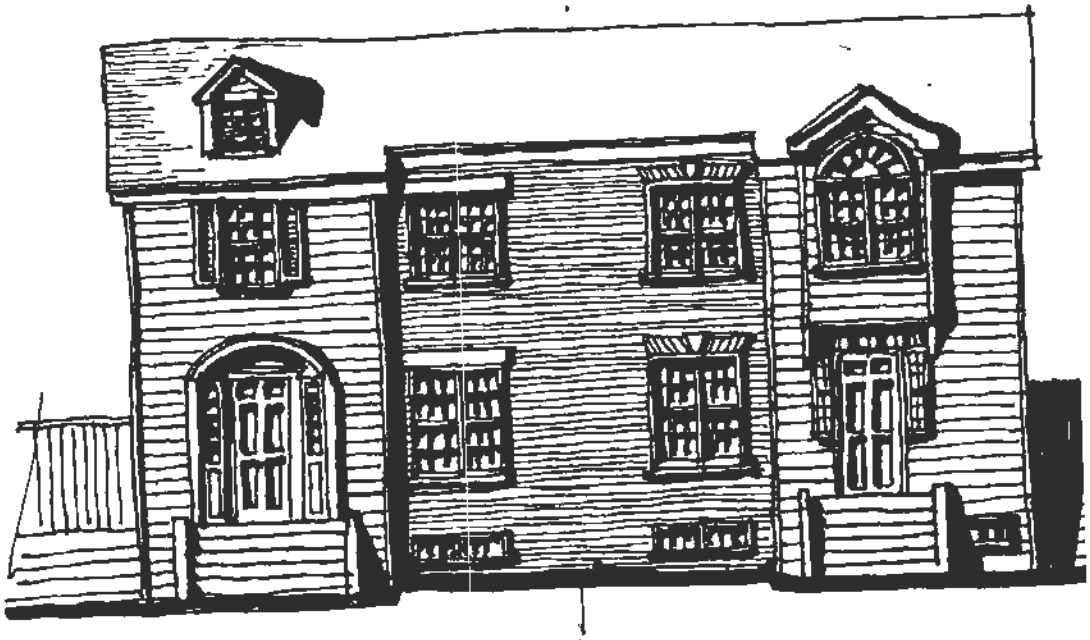
Please call the undersigned before April 15th so as we can accommodate those attending. For those unable to attend the meeting, please call our office and we will gladly meet with you at a time which is convient for your schedule.

Thank-you once again for your time and we hope to meet you personally on April 21st.

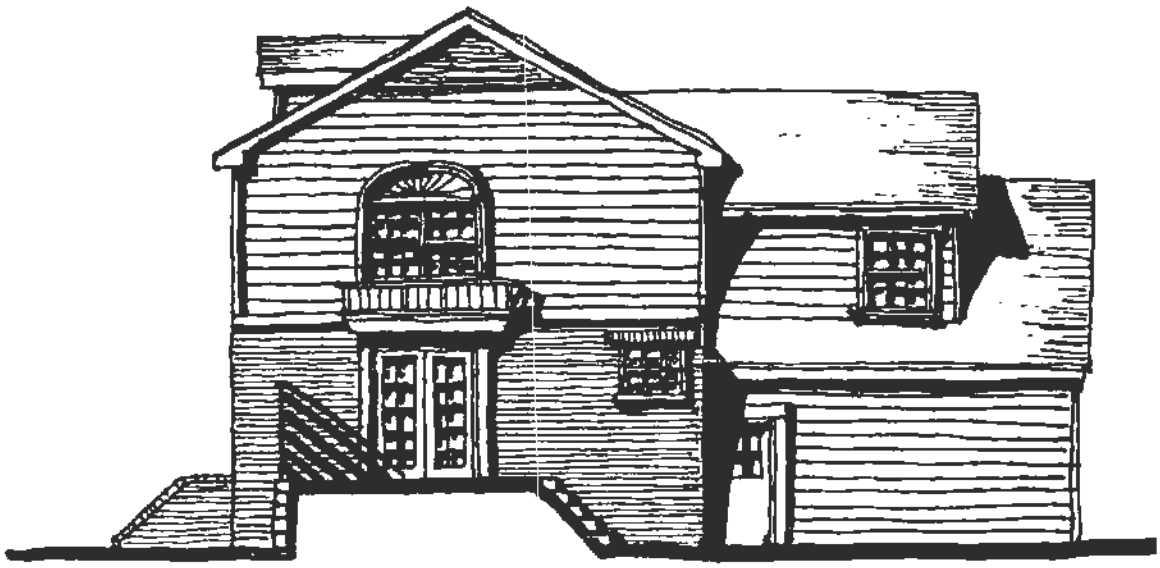
Sincerely,

Richard L. Lambert


33.60'
2 STORY WOOD FRAME HOUSE w/ BASEMENT
FIN. FLOOR 778.02
26.50'
15.6'
20.00'
22.20'
WOOD FRAME GARAGE
4' CONC. WALK
SET IRON
20" APPLE TREE
176.50'
156.90' R.& M.
12.5'
10.7'
LOT 67
56.0'
GRAVEL DRIVE
24.00'
14.30'
FRAME GARAGE GABLE
36" MAPLE
32 MAPLE
80.00' R.& M.
4" WATER MAIN
24.7'
32.70'
30.80'
2 STORY WOOD FRAME HOUSE GABLE ROOF BASEMENT
FIN. FLOOR 779.39
4' WALK
3'x8' WOOD STEPS
20" MAPLE
LOT 66
32" MAPLE
6.9'
7.7'
155.30' R.& M.
80.01' R.& M.
P.P. w/GUY
LIGHT POLE
2' ASPH. WALK
TAKEN FOR ROAD EASE
L. 54 P. 137
TUNNEL
STAIRWELL TO UNDERGROUND TUNNEL
4" GAS MAIN
SHRUBS, BRUSH & SMALL TREES (TYP)
5'x6' CONC. PAD w/BELL SWITCH BOX
TRAFFIC SIGNAL POLE
M.B.T. MANHOLE
SET IRON
FOUND IRON
4' CONC. WALK
173.50
CATCHBASIN
RIM 775.36
12" INV. 771.68
4" GAS MAIN
8" COMBINED SEWER
STREET LIGHT
STREET LIGHT
8" SAN. SEWER
SAN. MANHOLE
RIM 777.38
8" INV. W. & E. 768.88
8" INV N. 768.83
12" INV. S. 768.93
SAN. MANHOLE
RIM 775.78
8" INV. W 769.68
8" INV. E. 770.08
MANHOLE - COMB
RIM 775
12" INV. N. & S. 75
8" INV. W
VALVE 776.27
8" INV E. 767.73
W ROUND OAK LAND AVENUE



SCHEME V SCHEME VI



SIDE ELEVATION

APPLICATION FOR ZONING MAP CHANGE

Birmingham, Michigan

1988 FEB 25 AM 10:20
CITY OF BIRMINGHAM

Date *Feb. 25, 1988*

TO THE CITY COMMISSION:

The undersigned hereby make application to the City Commission to:

Change premises described as *404 Park Street; Lots 66 and 67, "Oak Grove Addition,"*
(No.) (Street)

recorded in Liber 7, pages 4 and 5 of plats, Oakland County; Park Street and Oakland
(Legal Description)

_____ **from its present zoning**
(Location)

classification of *Single Family* **to** *Attached Single Family*

A plot plan showing location, size of lot and placement of building (if any) on the lot to scale must be attached.

Statements and reasons for request, or other data having a direct bearing on the request.

The growth of commercial building located in area of said property, and best use as a barrier between commercial and residential. The requested zoning change corresponds to format used along Oakland, Ring Road, and Brown Street.

[signature] Jim Pa
Signature of Applicant

Name of Owner *LPR Properties, Ltd.*

Address of Owner *300 Park Street; Suite 215* **Tel. No.** *644-8973*

A letter of authority, or power of attorney, shall be attached in case the appeal is made by a person other than the actual owner of the property.

Date Received _____

Delivered by _____

Resolution No. _____ Disposition _____

APPLICATION FOR ZONING MAP CHANGE

Birmingham, Michigan

Date Feb. 1, 1988

TO THE CITY COMMISSION:

The undersigned hereby make application to the City Commission to:

Change premises described as 404 Park Street; Lots 66 and 67, "Oak Grove
(No.) (Street)

Addition," recorded in Liber 7, pages 4 and 5 of plats, Oakland County,
(Legal Description)

Park St. and Oakland from its present zoning
(Location)

classification of Single Family to ~~Multiple Family~~ R-3 attached S.F.

A plot plan showing location, size of lot and placement of building (if any) on the lot to scale must be attached.

Statements and reasons for request, or other data having a direct bearing on the request.

The growth of commercial building located in area of said property, and best use as a barrier between commercial and residential. The requested zoning change corresponds to format used along Oakland, Ring Rd., and Brown Street.

[signature]
Signature of Applicant

Name of Owner LPR Properties, Ltd.

Address of Owner 300 Park St.; Suite 215 Tel. No. 644-8973

A letter of authority, or power of attorney, shall be attached in case the appeal is made by a person other than the actual owner of the property.

Date Received 2-2-88 - pd. #250.00

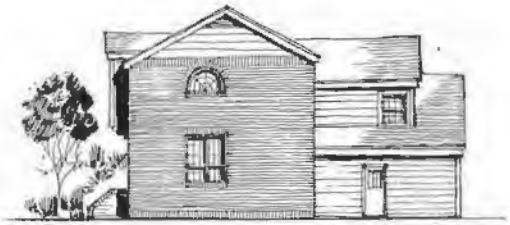
Delivered by

Resolution No. Disposition

1988 FEB -2 AM 8:58
CITY OF BIRMINGHAM

6 J

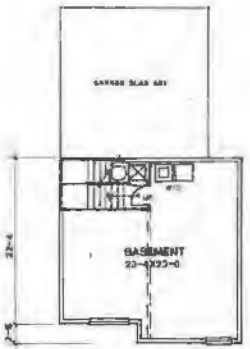
NOTES



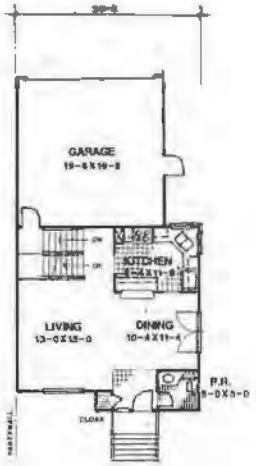
SIDE ELEVATION

FRONT ELEVATION

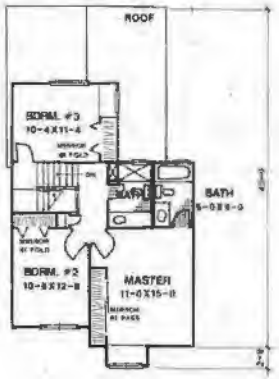
LOCATION MAP



BASEMENT



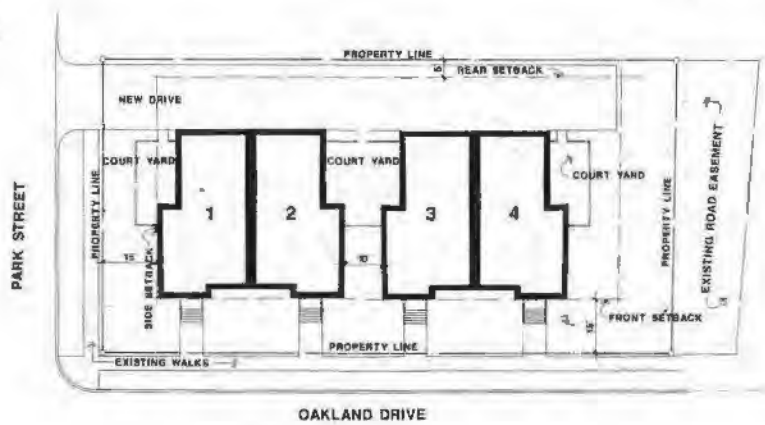
1ST FLOOR



2ND FLOOR

SCHEMATIC SUMMARY

BASEMENT	596 Sq. Ft.
1ST FLOOR	598 Sq. Ft.
2ND FLOOR	749 Sq. Ft.
GARAGE	413 Sq. Ft.
TOTAL HVAC	1345 Sq. Ft.



PRELIMINARY SITE PLAN

FOGELBERG KOCH ARCHITECTS

Orlando Dallas Melbourne

BIRMINGHAM TOWNHOUSES

LPR LAND COMPANY

3-24-88

1366.00

SCHEMATIC CONCEPT

1.1

BASE

KEY

OVERLAYS

From: DCarney@berrymoorman.com
To: gdilgard@hotmail.com; sdm984@sbcglobal.net; rackyhoff@hotmail.com; mcdaniel_tom@hotmail.com; gordon4bham@aol.com; stuart.sherman@sbcglobal.net; markforbirmingham@yahoo.com
CC: Lbroski@bhamgov.org
Date: Tue, 19 Feb 2013 18:59:54 -0500
Subject: 404 Park Rezoning

Dear Mayor Dilgard and Commissioners:

This email is my objection to the possible rezoning of 404 Park Street. I understand that many of the property owners on Park have filed objections with you and I believe that those objections should be respected. I further understand that this property (404 Park) has been before previous city commissions on zoning requests in the past and that those zoning requests have been rejected. The current city commission should respect those prior decisions unless there is a compelling reason for change (I am not aware of any compelling reason). The area around 404 Park is sensitive due to congestion, water run off issues, and height issues. The neighbors have good reason for their concerns and objections. I urge you to reject the rezoning of 404 Park consistent with the neighbors objections. Thank you for your consideration on this issue.

Donald F. Carney, Jr.
255 E. Brown Street, Suite 320
Birmingham, MI 48009
T: (248) 645-9680
F: (248) 645-1233
email: dcarney@berrymoorman.com
website: www.berrymoorman.com

RECEIVED BY
JUN 13 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

RECEIVED BY
JUN 13 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

—— Original Message ——
From: Cynthia Link
To: gdilgard@hotmail.com
Sent: Sunday, August 23, 2015 2:47 PM
Subject: Rezoning

Hi George,

As you know I'm addicted to watching the Planning Board and the City Commission on Channel 15. I've been considering the issues involved in the transitional zoning issues and have been impressed by the thorough identification of questionable sites all over the city.

The most hotly debated site is on Oakland/Park Street and I've finally concluded that the current zoning should be retained. I'm influenced by many factors. The area under consideration for rezoning is contiguous to a solid residential area and unlike other areas there are no other commercial or multi dwelling structures in the vicinity. The comment made at one of the meetings about not rewarding a developer who overpays for a piece of property in hope of getting it rezoned is a major argument. The property might be the least desirable location for a single family dwelling, but that problem is solved by a lower price for the land. The divided road really protects the residential nature of that area and with none of the other properties in the next block deteriorating as a result of their location, it is wrong to spot zone it for a multi-dwelling. I've discussed this issue with Bob and with Tom Hughes and they also strongly agree.

Bob and I are very impressed by the decisions made by the Planning Board and the City Commission over the years and their decisions have made this a magnificent community. I find distasteful some of the overzealous arguments put forth on this and other issues. We fully support the decision to evaluate the restriping of West Maple Road and are impressed with the improvements in traffic flow and building design that are under consideration for the Whole Food site.

Thank you for your wise consideration of this and other issues. I hope that the voters in Birmingham elect commission members that will operate in the similar open and thoughtful fashion.

Sincerely,

Cynthia Link

p.s. Although I'm acquainted with the other Commission members, I have not emailed them. Can you easily pass on my views to them?

RECEIVED
MAY 20 2015
CITY OF BIRMINGHAM
COMMUNITY DEVELOPMENT DEPARTMENT

May 20, 2015

Planning Board

City of Birmingham

RE: Proposed Rezoning of 404 Park

Dear Planning Board,

The major issues currently being considered are density, parking, and height. On density, LSL recommended "a modest increase in density" and four units is overwhelming and a 100% increase; on parking, four units is a minimum of 8 cars on a tiny lot and—by pushing the building up to Oakland—too much traffic will be abutting our house. If you allow said property 35 feet height, the building will loom over our 28.5 feet height as well as 287 Oakland's 30.5 feet height.

All these issues have been beaten to death in the last 2.5 years of your minutes, and please consider throughout this discussion the SOLE rezoning advocate has been the owner/developer. 100% of the 100 footers have been against this rezoning with each new proposal. The Oakland boulevard feature serves as a perfect barrier separating the Downtown from our neighborhood.

Respectfully submitted,

Brad & Laura Host

Brad and Laura Host

416 Park Street

Birmingham, Michigan 48009

June 15, 2015

RECEIVED
JUN 16 2015
CITY OF BIRMINGHAM
COMMUNITY DEVELOPMENT DEPARTMENT

The Planning Board
City of Birmingham

RE: Proposal Rezoning Oakland/Park from R2 to TZ1

Dear Planning Board,

We, the undersigned owners, are 100% of the aforementioned single family residences you are considering rezoning. We fervently believe you should remove Oakland/Park from your rezoning considerations for the following reasons:

1) We have been part of The Little San Francisco neighborhood for over a Century and bought/built our homes believing we are part of a cohesive neighborhood.
2) Little San Francisco is close to the Downtown but not part of the Downtown.
3) Oakland Street has long been a natural buffer for our neighborhood. The lush, spacious boulevard with four traffic lanes has afforded us an expansive separation from the Downtown.
4) We have always been a part of a very close—both figuratively and literally—neighborhood.
5) Any increase in density will only exacerbate existing traffic and parking problems.
6) Any application of TZ1 Classification in The Little San Francisco neighborhood will adversely affect property values as well as degrade the comprehensive clarity of our single family residences neighborhood.

This rezoning proposal is an issue of grave concern, and we believe intensifying our density is unwanted, imprudent, and unwarranted. Historically, Little San Francisco has been single family residences within a very well defined perimeter imparting a very cohesive neighborhood close to the Downtown, and we have withstood the test of time. All of us steadfastly oppose any rezoning of our neighborhood.

Respectfully submitted,

416 Park _____ 424 Park _____

287 Oakland _____ 267 Oakland _____

247 Oakland _____ 233 Oakland _____

300 Ferndale _____

Contact person for above property owners: Brad Host 248-219-2249 or 248-357-1000

City of Birmingham

Jana Ecker <jecker@bhamgov.org>

Re: Vacate Lot between Woodward, Oakland and Park

1 message

Joe Valentine <jvalentine@bhamgov.org> Wed, Jul 29, 2015 at 4:35 PM
To: Little San Francisco <littlesanfran@gmail.com>
Cc: "sdm984@sbcglobal.net" <sdm984@sbcglobal.net>, "gdilgard@hotmail.com" <gdilgard@hotmail.com>, "rackyhoff@hotmail.com" <rackyhoff@hotmail.com>, "mcdaniel_tom@hotmail.com" <mcdaniel_tom@hotmail.com>, "markforbirmingham@yahoo.com" <markforbirmingham@yahoo.com>, "gordon4bham@aol.com" <gordon4bham@aol.com>, "stuart.sherman@sbcglobal.net" <stuart.sherman@sbcglobal.net>, Jana Ecker <Jecker@bhamgov.org>

Ms. Erwin,

Thank you for your email to the City Commission concerning potential plans for the vacant lot between Woodward, Oakland and Park. I will share your comments with the Planning Department so they can be made available to the Planning Board when further discussion on their plans occur. Their plan has been amended several times and may be revisited following discussions on Transitional Zoning, which includes this parcel. The discussion on Transitional Zoning is planned for August 24th City Commission meeting.

Thank you again for sharing your suggested stipulations for this parcel for consideration.

Regards,
Joe Valentine

On Wed, Jul 29, 2015 at 7:01 AM, <littlesanfran@gmail.com> wrote:

> To: Birmingham City Council
>
> The developer shared their preliminary drawings for this property. I think the following:
>
> - Overall plan will be a nice addition to the area
> - It's size appropriate for the lot and location
> - Design is in keeping and similar to other new homes built in the area
> - Setbacks and height are appropriate for the area
> - I prefer to have the lot developed with this size appropriate building versus staying vacate
>
> The developer's representative, Chuck DiMaggio with Buton Katzman, has stated the following, and I would request the City Council stipulate these provisions if they approve this plan:
>
> - Angel driveway as shown on renderings to force traffic onto Park going east toward Oakland Avenue
> - This would limit additional traffic onto Park Street going into neighborhood

- Do not offer neighborhood parking passes to this property
    - Chuck DiMaggio consistently stated they would have appropriate parking and additional needs would be serviced by the parking structure at Park and Oakland

Thanks you for your consideration.

Michelle Erwin
356 Ferndale Ave

Sent from Windows Mail

--
Joseph A. Valentine
City Manager
City of Birmingham
151 Martin Street
Birmingham, MI 48009
(248) 530-1809 Office Direct
(248) 530-1109 Fax
jvalentine@bhamgov.org

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AUG 14 2015
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

August 14, 2015

Birmingham City Commission,
151 Martin,
Birmingham, Michigan 48009

RE: Spot Rezoning from R2 to TZ1, Parcel 1925451021, Lot 66 and 67 of Oak Grove Addition, commonly known as 404 Park

Dear City Commissioners,

404 Park's transitional rezoning discussion started three years ago as spot zoning, and now three years later it ends up as spot zoning. It is possibly the purest SPOT ZONING ever attempted in our City. Little San Francisco neighborhood has enjoyed over a Century as a cohesive neighborhood, and this proposed rezoning is truly a leap across Oakland from the Downtown, an obvious attempt to expand the Downtown into our neighborhood. This is wrong.

On June 24th, the Planning Board 4-3 vote includes some noteworthy statements not reflected in the minutes. All three dissenters are in favor of transitional zoning in concept, BUT believe it should not be implemented at 404 Park. Also, on three separate occasions the Planning Board's Bert Koseck said in these three years of hearings NOT ONE PERSON--- excepting the developer--- has said anything positive about 404 Park's proposed rezoning. Lastly, Planning Board member Stuart Jeffares stated rezoning to a four unit apartment building was a more acceptable alternative to having two houses built like the ones on the west side of Telegraph, just south of Square Lake; his analogy is a huge conceit since no one can legislate aesthetics, and –more importantly---he is asserting he knows what is best for the neighborhood despite our neighborhood's persistent, unanimous disapproval.

You all bought single family residences in Birmingham to live here and had certain expectations when purchasing your home. If you had a choice, would your live next door to a four unit apartment building? Your immediate answer is NO. Laura and I purchased our single family residence 416 Park Street twenty five years ago and are delighted to be so close to town and plan to expand our house someday for our retirement. We enjoy being in a single family , close knit neighborhood, and took it for granted there would be single family residence on either side. 404 Park's rezoning will DOUBLE the density, and we will be looking at four two-car garages with ten cars running close by our living room. As the most directly affected single family residence , this spot zoning is unnecessary, unwarranted, and unwanted. You should expunge 404 Park's from your transitional rezoning parcels as this spot zoning would be a detriment to our whole neighborhood.

Respectfully,

Brad & Laura Host

Brad and Laura Host
416 Park St.
248-219-2249 or 248-357-1000

Mayor Sherman,

8/19/2015

Mayor Pro Tem Hoff,

Commissioner Dilgard,

Commissioner McDaniel,

Commissioner Moore,

Commissioner Nickita,

and

Commissioner Rinschler:

RECEIVED BY
JUN 13 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

I am writing on behalf of Brad Host's effort to contest spot zoning in an area that has economic impact on his Park Avenue property.

All of us property owners in Birmingham base our purchases of property on the belief that our property will not diminish in value or use because of changes in city zoning. I'm sure that could be said of your own property.

Please honor all property owners in Birmingham by giving Mr. Host stable land use.

Any of us would expect the same of our City Commission.

Sincerely,

Scott Matthews
145 Larchlea
Birmingham, MI 48009

On Wed, Aug 19, 2015 at 3:14 PM, <dlurie2001@comcast.net> wrote:

Dear Birmingham City Commissioners:

We object strongly to the proposed rezoning of 404 Park Street.

If the specific "spot" rezoning can be done at 404 Park Street, why not on every other block on every other street attached to our downtown community. Simply put, it is a blind attempt to allow more density in our single family neighborhoods.

Please consider the consequences - not just on Park Street but on all other streets that surround the downtown area. Please do not allow the proposed rezoning.

I hope the City Commission thinks about the needs of single family homeowners and citizens above all others.

Thank you,

Dave and Kay Lurie
755 Lakeview Ave
Birmingham, MI

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JUN 13 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

On Thu, Aug 20, 2015 at 12:12 PM, Norman Ash <norman@oakvent.com> wrote:

Hello my City Commissioners,

I strongly object to the proposed spot rezoning from R2 to TZ1 of 404 Park.

As a homeowner for over 35 years of 582 Puritan, I feel that it is important to maintain single family homes within our various neighborhoods. These single family homes balance the ongoing development in the downtown and commercial areas of the city.

Therefore I urge you to vote no on the spot rezoning of 404 Park, which would enable a 4 unit apartment building to be built in the "Little San Francisco "neighborhood.

I am sending this email due to being out of town for the upcoming meeting.

Best regards,

Norman Ash

582 Puritan

Birmingham MI

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JUN 13 2016
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CITY OF BIRMINGHAM

RECEIVED BY

SEP 16 2015

CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

September 16,2015

Birmingham City Commission,

151 Martin Street,

Birmingham, Michigan 48012

Re: Proposed rezoning of 404 Park from R2 to TZ1

Dear Commissioners,

Having been involved in this process for over three years, we agree there is a need for transitional/buffer zoning classifications, but any application of these zoning classifications to 404 Park is inappropriate.

These two vacant residential lots could be built as a single family residence similar to 505 West Brown. Additionally, these two vacant residential lots could be built as two single family residences similar to the white houses addressed as 233 Oakland and 300 Ferndale. Why are these alternatives not advantageous? Because the developer wants to maximize his profit by increasing the vacant lot's density.

If this rezoning is approved, what happens when the developer sells this four unit apartment building or switches management? Approval of this rezoning is unneeded and unwarranted and would eventually lead to more rezoning applications, sending our neighborhood down a slippery slope which is unnecessary.

Lastly, as our elected representatives, you are the stewards of our neighborhoods and should endeavor to protect us from exploitation by commercial interests. Further, the outcry of single family residents' directly affected by this rezoning has been unanimous. You should see this rezoning as an expansion of the Downtown and as an unwanted intrusion into our neighborhood. We ask you to honor the neighborhood and remove 404 Park from rezoning consideration.

Respectfully submitted,

Brad and Laura Host

416 Park

Birmingham, Mi. 48009

248.219.2249

248.357.1000

HAFELI STARAN & CHRIST, P.C.
Attorneys at Law
2055 Orchard Lake Road
Sylvan Lake, Michigan 48320
www.hsc-law.com

Main (248) 731-3080
Fax (248) 731-3081

John D. Staran
Direct (248) 731-3088
jstaran@hsc-law.com

September 16, 2015

RECEIVED BY
SEP 16 2015
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

Via Facsimile & U.S. Mail

Birmingham City Commission
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012-3001

Re: ***Rezoning 404 Park, Birmingham, MI***

Dear City Commissioners:

We represent Brad and Laura Host, the owners of 416 Park, which is adjacent to the vacant property at 404 Park that is proposed for rezoning from its longstanding R-2 Single–Family Residential District to the new TZ1 Transition Zone district. A divided Planning Commission forwarded the rezoning proposal to the City Commission on a 4-3 vote. Our clients strongly oppose the rezoning, and we urge the City Commission, as elected representatives of the Hosts and the many other residents of their "Little San Francisco" neighborhood, to please deny this proposed rezone. Denying the rezone is the right thing to do for a number of reasons grounded in sound planning and zoning principles.

A Transition Zone Is Unnecessary.

The newly created transition zone district is designed to create a use buffer between incompatible land uses or zoning districts by providing separation and protection for less intensive zoning or land uses from incompatible adverse effects of an adjacent more intensive zoning district or land use. Transition zones can be an effective zoning technique when properly implemented, and in some of the areas being considered by the City Commission for rezoning to TZ, it may be appropriate. But, the need for a transition zone or use buffer to achieve zoning compatibility in all instances where a non-residential zoning district or land use is adjacent to single-family residential is a fallacy. Indeed, the modern zoning concept of form–based zoning, which focuses on physical form and layout of structures and improvements rather than separation of uses as its guiding principle, is proof of that. And, in some cases even simple landscaping between land uses can serve as an adequate use buffer. In the case of 404 Park, the proposed transition zone designation is a solution in search of a problem that does not exist.

Oakland Avenue provides a very clear, well-defined, and logical demarcation between the business district to the south and the single-family residential neighborhood to the north. It has an attractive dividing median and provides nearly 100 feet of separation between the parking structure and office buildings on the south side and the subject property on the north side. The business

properties to the south of Oakland Avenue are at their highest intensity in terms of activity, lights, traffic and noise during weekdays, and much less so on weeknights and weekends when homeowners on the north side are more likely to be affected. Parking restrictions in the neighborhood north of Oakland Avenue further mitigate and protect the residents against adverse effects of traffic and parking problems. The proposed rezoning, on the other hand, will allow a non-single family residential land use to intrude beyond this boundary line and create an undesirable precedent that may lead to future requests of a similar nature affecting the welfare and integrity of the Little San Francisco neighborhood.

The Longstanding R-2 Single Family Residential District Designation Remains Reasonable.

The threshold inquiry for any rezoning proposal should be whether the current zoning is reasonable for the property. Unless the answer to that question is no, then the decision to deny the rezoning proposal is an easy decision to make. The City's planning and legal advisors have undoubtedly advised the City Commission that the law does not require the City to zone every property for its highest and best (i.e., most profitable) use, but rather to allow a reasonable use. In the case of 404 Park, a demonstration that the site cannot be reasonably redeveloped and used for single-family residential has not been convincingly made. We do not doubt that the subject property may be worth more if marketed or developed for multi-family purposes. It may be worth even more for commercial, retail or office. But, that is not the appropriate line of inquiry. The appropriate and threshold inquiry should be is there anything wrong with the current single-family zoning designation, or – asked another way – can the subject property no longer be reasonably used for single family residential? The answer to this question is no. Until razed in 1988, the subject property was improved with a house, and upon information and belief, the commercial owners of the property ever since that time have made no real effort to re-build a house on the site or to market the site at a prevailing residential property price.

As further testament to the validity and continuing vitality of the current R-2 single family zoning, consider the other similarly situated homesteads along Oakland Avenue at 233, 247, 267 and 287 Oakland Ave. and 300 Ferndale. And, of course, the Little San Francisco neighborhood behind them, which they are an integral part of, continues to thrive and prosper.

We have all heard and probably used the expression, "If it isn't broken, don't fix it." That expression is apropos here. The surrounding area is single family residential on three sides, with R-2 to the north and west, and R-7 to the east. The area to the south, across boulevard Oakland Avenue, is zoned PP and B-4. Rather than provide a protective buffer to the residential neighborhood north of Oakland Avenue, this proposed rezoning and proposed redevelopment of 404 Park for an apartment building will have the opposite, adverse impact. It will create a foothold and precedent for non-single family residential uses to intrude into the neighborhood on the north side of Oakland Avenue, where none currently exist in the immediate area. Rather than protect the neighborhood residents from the effects of the parking structure and office buildings located south of Oakland Avenue, the proposed rezoning of 404 Park will expose the neighbors to a new higher intensity, multi-family use with increased density, a larger and taller profile, greater lot coverage, more impervious surfaces, and increased noise, traffic and parking under the guise of a transition zone where none is needed.

This Is Spot Zoning.

City Attorney Tim Currier recently provided the City Commission with a letter about spot zoning, which the City Attorney explained is often misunderstood. Nevertheless, our Supreme Court has defined spot zoning as the creation of a small zone of inconsistent use within a larger zone. *Penning v Owens,* 340 Mich 355, 367 (1954). We believe that is exactly what will result here if 404 Park is rezoned. Especially noteworthy in the City Attorney's letter is the statement of the doctrine:

> Spot zoning has come to mean arbitrary and unreasonable zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from and inconsistent with the classification of surrounding land, and not in accordance with the comprehensive plan. *Spot zoning is a zoning for private gain designed to favor or benefit a particular individual or group and not the welfare of the community as a whole.* [Emphasis added]

The City Attorney's letter ultimately concludes the proposed transitional zoning amendments do not constitute spot zoning, but we respectfully disagree. To determine spot zoning requires a case specific analysis of the particular facts and circumstances involved. Although, spot zoning may not be illegal per se, it is universally frowned upon by planners, municipal attorneys, judges zoning scholars alike. It is a disfavored practice. The proposed rezoning of 404 Park will not benefit anyone but the owner of 404 Park. It will definitely not benefit the single-family residential neighborhood it is an integral part of, and it is not needed to buffer or protect those residents from the business district to their south, the proximity to which has not adversely impacted their neighborhood. Instead, the proposed rezoning will create an island of inconsistent zoning and land use amid a larger, well-defined sea of single family residences. Rezoning 404 Park as proposed will serve only to benefit and profit its owner to the detriment of the neighbors and neighborhood.

We commend the City Commission for their thoughtful consideration and approach to the proposed rezoning, and we hope the Commission will take into account our client's serious concerns as the Commission strives to do the right thing to promote the public health, safety and welfare of its taxpaying, voting residents. In closing, we urge and caution the City Commission to not try to fix zoning that is not broken by creating a so-called transition zone that is not needed at this location and will establish an inconsistent land use and precedent in an otherwise cohesive and beloved single family residential neighborhood.

Very truly yours,

John D. Staran

JDS/ijd

cc: Mr. Timothy J. Currier, City Attorney
Thomas J. Ryan, Esq.
Client

RECEIVED BY

SEP 16 2015

CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

09/16/2015

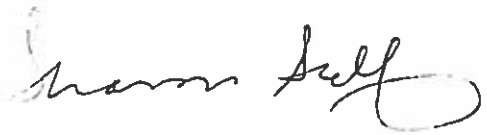
Dear City Commissioners
I am writing to oppose the re-zoning of 404 Park Street, on the corner of Park and Oakland, to multi-family status.
The lot now referred to as 404 Park is a double lot that 25 years ago (+ or -) had a small sturdy craftsman house that the new owner had torn down to prepare for maximizing the use of the space. It was a home identical to the one next door, and similar to several others along Park St that have been remodeled and rehabilitated over the years to accommodate larger families and changing needs of residents. But the new owner of 404 Park had a vision of the potential for development on this site . Politics in Birmingham however were not amenable to his plans. So he waited. At around the same time on the other end of Oakland, at the corner of Ferndale, four houses away, local architects were designing two single family homes as models of what in-town homes could be. These homes stand today as beautiful examples of their efforts. One of the homes in 2010 received a prestigious AIA 25-yr award as an example of a sustainable in-town dwelling that had stood the test of time. Two other homes along Oakland are by any measure "historic' and well maintained properties. One is a Craftsman home; the other is earlier, a Victorian. Either could qualify for inclusion in a coffee table book on historic homes. The owners of all these homes love and care for them. They view Oakland Ave with it's wide grassed tree-lined boulevard as a more than adequate buffer to the commercial buildings to the south, and thus not in need of any further 'transition'. In addition to the homes along Oakland there are two beautiful homes on Park across from what would become the parking lot for the proposed 404 Park development.

.All of these properties would be negatively affected by the incursion of a multi-family property with the implication that adjoining properties could be next for a zoning change. The anxiety regarding the zoning issue has a direct impact on the value of these surrounding single family homes. The people who own, maintain and live in these homes are universally opposed to a multi-family building on their corner. These homes are not 'tear-downs'.

Beyond the immediately adjoining properties is the impact of a multi-family dwelling on the neighborhood as a whole. The Ravines area is small, with approximately 90 homes. It is two blocks wide and 3-4 blocks long. There are only four entrances/egresses into the neighborhood —at Park, Ferndale, Euclid and Ravine. Increasing the density on any lot in the neighborhood affects everyone to a greater or lesser degree in terms of traffic, parking and drainage issues.

Over the several years that the development of 404 Park has been on the table we have had numerous meetings in neighborhood homes including a discussion of case law as it applies to 'spot zoning' or 'transition zoning'. The classic example is of a large residential development far from commercial services that wish to rezone a parcel for the provision of needed amenities for the surrounding neighborhood—such as a grocery, hardware, drugstore or even a 'big box' store. This qualifying example has no bearing on the discussion of our site. The surrounding neighbors here in large majority see no benefit to the proposed building at 404 Park.
Therefore I ask that you reject the applicants request for a multi-family development. There is no 'shared benefit' to this proposal. The only benefit is to the property owner.

Thank you for your time, energy and consideration.
Sharon Self
227 Euclid



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SEP 16 2015

CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

September 16, 2015

Dear Commissioners:

My name is Paul Gillin and I live at 273 Euclid and also own 271 Euclid, properties in what is referred to as the "Little San Francisco" neighborhood. I am writing to you to express my opposition to the proposed rezoning of what has become known as the 404 Park rezoning proposal to TZ1.

I would like to recap the history of this proposal as it relates to the area along Oakland...

A few years ago, the owner/developer of what is referred to as 404 Park met with neighbors to discuss basically an apartment building with 14 units. This was met with opposition for many reasons and, over the course of numerous meetings, was culled down to 4 units – or double the existing density of these two lots. At the same time, the City hired urban planners to study the "fringe" areas of downtown and evaluate properties adjacent to the business district for their "at risk" status. The outcome of that expenditure turned into a major rezoning proposal of numerous "at risk" areas across the City to provide "transition" from business to residential areas. Included in this proposed rezoning was all of Oakland between Woodward and Ferndale and the two houses adjacent to the empty lots at Oakland/Park. After two or three years of discussion and meetings, it is now my understanding only the two empty lots on Oakland/Park are under consideration.

My reasons for opposing the rezoning are as follows:

1. The arguments for the proposal have been to provide transition from the City to the residential area, which the

residents have long argued to be fallacious because the existing wide boulevard provides a beautiful and natural buffer. If the rest of the properties along Oakland are now not at risk and protected from the City by this natural buffer, then it would appear to me that 404 Park remains under consideration for rezoning only for political, tax base or developer interests, which I believe to be abhorrent. It is not the responsibility, duty or obligation of the City or residents to maximize anyone's financial interest and. despite the condescension and belittling to which residents were subjected at the last meeting regarding the definition of spot zoning by counsel, rezoning of these remaining parcels seems to fit the definition of spot zoning even more.

2. In the early 1990s City officials waged a war on properties zoned multifamily (duplexes mostly) and tried converting them all to single-family zoning. I know this because my neighbors and I fought the City and prevailed on the duplexes along Euclid Ave in Little San Francisco. A decade or so later, the City became very concerned about areas throughout town where homes were occupied by multiple unrelated adults and strict rules were put in place on the licensing of landlords regarding how many folks of different ages etc. could occupy a rental. I know this too because I had to provide detailed scaled drawing of my rental to obtain the license and was told how many occupants it could have. My purpose in relating these pieces of history is to remind you that zoning is not a fashion to be changed in reflex to someone's request today due to the prevailing mood at any given point of time. Decisions made today to rezone and allow this project will continue to have ramifications on this neighborhood today and into the future, when the next inevitable proposal is made to develop another property along Oakland for the purpose of providing "a transition" to protect the homeowners from what they currently have and like!

3. The brownstones along Brown are beautiful and often touted as an example of how great this and other projects could be and, though I agree they look great, they do not create a neighborhood feel. They are thoroughly landscaped, walled and moated in the front, with no yard and have little porticos for front entrances. In short, there is nothing about them that is open and conducive to engagement with the neighborhood/neighbors around them. Placing such a structure within Little San Francisco would be at odds to the existing homes and neighborhood feel.
4. Finally, properties adjacent to the proposed development become less desirable/valuable as single family homes because they live in the shadow of a larger structure than would be allowed under single family zoning or find themselves suddenly living next to a parking lot with people coming and going at all hours.

Thank you for your time and I hope you will support the voice of the residents and vote no for this proposed rezoning.

Sincerely,

Paul A. Gillin

RECEIVED BY

SEP 16 2015

CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

September 16, 2015

Birmingham City Commission

Dear Commissioners,

We are writing to you regarding the proposed rezoning of 404 Park Street, Birmingham MI. The City Commission is considering rezoning this property from R-2, single family residential, to TZI. The rationale is that TZI is compatible with the adjacent single family residences.

We respectfully disagree with this philosophy. The neighborhood known as "Little San Francisco" is comprised of 80 single family homes and 5 duplexes. The exception to this is the property on Brookside and Ravine which is a 5 unit condo. It is not a rental property, it is not adjacent to any other residential property, it's elevation is below the homes on the other side of Ravine, and the garages are built underneath the condos and do not impact traffic in the neighborhood.

In the past several years there have been many changes to our neighborhood. On Ferndale Avenue there are 3 new-builds and 2 major renovations to existing homes. There are new-builds on Euclid, a major renovation at the northwest corner of Park St and additional renovations to homes on Euclid. More importantly are the changes taking place on Park Street. Currently there are two new-builds that are occurring on the sites of teardown homes. There is also a home on Park that is undergoing a large addition and renovation. This is particularly noteworthy because these three properties back up to Woodward Ave. This fact reinforces the idea that backing up to Woodward Ave. is not a situation that makes a lot unsaleable.

If a multi-unit property is built on the corners of Woodward, Oakland and Park Streets, this will add traffic congestion to an already over-burdened area. If the garages and driveways of the proposed units exit onto Oakland Ave there will be an increase in traffic to a very short stretch of road that is already bordered by two traffic signals. East bound traffic exiting onto Oakland requires traffic to go west to the Ferndale & Oakland turn. This turn is already a known traffic hazard because of a visibility issue created by the newly added parking spaces on the south side of Oakland. If the garages exit onto Park, east bound traffic will have to go north on Park, turn onto Euclid, turn south onto Ferndale and exit at the already busy intersection.

It is understandable that as the desirability of living in downtown Birmingham becomes more appealing, each neighborhood will be viewed in various ways. However, changing the character of our neighborhood that has existed for over 100 years should not be a viable option.

Thank you for thoughtfully considering this issue.

Ann and Thomas Stallkamp

333 Ferndale Avenue

Gmail brad host <braddhost@gmail.com>

Fwd: Spot Zoning for 404 Park

hughestombarb@aol.com <hughestombarb@aol.com> Tue, Sep 22, 2015 at 12:03 PM
To: braddhost@gmail.com

For you file, our earlier email to City. Tom

-----Original Message-----
From: hughestombarb <hughestombarb@aol.com>
To: stuart.sherman <stuart.sherman@sbcglobal.net>; rackyhoff <rackyhoff@hotmail.com>; gdilgard <gdilgard@hotmail.com>; mdaniel_tom <mdaniel_tom@hotmail.com>; sdm984 <sdm984@sbcglobal.net>; markforbirmingham <markforbirmingham@yahoo.com>
Sent: Mon, Aug 24, 2015 12:09 pm
Subject: Spot Zoning for 404 Park

Barbara and I cannot attend the City Commission meeting this evening, however, we want you to know that we continue to oppose approval of the spot zoning request for 404 Park. The approval of this request will set a dangerous precedent that endangers homeowners across the City as property is redeveloped.

Tom and Barbara Hughes
1300 Birmingham Blvd
Birmingham, MI 48009-1999
248.644.2082

RECEIVED BY
JUN 13 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

May 9, 2016

ZONING PROTEST PETITION

RECEIVED BY

MAY 18 2016

CITY CLERK'S OFFICE

Birmingham City Commission,

151 Martin Street,

Birmingham, Mich. 48009

RE: 404 Park Rezoning from R2 to TZI, Parcel#1925451021, Lots 66 and 67 of Oak Grove Addition

Dear City Commissioners,

We, the undersigned owners of 100% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed zoning map change, hereby protest, pursuant to MCL 125.3403(1) and the corresponding section of the City Zoning Ordinance, the proposed rezoning of 404 Park Street from R-2 to TZ1. As interested property owners, we also request, pursuant to MCL 125.3401, that the City Commission hold a public hearing on the proposed rezoning.

Respectfully submitted,

Laura W. Host 416 Park Street — 5/9/16

Gary B. Smith 424 Park Street — 5/10/16

Neil Fichtenberg 430 Park Street — 5/11/16

B. Fichtenberg — 5/11/16

Gina Russo 431 Park Street — 5/9/16

Beverly McCotter 287 Oakland — 5-14-16

F.Michael Schuck 267 Oakland — 5-13-16

F. Michael Schuck 247 Oakland — 5-13-16

Susan J. Smith — 5-13-16

Contact person for above property owners: Brad Host 248.219.2249 or 248.357.1000

RECEIVED BY

JUN 13 2016

CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

June 13, 2016

Birmingham City Commissioners,

151 Martin Street,

Birmingham, Mi. 48009

Re: REZONING 404 Park from R2 to TZ1

Dear Commissioners,

The file on the aforementioned proposal is 3 ½ years huge, and enclosed are six (6) letters which have been omitted from this recurring rezoning. There are many more which pertain as well and I ask the City include them in your packets before the June 27th Public Hearing.

Respectfully,

Brad Host

416 Park

Birmingham, Mi. 48009

RECEIVED BY

JUN 20 2016

CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

Darryl B. Hazel

Sheila M. McEntee

987 Arden Lane

Birmingham, MI. 48009

June 18, 2016

Birmingham City Commission

City of Birmingham

151 Martin St.

Birmingham, MI 48009

Dear Commissioners:

We have been residents of Birmingham since 1987. We chose to live in Birmingham and raise our children here because it was an outstanding residential community with a vibrant downtown. We are concerned that we are eroding our residential areas and becoming more focused on the development of downtown.

It troubles us that the Commission is being asked to consider a zoning change that would allow condominiums to be built in what is now a residential area. Our sense is this issue was decided last September when the Commission rejected the proposal to have transitional zoning (including this same proposal) abut residential space, and through some technicality, or outright contempt for the Commission and its September decision, the developer brings his project back less than a year later, virtually unchanged. We believe that anything other than a rejection of this latest proposal, which would affirm last September's decision, would establish a very poor precedent.

Thank you for your consideration.

Darryl B. Hazel Sheila McEntee

RECEIVED BY
JUN 20 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

June 19, 2016

City of Birmingham Commissioners

151 Martin Street

P.O. Box 3001

Birmingham, MI 48012

Re: Request for rezoning – 404 Park Street

Dear City Commissioners,

As owners of a home within one hundred feet of the proposed rezoning, we would like to express our concerns regarding the considered proposal of rezoning the lot at 404 Park to the Transitional Zone from R2 Single-Family. We have been living in our home for more than eight years, and we enjoy the neighborhood's character as it is now. We are worried about how a rezoning to a newly created class of zoning might alter its character. Although the intentions of the transitional zoning might be good, and in certain cases might be welcomed, in this case we believe your constituents in our neighborhood and especially those within one hundred feet have made their opinions and opposition to the proposed rezoning very well known. As our representatives, please take into consideration our points of view, and the concerns and worries that many in the neighborhood have regarding density, traffic, and the already well-established division which Oakland Ave provides between the neighborhood and downtown. Nobody can be sure what will happen if this precedent is set. Therefore we ask that you not proceed with the rezoning proposal.

Sincerely,

Bella and Neil Fichtenberg

430 Park

From: tommark78@hotmail.com
To: rackyhoff@hotmail.com; mnickita@bhamgov.org; pbordman@bhamgov.org; pboutros@bhamgov.org; cdeweese@bhamgov.org; aharris@bhamgov.org; ssherman@bhamgov.org
CC: jvalentine@bhamgov.org
Subject: Rezoning of 404 Park, Birmingham, MI
Date: Mon, 20 Jun 2016 16:06:29 -0400

Dear Birmingham City Commissioners:

I am writing this to express my disappointment in the Commission's decision to take up the Rezoning of 404 Park, a matter that was settled last autumn by the then elected Commission. Considerable public debate went into the formulation of that decision, and now we are at it again based on a minor administrative detail related to who files for rezoning. I sincerely hope that the Commission spends its time on more pressing business this week, rather retreading old ground on an already settled matter. Further, this can become unsettling precedent to anyone dealing with the Commission, if its previous decisions are reviewed and possibly overturned even though the prevailing facts and circumstances have not changed.

Thank you,

Thomas Mark
635 Puritan Avenue
Birmingham, MI 48009
248-644-8451

RECEIVED BY
JUN 22 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

RECEIVED BY
JUN 21 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM
12:04pm

June 21 2016

City of Birmingham Commissioners
151 Martin Street
Birmingham Mi

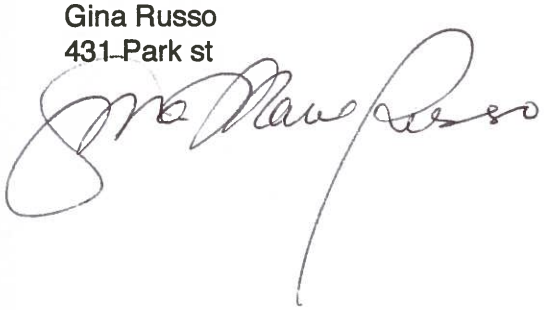
Dear Commissioners,

When the original developer tried to rezone 404 Park Street in 1988, it was denied partly because the immediate neighbours did not want the added density. Since then the now old owner has tried this rezoning many times and has been denied many times, for partly the same reason, the immediate neighbours did not want the hugh increase in our neighborhood. In the past 20 years the planning board and the planning department have changed but we the ever consistent neighbours have not changed, we do not want this! The 100 footers have constantly voiced our objection over this, especially in the past 5 years and we have been unwavering in our position.

Why would you consider rezoning? What has changed other then the leopards spots?
Please stop this non sense and this time vote no for good and let this developer and future developlers understand that our city looks after it citizens, and not after revenue. And certainly not in rewarding greed.

Thank you,

Gina Russo
431 Park st



Louis W. Meldman, Ph.D.
1825 Yosemite, Suite 10
Birmingham, MI 48009 USA
Telephone: 248.379.6786
Email: LWMeldman@gmail.com

RECEIVED BY
JUN 22 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

City of Birmingham Commissioners
151 Martin Street
Birmingham, Michigan 48009

21 June 2016

Dear Commissioners,

I was dismayed to learn that the Commission has not put the matter of rezoning 404 Park from R2 to TZ1 to rest once and for all. The issues involved in this case have been argued minutely and exhaustively and repeatedly over many years and a rational decision was arrived at by the Commission on September 21, 2015: the parcel should not be rezoned. That should have been the end of it. And yet there remain some who exhibit a mania to revisit this question de novo despite there being no new facts, no new law, no new rationale, no new circumstances, no new anything to add to this settled matter. At this point, without making any substantive accusations, an objective observer might logically conclude that there is at least the appearance of graft or payola involved in this controversy. One sincerely hopes not, of course, but can we please finally retire this dead horse and refrain from further beating it to a pulp.

In Pro Per,

Lwmeldman

Louis W. Meldman, Ph.D.

June 22, 2016

Members of the City Commission,

Please accept this letter as my request for you to once again reject the proposed rezoning of 404 Park.

I make this request based on 2 major factors:

#1. The petitioner has not met the burden required to request the rezoning.

As you know, there are 3 main criteria that must be met for rezoning to be considered.

Requirement #1: Why is rezoning necessary for the preservation and enjoyment of the rights of usage?

Petitioner's response:

1. TZ1 is only way to build the building we want.
2. Development of a single family has proven improbable
3. This is a unique property in that it has a shallow lot, is bounded on 3 sides, and has no screening from Woodward.

My observations about response:

It seems a primary reason this property has not been developed since 1983 is the property owners are developers. Since 1988 these developers have continued to push for rezoning and have had no real interest in developing the property as single family residential. As clearly stated in the petition the owners are only interested in building multi-family residential. In 16 years I have never been aware of a legitimate attempt to develop this property as single-family residences. In fact the developers know this is a desirable lot and location and by their own statement to the Planning Board would expect to command rents of $10,000 per month per unit - 3,500 square foot units at $3.50 a square foot was the precise estimate given. Lastly, rezoning would do nothing to solve the unique features of this property that the petitioner believes make it unlikely to be developed.

Requirement #2: Explanation of why current zoning is no longer appropriate?

Petitioner's response:

1. R2 is old and was created years ago
2. TZ1 allows for contemplated use
3. Not in compliance with the City's master plan
4. A vacant lot cannot be a buffer

My observations about response:

There are currently at least 4 homes being developed in our neighborhood under R2 zoning. This demonstrates that R2 zoning, while old, does work and works for property owners in our neighborhood. Stating that new zoning would allow you to build what you want is not an argument for why the current

zoning is not appropriate. 404 Park does not need to be compliant with the City's Master Plan as it falls outside the boundaries of the Master Plan. And lastly, while a vacant lot may not act as a buffer the developers acknowledge that single family residential can and does act as an effective buffer for the neighborhood today.

Requirement #3: Explain how rezoning is not detrimental to surrounding properties

Petitioner's response:

1. "I think that it is the exact opposite - I think it will protect the surrounding properties"
2. Height, density and aesthetic are all compliant with TZ1
3. Can only build 4 units
4. LSL study indicates that the property can handle the rezoning

Observations about response:

In response to a question about "why 4 families would want to live on this property when 2 families would not" – the petitioner stated that the intent was to build rental properties where the occupants would not have any investment in the property. Living next to 4 families who "do not have an investment in the property" seems to have the potential to be very detrimental to the surrounding properties. TZ1 would require that this property be no more than 5 feet off the sidewalk and be up to 35 feet tall. A building of this size and positioning would considerably outsize the houses to the north and west. And lastly, it is my understanding that the LSL study found that the property and surrounding areas could handle a "slight" increase in density. Rezoning from 2 homes to 4 rental units represents a 100% increase in density in a neighborhood that is very dense already.

#2: The rationale of the Planning Board in resending this petition for your consideration

I attended the meeting where the Planning Board voted to send this request to the City Commission for another review. While there was a very thorough and respectful discussion about the petition I believe the Planning Boards decision to resend this proposal to the City Commission was impacted by some misinformation. This was demonstrated in statements such as:

1. The area is 87% commercial already
    - *This is simply an inaccurate description of our neighborhood*
2. A buffer from the buildings to the south is needed
    - *As a homeowner living 1 house off Oakland I believe that the boulevard provides an ample buffer for my home. Additionally, it is a much more desirable buffer than the backside view of a 4-unit apartment building.*
3. Don't understand the concern about traffic/parking
    - *Park Street is so overburdened that often residents are parking one street over on Ferndale. Adding 8 – 10 additional cars to the neighborhood can only make this problem worse.*
4. It is the responsibility of the Planning Board to do the right thing for the property and the city.

- *I look to you, our elected officials, to do the right thing for the residents and the city.*

5. Maybe it will be a detrimental to your property values - but maybe it won't - no one knows for sure – let's try it and maybe it will work
    - *This feels like a gamble that I, as a property owner, should not be required to take.*

In conclusion, the Developer has not met the burden required to make the zoning request and based on that alone this rezoning request should be denied.

Thank you for your close and thoughtful attention to this very important matter.

Kathryn Gaines
343 Ferndale
Birmingham, MI 48009

NOTICE OF PUBLIC HEARINGS

BIRMINGHAM CITY COMMISSION
PUBLIC HEARING OF NECESSITY PUBLIC HEARING OF CONFIRMATION

Meeting Date, Time, Location:	HEARING OF NECESSITY FOR SPECIAL ASSESSMENT DISTRICT Monday, June 27, 2016, 7:30 PM Municipal Building, 151 Martin, Birmingham, MI
Meeting Date, Time, Location:	HEARING OF CONFIRMATION FOR SPECIAL ASSESSMENT DISTRICT Monday, July 11, 2016, 7:30 PM Municipal Building, 151 Martin, Birmingham, MI
Location:	Villa Avenue Paving Project Area
Nature of Improvement:	Installation of sewer laterals
City Staff Contact:	Paul O'Meara 248.530.1836 pomeara@bhamgov.org
Notice Requirements:	Mail to affected property owners Publish June 5th and June 12th, 2016
Approved minutes may be reviewed at:	City Clerk's Office

You or your agent may appear at the hearings to express your views; however, if you fail to protest either in person or by letter received on or before the date of the hearing, you cannot appeal the amount of the special assessment to the Michigan Tax Tribunal. Mail any correspondence to: City Clerk, P.O. Box 3001, Birmingham, MI 48012.

The property owner may file a written appeal of the special assessment with the State Tax Tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.

All special assessments, including installment payments, shall, from the date of the confirmation thereof, constitute a lien on the respective lots or parcels assessed, and until paid shall be charged against the respective owners of the lots or parcels assessed.

Persons with disabilities needing accommodations 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.

City of Birmingham
A Walkable Community

MEMORANDUM

Engineering Dept.

DATE: **June 16, 2016**

TO: **Joseph Valentine, City Manager**

FROM: **Paul T. O'Meara, City Engineer**

SUBJECT: **Villa Ave. Paving Project**
Sewer Lateral Replacement Special Assessment District
Public Hearing

At the Commission meeting of May 23, 2016, the City Commission set a date of June 27, 2016 to hold a public hearing of necessity for the replacement of sewer laterals located within the limits of the Villa Ave. Paving Project. Also at that meeting, a confirmation hearing date of July 11, 2016 was set, should the assessment district be authorized. Attached for your information are the previous report that was prepared on this subject, as well as the public hearing notice most recently sent out.

Every owner in the district has been sent the attached letter. To date, our office has received questions from a small number of homeowners asking the usual questions that come up for a project of this nature. No comments of objection to the sewer replacements have been received.

A suggested resolution has been prepared below should the Commission wish to consider authorizing this assessment district.

SUGGESTED RESOLUTION (SEWER LATERAL REPLACEMENT):

WHEREAS, The City Commission has passed Ordinance No. 1906, to establish and adopt requirements and procedures for the replacement of sewer lateral lines when the City street is open for repairs or reconstruction; and

WHEREAS, The City Commission is of the opinion that replacement of sewer laterals not meeting current criteria as a part of the planned road paving project is declared a necessity; and

WHEREAS, formal bids have been received and the actual cost per foot for replacement of the sewer laterals has been determined,

RESOLVED, that all sewer laterals not meeting current criteria located within the limits of the following streets shall be replaced as a part of the paving project on Villa Ave. from Adams Rd. to Columbia Ave.

RESOLVED, that at such time as the Assessor is directed to prepare the assessment roll, of which 100% of the contractor's charge to replace sewer lateral (calculated at the rate of $65.33 per linear foot) shall be charged to the adjoining property owners benefiting from the sewer lateral,

RESOLVED, that there be a special assessment district created and special assessments levied in accordance with benefits against the properties within such assessment district, said special assessment district shall be all properties, within the following district:

"Birmingham Villas Subdivision"
All of the following lots also include the southerly 8 ft. of the adjacent vacated alley:
Lots 73-75 inclusive, lots 78-82 inclusive, lots 84-90 inclusive, lots 92-94 inclusive, lot 95 and the adjacent westerly half of adjacent vacated Dixie Ave., lots 101-105 inclusive, lots 108, 109.

All of the following lots also include the adjacent 9.5 ft. vacated alley to the south of each lot, as well as have an adjacent 9.5 ft. exception taken for Villa Ave. right-of-way:
Lots 110-115 inclusive, lots 117, 118, lots 120, 121, the easterly 45 ft. of lot 123 plus the westerly half of adjacent vacated Dixie Ave. right-of-way, Lot 124 plus the easterly half of adjacent vacated Dixie Ave. right-of-way, lots 125-127 inclusive, lots 129, 130, 132, 134, 135 plus th4e westerly 20 ft. of adjacent vacated Yankee Ave. right-of-way, lots 138-146 inclusive.

RESOLVED, that the Commission shall meet on Monday, July 11, 2016, at 7:30 P.M., for the purpose of conducting a public hearing to confirm the roll for the replacement of sewer laterals within the Villa Ave. Paving Project.

City of Birmingham
A Walkable Community

MEMORANDUM

Engineering Dept.

DATE: **May 17, 2016**

TO: **Joseph Valentine, City Manager**

FROM: **Paul T. O'Meara, City Engineer**

SUBJECT: **Villa Ave. Paving Project**
Adams Rd. to Columbia Ave.
Sewer Lateral Special Assessment District

Similar to other projects that involve the installation of a new street pavement, it is recommended that all existing sewer laterals over 50 years old be replaced as a part of the Villa Ave. project, subject to a special assessment to cover the cost. If the City Commission chooses to proceed with awarding the Villa Ave. project to CI Contracting, it would be appropriate to set a public hearing to consider the creation of such a district.

Typically, the rate for the special assessment is based on the per foot price the selected contractor is charging the City for the installation of 6 inch sewer pipe. Generally, the cost of the sewer lateral, when compared to the other bids received on the project, is less than the average of the bids received. (The price per foot that is being charged on the two sewer lateral special assessment districts created so far this year range from $48 to $75 per foot, with the higher cost being charged on the more difficult Hamilton Ave. downtown project.) The bid price from CI Contracting for 6 inch sewer pipe installed is $90 per foot, much above the average of the bids received ($65.33 per foot). Generally when this happens, we can apply a mathematical formula that considers the bid price of the sewer connection. When we add together the price of the connection and the cost of the pipe per foot, we then typically find that the low bidder's adjusted price averages out well. When this formula has been applied in the past, we have then charged the lower adjusted price per foot, acknowledging that the City is saving money with a lower price per connection.

The mathematical formula combining both the price per foot and the price per connection was applied on these bids. The calculated price is then brought down to $77.07 per foot. This lower price was used when the April 29, 2016 letter was sent to all owners letting them know that the bid price was higher than expected. Since the adjusted price is still above the average, staff reviewed the bid numbers closer to determine why the low bidder's price for sewer work is above the average.

Different contractors have different bidding strategies. The largest difference discovered in the CI Contracting bid compared to the others is in the pay item known as Traffic Maintenance and Control. This is billed as a lump sum, meaning that all traffic maintenance work is payable in a monthly percentage over the life of the job. For example, if the job takes four months to construct, the City will pay 25% of the traffic maintenance cost with each of the four large monthly paychecks that the City will issue over the course of the project. Bidding a high number for this pay item can be beneficial to the contractor, as it allows the contractor to

collect more money earlier in the project to pay those bills related to setting up the project (bonding, insurance, mobilization, etc.).

CI Contracting bid $10,000 for their total traffic maintenance costs. The average price bid for this pay item was $122,500. The higher price typically seen allows the contractor to charge less for other bid items, such as sewer pipe installation. It could be argued, that if the City charges the full $90 per foot for the assessment, or even the adjusted $77.07 per foot, the City is saving money on its overall costs, because it is only paying $10,000 for traffic maintenance, instead of a figure more than ten times that amount. To bring the price more in line with what has been charged with other assessment districts, it is recommended that the assessed price per foot to be charged reflect the average of the six bids received, or $65.33 per foot. The attached spreadsheet has been prepared using this price, which translates to most owners being billed between $1,300 and $2,600 per property. It is anticipated that 51 homes will be in the district. At this price, almost $100,000 in revenue will be generated toward the cost of this project.

It is recommended that a public hearing of necessity be scheduled at the Monday, June 27, 2016, City Commission meeting. It is further recommended that the public hearing to confirm the roll be held on Monday, July 11, 2016 at the rate of $65.33/linear ft.

SUGGESTED RESOLUTION:

RESOLVED, that the City Commission shall meet on Monday, June 27, 2016 at 7:30 P.M., for the purpose of conducting a public hearing of necessity for the installation of lateral sewers within the Villa Ave. Paving project area. Be it further

RESOLVED, that the City Commission meet on Monday, July 11, 2016 at 7:30 P.M. for the purpose of conducting a public hearing to confirm the roll for the installation of lateral sewers in the Villa Ave. Paving project area.

SUMMARY OF BIDS
VILLA AVE.

	Bidder	Sewer Service Connection			Sewer Service 6"			Total Cost Conn. Plus Pipe Laying
Ranking	**Contractors Name**	**Number of Connections**	**Cost per Connection**	**Total Cost**	**Total Length**	**Cost per Foot**	**Total Cost**	
1.	CI Contacting	70	$255	$17,850.00	1600	90	$144.000	$161,850
2.	DiPonio Excavating	70	$550	$38500.00	1600	62	$99,200	$137,700
3.	Iafrate Construction	70	$795	$55650.00	1600	75	$120,000	$175,650
4.	FDM Contracting	70	$650	$24,000.00	1600	65	$104,000	$128,000
5.	VIL Construction	70	$500	$30,000.00	1600	40	$64,000	$94,000
6.	Pamar Enterprises	70	$500	$30,000.00	1600	60	$96,000	$126,000
Average			**541.67**	**$32,666.67**		**65.33**	**$104,533.33**	**$137,200**

Ratio of connection cost to total cost: $32,666.67 / $137,200 = 23.81%
Remaining percentage attributed to unit per lineal ft.: 100% - 23.81% = 76.19%
Total value attributed to unit cost per lineal ft. using low bidders total cost: 76.19% X $161,850 = $123,313,51
Revised Cost per Foot reflecting unit rate charged to homeowner: $123,313.51 / 1600 = $77.07/lineal ft.

City of Birmingham
A Walkable Community

April 29, 2016

TO: Homeowner

RE: Villa Ave. Paving Project, Adams Rd. to Columbia Rd.

Dear Homeowner,

Last summer, the Engineering Dept. received a petition signed by over 50% of the property owners on your street requesting that the street be repaved. An informational booklet was prepared and mailed to all owners, and a neighborhood meeting was held to further discuss the matter. The project was authorized to proceed in November, 2015.

Projects of this nature are best started in the spring of the year, so that there is as much of the construction season as possible open and available for the selected contractor to complete the work. However, since no funds were budgeted for this project in the current fiscal year 2015/16 (starting July 1, 2015), we knew that we had two choices:

a. Postpone the project to 2017.
b. Move ahead with the design and bidding work, and ask potential bidders to complete the work between July and November, 2016.

Knowing that many residents on the street are anxious to see this project completed, we selected the latter choice. The project has been designed, and bids were received on April 15. Six companies submitted bids, many of whom we have worked with in the past on similar projects. Bids came in much higher than anticipated, which we think can be attributed to two factors:

a. The construction industry is extremely busy given the strong local economy. Prices on other projects of this sort that we have bid recently have all come in higher than anticipated.
b. Asking contractors to wait until after July 1 to start the project makes the work somewhat less desirable, and adds some risk that the final stages of the job may have to be done in less optimal weather conditions. This tends to add risk to the contractor, which can translate to higher costs.

The higher costs for this project will impact each owner in the assessment district. Because of the significant difference involved, we would like to get your input before moving ahead. The following table contains the cost estimate put together by staff (based on recent project experience) compared to the low bidder's prices received for Villa Ave. (the total price reflects that which would be charged for an average sized lot and drive approach, and if a new sewer lateral is required):

Cost Category	Est. Unit Price (August, 2015)	Est. Total Cost (August, 2015)	Est. Unit Price (April, 2016)	Est. Total Cost (April 2016)
Paving Assessment	$135/front foot	$6,750	$174/front foot	$8,700
Drive Approach	$5.75/sq.ft.	$750	$7.55/sq.ft.	$980
Sewer Lateral Replacemt.	$55/foot	$1,650	$77.07/foot	$2,312
TOTALS		$9,150		$11,992

151 Martin Street • P.O. Box 3001 • Birmingham, MI 48012-3001
(248) 530-1800 • Fax (248) 530-1080 • http://ci.birmingham.mi.us

The total price difference on the chart reflects an annual extra payment of $284 (plus interest on the remaining balance) over the ten year payment period, which is an increase of 31%.

The difference in cost from what was estimated to what it will now actually cost to build this job is unprecedented. City staff does not feel comfortable moving forward without getting input from you, the residents that will be impacted by this decision. At this time, we feel that we have two options:

Option #1 – Proceed with bids as received, and build the project starting July 1.
Option #2 – Cancel the project for 2016, and rebid the same set of plans late this year, offering bidding contractors the option of building it anytime during the 2017 construction season (April to November).

Option #2 represents a gamble. It would provide an opportunity to test the market, and see if delaying would reduce the cost any meaningful amount. It is hard to predict what, if any, financial benefit would be gained. A large part of the difference, if any, will be a reflection of how the industry feels their construction schedules will be for the 2017 season. At this time, we would guess that there will be some relief in the costs if we wait until 2017, but to what extent, it is too early to predict.

Each resident knows their particular circumstances better than we do. You know how much this improvement means to you, as well as how much the extra costs would impact your annual budget. We strongly encourage all owners (whether you signed the petition or not) to send us your feelings, and your preference for Option 1 or Option 2 as listed above. You are requested to indicated your preference in writing either by email to the Assistant City Engineer, or by US Mail. It is imperative that a decision be made as soon as possible, so that the contractor can put this project into their schedule (if we choose to proceed). All responses must be received by Thursday, May 12 at 5 PM to be included in the count. Based on information received, staff will then put together a recommendation, and ask for a decision by the City Commission at their meeting of May 23, 2016, which will include your input. Please send your preference (between Option 1 and Option 2) to:

City of Birmingham
c/o: Austin Fletcher, P.E.
P.O. 3001
Birmingham, MI 48012

Or by email, afletcher@bhamgov.org

If you have questions, feel free to call us at 248-530-1850. Votes for Option 1 or 2, however, must be received in writing to be considered in the final count.

Thank you for your attention to this matter.

Sincerely,

Paul T. O'Meara, P.E.
City Engineer

VILLA AVENUE PAVING PROJECT # 6-16(P) BID TABULATION

4/15/2016

No.	ITEMS FOR BID	QTY	UNITS	C.I. Contracting, Inc.		DiPonio Contracting, Inc.		Angelo Iafrate Construction Co.		F.D.M. Contracting, Inc		V.I.L. Construction, Inc.		Pamar Enterprises, Inc	
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
	SEWER PAY ITEMS														
1	18" Combined Sewer, C76, CL-IV, Trench A	625	LF	$ 132.00	$ 82,500.00	$ 143.00	$ 89,375.00	$ 112.00	$ 70,000.00	$ 160.00	$ 100,000.00	$ 90.00	$ 56,250.00	$ 175.00	$ 109,375.00
2	15" Combined Sewer, C76, CL-IV, Trench A	900	LF	$ 97.00	$ 87,300.00	$ 128.00	$ 115,200.00	$ 108.00	$ 97,200.00	$ 145.00	$ 130,500.00	$ 80.00	$ 72,000.00	$ 165.00	$ 148,500.00
3	10" Combined Sewer, C76, CL-IV, Trench A	500	LF	$ 68.00	$ 34,000.00	$ 125.00	$ 62,500.00	$ 100.00	$ 50,000.00	$ 120.00	$ 60,000.00	$ 74.00	$ 37,000.00	$ 145.00	$ 72,500.00
4	12" Storm Sewer, C76, CL-IV, Trench A	725	LF	$ 60.00	$ 43,500.00	$ 80.00	$ 58,000.00	$ 75.00	$ 54,375.00	$ 65.00	$ 47,125.00	$ 60.00	$ 43,500.00	$ 125.00	$ 90,625.00
5	Sewer Service, 6" PVC SDR 23.5	1,600	LF	$ 90.00	$ 144,000.00	$ 62.00	$ 99,200.00	$ 75.00	$ 120,000.00	$ 65.00	$ 104,000.00	$ 40.00	$ 64,000.00	$ 60.00	$ 96,000.00
6	New 4'-0" Diameter Manhole	9	EA	$ 3,000.00	$ 27,000.00	$ 3,200.00	$ 28,800.00	$ 3,500.00	$ 31,500.00	$ 3,500.00	$ 31,500.00	$ 2,300.00	$ 20,700.00	$ 4,350.00	$ 39,150.00
7	New 4'-0" Diameter Catch Basin	8	EA	$ 2,160.00	$ 17,280.00	$ 2,000.00	$ 16,000.00	$ 2,900.00	$ 23,200.00	$ 2,500.00	$ 20,000.00	$ 2,500.00	$ 20,000.00	$ 2,250.00	$ 18,000.00
8	New 2'-0" Diameter Inlet	7	EA	$ 1,525.00	$ 10,675.00	$ 1,200.00	$ 8,400.00	$ 1,400.00	$ 9,800.00	$ 1,800.00	$ 12,600.00	$ 2,000.00	$ 14,000.00	$ 1,550.00	$ 10,850.00
9	6" Perforated Pipe Underdrain (No sock - 40' @ each CB/Inlet Structure)	600	LF	$ 21.00	$ 12,600.00	$ 15.00	$ 9,000.00	$ 22.00	$ 13,200.00	$ 15.00	$ 9,000.00	$ 20.00	$ 12,000.00	$ 15.00	$ 9,000.00
10	Sewer Tap, 18"	1	EA	$ 1,300.00	$ 1,300.00	$ 5,000.00	$ 5,000.00	$ 3,000.00	$ 3,000.00	$ 3,500.00	$ 3,500.00	$ 1,000.00	$ 1,000.00	$ 7,500.00	$ 7,500.00
11	Sewer Tap, 15"	1	EA	$ 1,100.00	$ 1,100.00	$ 4,000.00	$ 4,000.00	$ 3,000.00	$ 3,000.00	$ 3,000.00	$ 3,000.00	$ 750.00	$ 750.00	$ 7,000.00	$ 7,000.00
12	Sewer Tap, 12"	2	EA	$ 1,000.00	$ 2,000.00	$ 1,700.00	$ 3,400.00	$ 2,000.00	$ 4,000.00	$ 2,000.00	$ 4,000.00	$ 600.00	$ 1,200.00	$ 1,500.00	$ 3,000.00
13	Sewer Service Tap, 6"	70	EA	$ 255.00	$ 17,850.00	$ 550.00	$ 38,500.00	$ 795.00	$ 55,650.00	$ 650.00	$ 45,500.00	$ 500.00	$ 35,000.00	$ 500.00	$ 35,000.00
14	Reconstruct Manhole (if and where needed)	25	VF	$ 120.00	$ 3,000.00	$ 175.00	$ 4,375.00	$ 185.00	$ 4,625.00	$ 10.00	$ 250.00	$ 50.00	$ 1,250.00	$ 550.00	$ 13,750.00
15	Remove & Replace Structure Cover (as directed by City)	1,600	LB	$ 2.00	$ 3,200.00	$ 3.00	$ 4,800.00	$ 1.60	$ 2,560.00	$ 2.00	$ 3,200.00	$ 3.00	$ 4,800.00	$ 3.00	$ 4,800.00
16	Remove Ex. Manhole	6	EA	$ 425.00	$ 2,550.00	$ 400.00	$ 2,400.00	$ 790.00	$ 4,740.00	$ 500.00	$ 3,000.00	$ 400.00	$ 2,400.00	$ 500.00	$ 3,000.00
17	Remove Ex. Drainage Structure	14	EA	$ 425.00	$ 5,950.00	$ 400.00	$ 5,600.00	$ 790.00	$ 11,060.00	$ 500.00	$ 7,000.00	$ 400.00	$ 5,600.00	$ 350.00	$ 4,900.00
18	Lower Ex. 8" H.D.P.E. Water Main	1	LS	$ 4,500.00	$ 4,500.00	$ 2,500.00	$ 2,500.00	$ 5,900.00	$ 5,900.00	$ 10,000.00	$ 10,000.00	$ 500.00	$ 500.00	$ 3,500.00	$ 3,500.00
19	Abandon Ex. 18" Sewer (Including All Bulkheads)	250	LF	$ 8.00	$ 2,000.00	$ 10.00	$ 2,500.00	$ 27.00	$ 6,750.00	$ 20.00	$ 5,000.00	$ 10.00	$ 2,500.00	$ 7.00	$ 1,750.00
20	Abandon Ex. 12" Sewer (Including All Bulkheads)	25	LF	$ 7.00	$ 175.00	$ 8.00	$ 200.00	$ 35.00	$ 875.00	$ 20.00	$ 500.00	$ 10.00	$ 250.00	$ 6.00	$ 150.00
	SUBTOTAL SEWER PAY ITEMS				$ 502,480.00		$ 559,750.00		$ 571,435.00		$ 599,675.00		$ 394,700.00		**$ 678,350.00**
	PAVING PAY ITEMS														
21	Earth Excavation	6,500	CY	$ 28.00	$ 182,000.00	$ 22.00	$ 143,000.00	$ 22.00	$ 143,000.00	$ 22.00	$ 143,000.00	$ 15.00	$ 97,500.00	$ 29.00	$ 188,500.00
22	Subgrade Undercutting	700	CY	$ 35.00	$ 24,500.00	$ 30.00	$ 21,000.00	$ 40.00	$ 28,000.00	$ 10.00	$ 7,000.00	$ 45.00	$ 31,500.00	$ 45.00	$ 31,500.00
23	Salavaging Brick Pavers	600	SY	$ 1.00	$ 600.00	$ 10.00	$ 6,000.00	$ 0.80	$ 480.00	$ 1.00	$ 600.00	$ 2.00	$ 1,200.00	$ 1.00	$ 600.00
24	Removing Asphalt Drive Approach	500	SY	$ 7.00	$ 3,500.00	$ 6.00	$ 3,000.00	$ 5.30	$ 2,650.00	$ 7.00	$ 3,500.00	$ 10.00	$ 5,000.00	$ 8.00	$ 4,000.00
25	Removing Concrete Drive Approach	500	SY	$ 8.50	$ 4,250.00	$ 7.00	$ 3,500.00	$ 6.00	$ 3,000.00	$ 7.00	$ 3,500.00	$ 10.00	$ 5,000.00	$ 9.00	$ 4,500.00
26	Removing Concrete Sidewalk & Ramp (sawcutting included)	400	SY	$ 7.00	$ 2,800.00	$ 8.00	$ 3,200.00	$ 2.10	$ 840.00	$ 7.00	$ 2,800.00	$ 10.00	$ 4,000.00	$ 7.00	$ 2,800.00
27	Removing Pavement Full Depth (Curb & Gutter included)	600	SY	$ 10.00	$ 6,000.00	$ 12.00	$ 7,200.00	$ 5.50	$ 3,300.00	$ 12.00	$ 7,200.00	$ 15.00	$ 9,000.00	$ 12.00	$ 7,200.00
28	Cold Milling Asphalt, 1.5" Depth	100	SY	$ 10.00	$ 1,000.00	$ 38.00	$ 3,800.00	$ 15.00	$ 1,500.00	$ 20.00	$ 2,000.00	$ 20.00	$ 2,000.00	$ 5.00	$ 500.00
29	Bituminous Mixture No. 13A, Handpatch	30	TON	$ 325.00	$ 9,750.00	$ 300.00	$ 9,000.00	$ 200.00	$ 6,000.00	$ 250.00	$ 7,500.00	$ 350.00	$ 10,500.00	$ 200.00	$ 6,000.00
30	Aggregate Base, MDOT 21AA Limestone, 8"	7,200	SY	$ 14.85	$ 106,920.00	$ 11.70	$ 84,240.00	$ 10.00	$ 72,000.00	$ 12.00	$ 86,400.00	$ 10.00	$ 72,000.00	$ 13.00	$ 93,600.00
31	Concrete Pavement, Non-reinforced, 7", incl. integral 6" Curb	6,500	SY	$ 39.50	$ 256,750.00	$ 39.35	$ 255,775.00	$ 41.25	$ 268,125.00	$ 42.00	$ 273,000.00	$ 40.50	$ 263,250.00	$ 39.35	$ 255,775.00
32	Concrete Drive Approach, 6"	1,100	SY	$ 68.00	$ 74,800.00	$ 51.00	$ 56,100.00	$ 49.75	$ 54,725.00	$ 43.00	$ 47,300.00	$ 42.00	$ 46,200.00	$ 40.50	$ 44,550.00
33	Concrete Sidewalk, 4"	3,000	SF	$ 7.50	$ 22,500.00	$ 5.50	$ 16,500.00	$ 4.25	$ 12,750.00	$ 4.70	$ 14,100.00	$ 4.60	$ 13,800.00	$ 4.25	$ 12,750.00
34	Concrete Sidewalk, 6" (Includes Ramps)	750	SF	$ 9.80	$ 7,350.00	$ 7.00	$ 5,250.00	$ 6.50	$ 4,875.00	$ 8.00	$ 6,000.00	$ 7.50	$ 5,625.00	$ 7.00	$ 5,250.00
35	Handicap Ramp Truncated Domes	110	SF	$ 50.00	$ 5,500.00	$ 50.00	$ 5,500.00	$ 75.00	$ 8,250.00	$ 55.00	$ 6,050.00	$ 52.00	$ 5,720.00	$ 50.00	$ 5,500.00
36	Remove & Replace Concrete Curb & Gutter	25	LF	$ 43.00	$ 1,075.00	$ 41.00	$ 1,025.00	$ 60.00	$ 1,500.00	$ 50.00	$ 1,250.00	$ 75.00	$ 1,875.00	$ 35.00	$ 875.00
37	Adjust Structure Cover	8	EA	$ 325.00	$ 2,600.00	$ 405.00	$ 3,240.00	$ 325.00	$ 2,600.00	$ 450.00	$ 3,600.00	$ 600.00	$ 4,800.00	$ 660.00	$ 5,280.00
38	Maintenance Aggregate for Entire Project	1	LS	$ 6,500.00	$ 6,500.00	$ 2,500.00	$ 2,500.00	$ 2,200.00	$ 2,200.00	$ 5,000.00	$ 5,000.00	$ 10,000.00	$ 10,000.00	$ 2,500.00	$ 2,500.00
	SUBTOTAL PAVING PAY ITEMS				$ 718,395.00		$ 629,830.00		$ 615,795.00		**$ 619,800.00** *		$ 588,970.00		$ 671,680.00
	GENERAL PAY ITEMS														
39	Traffic Maintenance & Control	1	LS	$ 10,000.00	$ 10,000.00	$ 110,000.00	$ 110,000.00	$ 100,000.00	$ 100,000.00	$ 100,000.00	$ 100,000.00	$ 350,000.00	$ 350,000.00	$ 65,000.00	$ 65,000.00
40	Water and Sewer Allowance	1	LS	$ 20,000.00	$ 20,000.00	$ 20,000.00	$ 20,000.00	$ 20,000.00	$ 20,000.00	$ 20,000.00	$ 20,000.00	$ 20,000.00	$ 20,000.00	$ 20,000.00	$ 20,000.00
41	Salvage Existing Signs	1	LS	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 1,200.00	$ 1,200.00	$ 1,000.00	$ 1,000.00	$ 1,100.00	$ 1,100.00	$ 1,000.00	$ 1,000.00
42	Sign Post, U-Channel	100	LF	$ 10.00	$ 1,000.00	$ 10.00	$ 1,000.00	$ 4.00	$ 400.00	$ 10.00	$ 1,000.00	$ 11.00	$ 1,100.00	$ 10.00	$ 1,000.00
43	Removing Pavement Markings, 6" White	125	LF	$ 0.85	$ 106.25	$ 1.00	$ 125.00	$ 0.85	$ 106.25	$ 2.00	$ 250.00	$ 1.00	$ 125.00	$ 0.85	$ 106.25
44	Waterbourne Pavement Marking, 24 inch Stop Bar	20	LF	$ 10.25	$ 205.00	$ 11.00	$ 220.00	$ 10.25	$ 205.00	$ 15.00	$ 300.00	$ 10.50	$ 210.00	$ 10.25	$ 205.00
45	Waterbourne Pavement Marking, 12 inch Crosshatching, White	250	LF	$ 5.25	$ 1,312.50	$ 6.00	$ 1,500.00	$ 5.25	$ 1,312.50	$ 7.50	$ 1,875.00	$ 5.50	$ 1,375.00	$ 5.25	$ 1,312.50
46	Tree Protection, 3" Dia. Or Greater	71	EA	$ 150.00	$ 10,650.00	$ 75.00	$ 5,325.00	$ 150.00	$ 10,650.00	$ 100.00	$ 7,100.00	$ 50.00	$ 3,550.00	$ 55.00	$ 3,905.00
47	Mulch, 3"	200	SY	$ 5.00	$ 1,000.00	$ 7.50	$ 1,500.00	$ 7.50	$ 1,500.00	$ 10.00	$ 2,000.00	$ 10.00	$ 2,000.00	$ 8.00	$ 1,600.00
48	Topsoil, 3"	3,500	SY	$ 4.00	$ 14,000.00	$ 3.40	$ 11,900.00	$ 3.40	$ 11,900.00	$ 4.00	$ 14,000.00	$ 5.50	$ 19,250.00	$ 3.50	$ 12,250.00
49	Sod, Class A	3,500	SY	$ 5.00	$ 17,500.00	$ 6.50	$ 22,750.00	$ 6.50	$ 22,750.00	$ 4.00	$ 14,000.00	$ 2.50	$ 8,750.00	$ 5.50	$ 19,250.00
50	Inlet Filter	17	EA	$ 100.00	$ 1,700.00	$ 100.00	$ 1,700.00	$ 150.00	$ 2,550.00	$ 100.00	$ 1,700.00	$ 100.00	$ 1,700.00	$ 100.00	$ 1,700.00
51	Inlet Sediment Pit	17	EA	$ 100.00	$ 1,700.00	$ 125.00	$ 2,125.00	$ 85.00	$ 1,445.00	$ 1.00	$ 17.00	$ 5.00	$ 85.00	$ 25.00	$ 425.00
52	Inspector Crew Days	80	DAYS	$ 360.00	$ 28,800.00	$ 360.00	$ 28,800.00	$ 360.00	$ 26,640.00	$ 360.00	$ 27,000.00	$ 360.00	$ 27,000.00	$ 360.00	$ 27,000.00
	SUBTOTAL GENERAL PAY ITEMS				$ 108,973.75		$ 207,945.00		$ 200,658.75		$ 190,242.00		$ 436,245.00		$ 154,753.75
	PRIVATE PAY ITEMS														
53	New Water Service, 1", Incl. Shut Off Box, Trench A	300	LF	$ 55.00	$ 16,500.00	$ 45.00	$ 13,500.00	$ 50.00	$ 15,000.00	$ 35.00	$ 10,500.00	$ 20.00	$ 6,000.00	$ 88.00	$ 26,400.00
54	New Water Service, 1", Incl. Shut Off Box, Trench A	10	LF	$ 750.00	$ 7,500.00	$ 400.00	$ 4,000.00	$ 1,600.00	$ 16,000.00	$ 500.00	$ 5,000.00	$ 150.00	$ 1,500.00	$ 980.00	$ 9,800.00
	SUBTOTAL PRIVATE PAY ITEMS				$ 24,000.00		$ 17,500.00		$ 31,000.00		$ 15,500.00		$ 7,500.00		$ 36,200.00
	TOTAL BID				**$ 1,353,848.75**		**$ 1,415,025.00**		**$ 1,418,888.75**		**$ 1,425,217.00** *		**$ 1,427,415.00**		**$ 1,540,983.75**

SEWER LATERAL CHART

Birmingham Villas Water Main Project - Contract #3-14(W)

Address	Street	Type of Pipe	Date Installed	SAD?	Estimated Length	Estimated Cost
						6"
						$65.33

Villa Ave. - Adams Rd. to Columbia Ave.

NORTH SIDE

359	S. Adams	Unk - on Villa	---	Y	36	$2,352
1133	Villa	Clay	1940	Y	37	$2,417
1155		P.V.C.	2002	N	0	$0
1179		P.V.C.	2006	N	0	$0
1207		Orangeburg	1961	Y	40	$2,613
1219		Unk	---	Y	40	$2,613
1235		Unk	1950	Y	40	$2,613
1255		Unk	---	Y	40	$2,613
1265		Unk	---	Y	40	$2,613
1279		P.V.C.	1986	N	0	$0
1295		P.V.C.	1991	N	0	$0
1331		P.V.C.	1991	N	0	$0
1347		Clay	1983	N	0	$0
1367		P.V.C.	2002	N	0	$0
1405		Clay	1947	Y	40	$2,613
1427		Clay	1942	Y	40	$2,613
1439		Clay	1941	Y	40	$2,613
1467		P.V.C.	2003	N	0	$0
1491		Orangeburg	1952	Y	40	$2,613
1509		Clay	1941	Y	40	$2,613
1521		Orangeburg	1948	Y	40	$2,613
1555		Clay	1942	Y	40	$2,613
1583		Orangeburg	1957	Y	40	$2,613
1611		P.V.C.	2014	N	0	$0
1633		Unknown	1940	Y	40	$2,613
1649		Unknown	1940	Y	40	$2,613
1665		Unknown	1940	Y	40	$2,613
1679		Orangeburg	1960	Y	40	$2,613
1695		Orangeburg	1947	Y	40	$2,613
1711		P.V.C.	2005	N	0	$0
1735		4" HDPE	2014	N	0	$0
1751		Orangeburg	1948	Y	40	$2,613
1773		Orangeburg	1951	Y	40	$2,613
1791		Orangeburg	1951	Y	40	$2,613

SOUTH SIDE

411	S. Adams	Orangeburg	1952	Y	20	$1,307
1136	Villa	Clay	1943	Y	20	$1,307
1158		Unknown	---	Y	20	$1,307
1180		Unknown	---	Y	20	$1,307
1208		Unknown	---	Y	20	$1,307
1228		Orangeburg	1959	Y	20	$1,307
1238		P.V.C.	2015	N	0	$0
1250		Orangeburg	1953	Y	20	$1,307
1272		Unknown	1941	Y	20	$1,307
1288		Clay	1972	N	0	$0
1316		Orangeburg	1950	Y	20	$1,307
1326		Orangeburg	1947	Y	20	$1,307
1350		P.V.C.	2011	N	0	$0
1384		Orangeburg	1957	Y	20	$1,307
1408		Cast Iron	1946	Y	20	$1,307
1420		Clay	1941	Y	20	$1,307
1438		Unknown	---	Y	20	$1,307
1456		Orangeburg	1949	Y	20	$1,307
1474		P.V.C.	2005	N	0	$0
1492		Orangeburg	1950	Y	20	$1,307
1500		Orangeburg	1950	Y	20	$1,307
1524		P.V.C.	2012	N	0	$0
1540		Orangeburg	1948	Y	20	$1,307
1560		P.V.C.	2005	N	0	$0
1576		Unknown	1940	Y	20	$1,307
1594		Orangeburg	1956	Y	20	$1,307
1600		Clay	1967	N	0	$0
1630		P.V.C.	2014	N	0	$0
1646		Orangeburg	1947	Y	20	$1,307
1650		Orangeburg	1948	Y	20	$1,307
1668		Cast Iron	1945	Y	20	$1,307
1692		Orangeburg	1947	Y	20	$1,307
1700		Clay	1966	Y	20	$1,307
1750		Clay	1941	Y	20	$1,307
1772		Cast Iron	1945	Y	20	$1,307
1786		Cast Iron	1946	Y	20	$1,307

		TOTAL			1,473	$96,231
	RATIO =	51/70	73%			

NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION
SPECIAL LAND USE PERMIT AMENDMENT

Meeting Date, Time, Location:	Monday, June 27, 2016, 7:30 PM Municipal Building, 151 Martin Birmingham, MI
Location of Request:	Townsend Hotel (formerly Corner Bar) 100 Townsend
Nature of Hearing:	To consider an amendment to the Special Land Use Permit and Final Site Plan to convert the Corner Bar into a private reception and special event space.
City Staff Contact:	Jana Ecker 248.530.1841 jecker@bhamgov.org
Notice Requirements:	Mailed to all property owners and occupants within 300 feet of subject address. Publish June 12, 2016
Approved minutes may be reviewed at:	City Clerk's Office

Persons wishing to express their views may do so in person at the hearing or in writing addressed to City Clerk, City of Birmingham, 151 Martin, Birmingham, MI 48009.
Persons with disabilities needing accommodations 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.

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: June 20, 2016

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: Public Hearing for Final Site Plan & Special Land Use Permit at 100 Townsend, Townsend Hotel (formerly Corner Bar)

The Townsend Hotel is located at 100 Townsend St. between Pierce and Henrietta. The applicant is seeking approval to renovate the portion of the hotel formerly known as The Corner Bar, located at the corner of Pierce and Merrill St., into a private dining space to be used for private dining and special events. Under Article 6, section 6.02 (5) of the Zoning Ordinance, all existing establishments with alcoholic beverage sales (on-premise consumption) require the approval of a Special Land Use Permit if none was previously approved, upon a change in ownership, name of establishment, or upon application for site plan review. Due to the addition of 30 sq. ft. of interior space, the applicant is required to receive site plan review approval. Accordingly, the applicant is required to obtain a recommendation from the Planning Board and then approval from the City Commission for the Final Site Plan and SLUP. In addition, the property is location within the Shain Park Historic District and therefore must be approved by the Historic District Commission as well.

On May 18th, 2016, the Historic District Commission reviewed the proposed change to the space formerly known as the Corner Bar and voted to approved the changes as proposed.

On May 25, 2016, the Planning Board conducted a public hearing to discuss the request by the applicant for a Final Site Plan and Special Land Use Permit (SLUP). The Planning Board voted to recommend approval of the Special Land Use Permit to the City Commission.

On June 6, 2016 the City Commission set a public hearing date for June 27, 2016 to consider approval of the Final Site Plan and Special Land Use Permit of the Townsend Hotel to convert The Corner Bar into a private reception and special event space. Please find attached the plans for the proposed changes, the staff report presented to the Planning Board and the meeting minutes from the Historic District Commission and the Planning Board.

SUGGESTED ACTION:

To approve the Final Site Plan and Special Land Use Permit to allow the Townsend Hotel to convert The Corner Bar into a private reception and special event space.

TOWNSEND HOTEL
100 TOWNSEND
SPECIAL LAND USE PERMIT
2016

WHEREAS, The Townsend Hotel has filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a private dining and special event space with alcoholic beverage sales for on-premise consumption under Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on at 100 Townsend St. between Pierce Rd. and Henrietta;

WHEREAS, The land is zoned B-4 and D-4, and is located within the Downtown Birmingham Overlay District, which permits restaurants with alcoholic beverage sales for on-premise consumption 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, On May 18, 2016 the Historic District Commission reviewed the proposed changes to the site and issued a Certificate of Approval pursuant to the requirements of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings;

WHEREAS, On May 25, 2016, the Planning Board reviewed the proposed changes to the site and recommended approval of the Final Site Plan to the City Commission;

WHEREAS, The Birmingham City Commission has reviewed The Townsend Hotel Special Land Use Permit 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 The Townsend Hotel application for a Special Land Use Permit authorizing the operation of a establishment with alcoholic beverage sales (on-premise consumption) at 100 Townsend 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 is granted;

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, The Townsend Hotel 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 The Townsend Hotel to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

I, Laura Pierce, 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 June 27, 2016.

_____

Laura Pierce, City Clerk

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Department

DATE: **May 19, 2016**

TO: **Planning Board**

FROM: **Sean Campbell, Assistant Planner**

SUBJECT: **Final Site Plan & Design Review and Special Land Use Permit - Corner Bar**

Executive Summary

The subject site is a 1,778 sq. ft. commercial space inside the Townsend Hotel located at the corner of Pierce St. and Merrill St. The applicant is proposing exterior renovations to the north and east elevations as well as interior work to the existing Corner Bar establishment. The applicant has indicated that the former establishment will be remodeled into a private dining and meeting venue.

The applicant is seeking approval for a Special Land Use Permit (SLUP) pursuant to Article 6, Section 6.02 which requires existing and new establishments with alcoholic beverage sales to obtain a SLUP upon a change in name or ownership of establishment, or upon application for a site plan review.

1.0 Land Use and Zoning

1.1 Existing Land Use – The portion of the building that will undergo renovations is currently a bar and restaurant establishment.

1.2 Existing Zoning – The property is currently zoned B-4, Business-Residential, and D-4 in the Downtown Birmingham Overlay District. The existing use and surrounding uses appear to conform to the permitted uses of each Zoning District.

1.3 2016 Report – The subject site is located within the boundaries of the Downtown Birmingham 2016 Overlay District. The Regulating P{an applies in this case.

1.4 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	Government Office (City Hall)	Commercial/ Retail	Parking Structure (Pierce Street Parking Garage)	Public Park (Shain Park)
Existing Zoning District	PP, Public Property	B-4, Business-Residential	B-2, General Business	PP, Public Property
Existing Overlay Zoning	C, Community Use	D-2, Downtown Two or Three Stories	D-3, Downtown Three or Four Stories	C, Community Use

2.0 Setback, Height, and Floor Area Requirements

A summary of all standards is provided for your review on the attached Zoning Compliance Summary. The summary demonstrates that the proposed plan does meet all the setback, height and floor area requirements for a B-4 (Business-Residential) development.

3.0 Screening and Landscaping

2.1 Dumpster Screening – The proposed plans do not indicate any new outdoor trash receptacles.

2.2 Parking Lot Screening – The subject site is located in the Parking Assessment District, which does not require on-site parking for commercial uses. The required parking will be provided in a public parking facility and therefore does not require any screening.

2.3 Mechanical Equipment Screening – The applicant does not propose any rooftop or grounded-mounted mechanical equipment. Thus, no mechanical screening is required.

2.4 Landscaping – In Accordance with Article, Section 4.20 (C) (1) of the Zoning Ordinance, properties located in the Downtown Birmingham Overlay District are not required to provide any plantings. However, the applicant proposes one (1) Boxwood Topiary to be placed on each side of the door on the north elevation.

4.0 Parking, Loading, Access, and Circulation

3.1 Parking – As the subject site is located within the Parking Assessment District, no on-site parking is required for the proposed commercial use.

3.2 Loading – The proposed remodel of the subject site neither requires nor indicates a loading space.

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

3.4 Pedestrian Access & Circulation –Pedestrian access is made available via sidewalks along Pierce and Merrill. City sidewalks will connect to two entrances along the north elevation of the subject building. The existing corner entrance and step will be eliminated.

3.5 Streetscape – The applicant is proposing two new rectangular 18" x 18" x 18" lead planters to flank the new entrance. One new street tree will also be added.

5.0 Lighting

The applicant is not proposing any changes to the existing lighting on site.

6.0 Departmental Reports

6.1 Engineering Division – No concerns were reported by the Engineering Division.

6.2 Department of Public Services – No concerns were reported from DPS.

6.3 Fire Department – No concerns were reported from the Fire Dept.

6.4 Police Department - No concerns were reported from the Police Dept.

6.5 Building Division –Standard comments were provided by the Building Division.

7.0 Design Review

The applicant is proposing to utilize the following materials for the exterior renovations:

- Benjamin Moore Gray 2121-10 paint
- Brushed stainless steel sign letters
- Sunbrella 64 Charcoal Tweed awnings
- Brass doors

The applicant proposes to remove the revolving door and adjoining staircase located at the corner of Pierce St. and Merrill St. and replace it with three (3) 2' x 6.5' windows; add three (3) new 2.25' x 2' windows above the existing metal entrance canopy; build out the entrance with 30 sq. ft. of matching limestone to align with existing curved building corner frontage; replace wood framed windows next on north elevation adjacent to entrance with two (2) 3' x 9' windows; replace existing wood doors at north elevation with two (2) new brass doors; insert two (2) boxwood plants on both sides of brass entry door; build a limestone border around the new brass entry door; replace the green fabric awning above the north elevation door with a 6" tall metal canopy; paint

both the existing and proposed metal canopies with Benjamin Moore "Gray" 2121-10; install 8" applied brushed stainless steel letters along the canopies at the corner entrance; and replace fabric on all existing awnings with Sunbrella Charcoal Tweed.

Article 3, section 3.04(E), Downtown Overlay District, of the Zoning Ordinance contains architectural and design standards that will apply to this building, including specific requirements for the design and relief of front façades, glazing requirements, window and door standards and proportions, roof design, building materials, awnings and other pedestrian scaled architectural features.

In accordance with Article 3, Downtown Birmingham Overlay District, of the Zoning Ordinance, the proposed work for 100 Townsend St. demonstrates no blank, windowless walls, provides direct access to the space from the public sidewalk, and proposes awnings 11' above the sidewalk grade. The Downtown Overlay standards, per Article 3, Section 3.04, (E) (4) of the Zoning Ordinance, require that all buildings must have a minimum of 70% glazing on the first floor between 1 and 8 feet above grade. The submitted plans do not indicate the required glazing for the first floor frontage. However, the existing first floor glazing has been grandfathered in and will not be reduced with the alterations as proposed in the submitted plans and therefore will be permitted.

8.0 Signage Review

The applicant is proposing to remove the existing sign that reads "CORNER BAR" along the valence of the northwest metal canopy and to replace it with a 8" tall, 19'-6" long, brushed stainless steel name letter sign. The sign will display "THE TOWNSEND HOTEL" to match the north main entrance canopy sign. The proposed sign will be 13 square feet, which meets the requirements for area in accordance with Article 1, Section 1.05, Table B of the Sign Ordinance.

9.0 Approval Criteria for Final Site Plan

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.

10.0 Approval Criteria for Special Land Use Permits

Article 07, section 7.34 of the Zoning Ordinance specifies the procedures and approval criteria for Special Land Use Permits. Use approval, site plan approval, and design review are the responsibilities of the City Commission. This section reads, in part:

> Prior to its consideration of a special land use application (SLUP) for an initial permit or an amendment to a permit, the **City Commission shall refer the site plan and the design to the Planning Board for its review and recommendation. After receiving the recommendation, the City Commission shall review the site plan and design of the buildings and uses proposed** for the site described in the application of amendment.
>
> The City Commission's approval of any special land use application or amendment pursuant to this section shall constitute approval of the site plan and design.

11.0 Suggested Action

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board RECOMMEND APPROVAL of the applicant's request for Final Site Plan and a SLUP to allow exterior and interior work for the former Corner Bar at 100 Townsend St.

12.0 Sample Motion Language

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board RECOMMEND APPROVAL of the applicant's request for Final Site Plan and a SLUP to allow the exterior and interior work for the former Corner Bar at 100 Townsend St.

OR

Motion to recommend DENIAL of the Final Site Plan and SLUP amendment to the City Commission for the commercial space at 100 Townsend St. for the following reasons:

_____

_____

OR

Motion to POSTPONE the Final Site Plan and SLUP to the City Commission for the commercial space at 100 Townsend St, with the following conditions:

1._____ _____
2._____

BIRMINGHAM HISTORIC DISTRICT COMMISSION
MINUTES OF MAY 18, 2016
Municipal Building Commission Room
151 Martin, Birmingham, Michigan

Minutes of the regular meeting of the Historic District Commission ("HDC") held Wednesday, May 18, 2016. Chairman John Henke called the meeting to order at 7 p.m.

Present: Chairman John Henke; Commission Members Mark Coir, Keith Deyer, Natalia Dukas (arrived at 7:05 p.m.), Thomas Trapnell, Vice- Chairperson Shelli Weisberg (left at 7:55 p.m.), Michael Willoughby

Absent: Student Representative Loreal Salter-Dodson

Administration: Matthew Baka, Sr. Planner
Carlos Jorge, Building Facilities
Leslie Pielack, Birmingham Museum Director
Carole Salutes, Recording Secretary

05-22-16

FINAL HISTORIC SIGN/DESIGN REVIEW
100 Townsend St.
Corner Bar

Zoning: B-4 Business Residential

Proposal: The applicant is seeking approval to renovate the north and east exterior of the 100 Townsend St. building. The applicant has indicated that the former Corner Bar establishment will be remodeled into a private dining and meeting venue.

Façade work: The applicant proposes to remove the revolving door and adjoining staircase located at the corner of Pierce St. and Merrill St. and replace it with three (3) windows; add three (3) new windows above the existing metal entrance canopy; build out the entrance with 30 sq. ft. of matching limestone to align with existing curved building corner frontage; replace wood framed windows on north elevation adjacent to entrance with two (2) windows; replace existing wood doors at north elevation with two (2) new brass doors; insert two (2) topiary plants on both sides of brass entry door; build a limestone border around the new brass entry door; replace the turquoise fabric awning above the north elevation door with a 6 in. tall metal canopy; paint both the existing and proposed metal canopies with Benjamin Moore "Gray" 2121-10; install 8 in. applied brushed stainless steel letters along the canopies at the corner entrance; and replace fabric on all existing awnings with Sunbrella Charcoal Tweed.

The applicant has not provided the materials or exact color of the proposed windows. The submitted plans also do not indicate the length, width, or mounting height of proposed metal awning. The applicant must provide this information.

Glazing Requirement: The Downtown Overlay standards, per Article 3, Section 3.04, (E.4) of the Zoning Ordinance, require that all buildings must have a minimum of 70% glazing on the first floor between 1 and 8 ft. above grade and a maximum of 35% glazing on all upper floors. The applicant plans to replace the existing revolving door. The submitted plans do not indicate the required
percentage of glazing for the first floor. However, the existing glazing has been grandfathered in and will not be reduced with the alterations as proposed in the submitted plans, and therefore will be permitted.

Signage: The applicant is proposing an 8 in. tall, 19 ft. 6 in. long, brushed stainless steel name letter sign along the existing canopy. The sign will display "THE TOWNSEND HOTEL" to match the north main entrance sign. The proposed sign will be 13 sq. ft. in area in accordance with Article 1, Section 1.05, Table B of the Sign Ordinance.

Mr. Victor Saroki, Architect, was present with Mr. Steven Kalczynski, General Manager of the Townsend Hotel. Mr. Saroki said his firm has enjoyed their long history with the Townsend Hotel over the years. The time has come for the Corner Bar to move on and be converted to private seating for small functions. It is a small independent space that does not have interior access through the hotel. Part of the goal of using the space is to make it multi-functional. The curb cut-out comes in front of the proposed new entry and can support the valet operation there. The entry is meant to be modest but somewhat classic and elegant. The space will be similar in finishes to the Rugby Grill and have a capacity of about 100 people. The structural canopies will be changed from turquoise to a warm grey. He passed around the materials and colors.

Motion by Mr. Willoughby
Seconded by Mr. Coir to approve the Final Historic Sign/Design Review for 100 Townsend St., Corner Bar, as submitted.

There were no comments from the public on the motion at 7:58 p.m.

Motion carried, 6-0.

VOICE VOTE
Yeas: Willoughby, Coir, Deyer, Dukas, Henke, Trapnell
Nays: None
Absent: Weisberg

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, MAY 25, 2016
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on May 25, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Gillian Lazar, Bryan Williams (left at 9:58 p.m.); Alternate Board Member Lisa Prasad (left at 8:05 p.m.); Student Representative Colin Cusimano (left at 9 p.m.)

Absent: Board Member Janelle Whipple-Boyce; Alternate Board Member Daniel Share

Administration: Matthew Baka, Senior Planner
Sean Campbell, Asst. Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

05-95-16

SPECIAL LAND USE PERMIT ("SLUP")
FINAL SITE PLAN
100 Townsend
The Corner Bar
Request to make exterior renovations to the north and east elevations as well as interior remodel work

Mr. Campbell advised the subject site is a 1,778 sq. ft. commercial space inside the first floor of the Townsend Hotel located at the corner of Pierce St. and Merrill St. The applicant is proposing exterior renovations to the north and east elevations as well as interior work to the existing Corner Bar establishment. The applicant has indicated that the former establishment will be remodeled into a private dining and meeting venue.

The applicant is seeking approval for a SLUP pursuant to Article 6, section 6.02 which requires existing and new establishments with alcoholic beverage sales to obtain a SLUP upon a change in name or ownership of establishment, or upon application for a site plan review.

The proposed plan meets all of the setback, height and floor area requirements for a B-4 and D-4 Overlay District development. A materials board was passed around.

Design Review
The applicant is proposing to utilize the following materials for the exterior renovations:

- Benjamin Moore Gray 2121-10 paint

- Brushed stainless steel sign letters
- Sunbrella 64 Charcoal Tweed awnings
- Brass doors

Signage Review
The applicant is proposing to remove the existing sign that reads "CORNER BAR" along the valence of the northwest metal canopy and to replace it with an 8 in. tall, 19 ft. 6 in. long, brushed stainless steel name letter sign. The sign will display "THE TOWNSEND HOTEL" to match the north main entrance canopy sign. The proposed sign will be 13 sq. ft., which meets the requirements for area in accordance with Article 1, section 1.05, Table B of the Sign Ordinance.

A recess was called at 7:45 p.m. and the board reconvened at 8:15 p.m.

Ms. Ecker responded to Mr. Williams that this licensed establishment existed before the rule was changed to require SLUPs for all Liquor License establishments. Therefore, they were grandfathered in until they had a name change, an ownership change, or a site plan review trigger. In this case, they have had a name change and a site plan review trigger.

Mr. Victor Saroki, Architect, was present and along with him was Mr. Steven Kalczynski, General Manager of the Townsend Hotel. Mr. Saroki said the intent for the space is to have private dining, small functions, corporate events, and showers. The interior will be upscale and classic. There are three main spaces on the interior: the private dining area, pre-function area, and a reception area The last little space is a vestibule which is an air lock. A steel and glass door system can retract and allow two spaces to function as one larger space. The main entrance to this area will move to the west and provide an ADA compliant at-grade entry. The entrance will have brass doors, a small canopy, and topiaries on each side. The teal blue canopies and green awnings will be changed to a warm grey tweed color.

Lastly, there is a curb cut all the way down the side of Merrill St. in front of the Townsend which will allow for a valet operation.

Motion by Mr. Williams
Seconded by Mr. Koseck that based on a review of the site plans submitted, the Planning Board recommends approval of the applicant's request for Final Site Plan and a SLUP to allow the exterior and interior work for the former Corner Bar at 100 Townsend.

There were no last comments from the public at 8:20 p.m.

Motion carried, 6-0.

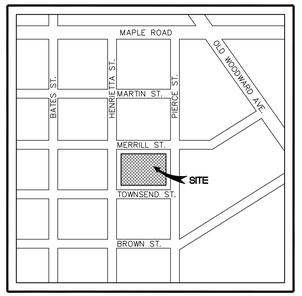
VOICE VOTE
Yeas: Williams, Koseck, Boyle, Clein, Jeffares, Lazar
Nays: None
Absent: Prasad, Share, Whipple-Boyce

INTERIOR ALTERATIONS & FACADE IMPROVEMENTS FOR:

CORNER BAR

100 Townsend Street

Birmingham, Michigan 48009



Site Location Map
Not To Scale

Scope of Work:
The following drawings refer to the exterior alteration and renovation of the existing Corner Bar at The Townsend Hotel to a private dining and meeting venue. Removal of current revolving door and adding 30sf to complete the curved corner all the way to the ground floor. New limestone border (to match existing) around new brass entry doors on W Merrill St along with a new metal canopy above. Existing metal canopies to be painted. Replace fabric on existing awnings on Pierce St and Merrill St.

Owner:
THC Investors
100 Townsend
Birmingham, MI 48009
T: 248.433.1270
Contact: David Sillman

Architect:
Saroki Architecture
430 N. Old Woodward / Suite 300
Birmingham, Michigan 48009
T: 248.258.5707
F: 248.258.5515
Contact: Victor Saroki, FAIA

Mechanical, Electrical, & Plumbing:
Design-Build Delivery

General Contractor:
Frank Rewold & Son, Inc.
333 East Second Street
Rochester, Michigan 48307
T: 248-651-7242
F: 248-651-5174
Contact: Frank Rewold

Building / Construction Information:
2012 Michigan Building Code
2012 Michigan Plumbing Code
2012 Michigan Mechanical Code
2011 National Electrical Code
2009 Michigan Uniform Energy Code
2012 Edition NFPA 101
Barrier Free Requirements per PA Act 1 of 1966 as amended, ADAAG 2010, and ICC / ANSI A117.1-2009 Edition

Use Group:
Primary: A-2 (Assembly/Restaurant) (Existing) No Change

Construction Type:
Construction Type: (Existing) No Change
Fire Protection: (Existing) No Change

Building Information:
Allowable Height:

Building Height (Existing) No Change
Zoning (Existing) No Change
Parking Requirements (Existing) No Change
Loading Space Requirements (Existing) No Change

Occupant Load:
Use Group:
Dining & Pre Function Area 1,778 GSF
Total Occupant Load for Rugby Grille 1,778 GSF / 15 Net = 118.53 ~ 119 occupants

Means of Egress: (2) 6'-0" Exterior doors facing Merrill

Sheet Index:

● REVISED
○ ISSUED FOR REFERENCE ONLY

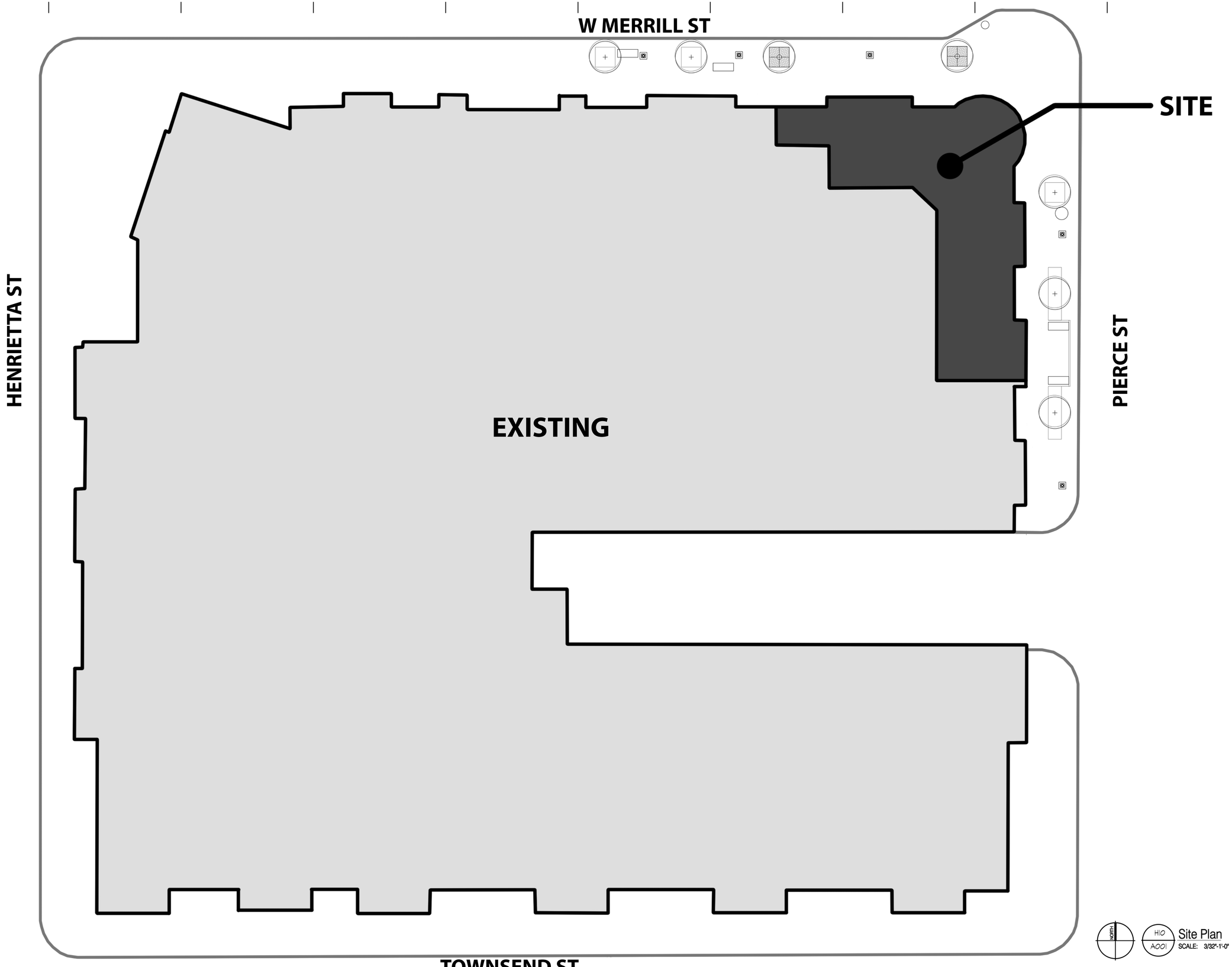
		DESIGN REVIEW BOARD 04-22-2016
A000	COVER SHEET	●
A001	SITE PLAN	●
	ARCHITECTURAL	
A100	PROPOSED FLOOR PLAN	●
A200	PROPOSED NORTH ELEVATION	●
A201	PROPOSED EAST ELEVATION	●

SAROKI ARCHITECTURE
430 N. OLD WOODWARD
BIRMINGHAM, MI 48009
P. 248.258.5707
F. 248.258.5515
SarokiArchitecture.com

Project:
Corner Bar
100 Townsend St.
Birmingham, MI 48009

Date:	Issued For:
04-22-2016	DESIGN REVIEW

Sheet No.:
A000
COVER SHEET



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ARCHITECTURE
430 N. OLD WOODWARD
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Project:

Corner Bar
100 Townsend St.
Birmingham, MI 48009

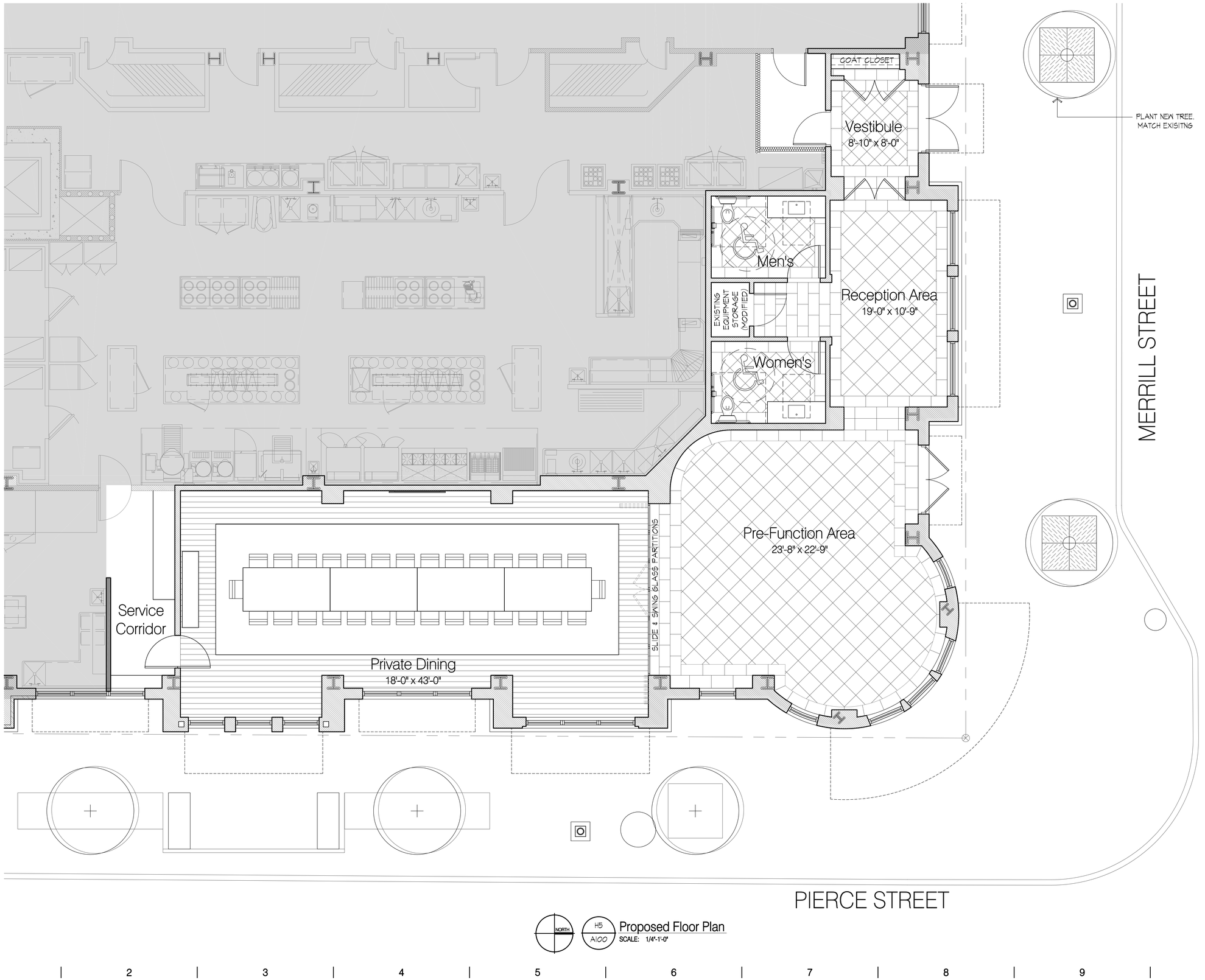
Date:	Issued For:
04-22-2016	DESIGN REVIEW

Sheet No.:

A001
Site Plan

NORTH

H10 / A001 Site Plan
SCALE: 3/32"-1'-0"



NORTH

H5 / A100 Proposed Floor Plan

SCALE: 1/4"-1'-0"

SAROKI ARCHITECTURE

430 N. OLD WOODWARD
BIRMINGHAM, MI 48009

P. 248.258.5707
F. 248.258.5515

SarokiArchitecture.com

Project:

Corner Bar
100 Townsend St.
Birmingham, MI 48009

Date: **Issued For:**

04-22-2016 DESIGN REVIEW

Sheet No.:

A100

PROPOSED FLOOR PLAN

Permanent Business Sign Standards:

PRINCIPAL BUILDING FRONTAGE	=	159'-8"
MAXIMUM ALLOWABLE SIGNAGE AREA	=	159.8 S.F.

Canopy Sign Proposed:

LENGTH AND HEIGHT OF VALANCE	=	32'-0" x 1'-3"
AREA OF VALANCE	=	40 S.F.
MAXIMUM ALLOWABLE SIGNAGE AREA	=	13.33 S.F.

Permanent Business Sign Size:

PERMANENT BUSINESS SIGN A AREA (THE TOWNSEND HOTEL CANOPY - proposed)	=	13 S.F.
PERMANENT BUSINESS SIGN B AREA (THE TOWNSEND HOTEL PLAQUE - existing)	=	4 S.F.
PERMANENT BUSINESS SIGN C AREA (THE TOWNSEND HOTEL CANOPY - existing)	=	13 S.F.
PERMANENT BUSINESS SIGN D AREA (THE TOWNSEND HOTEL PLAQUE - existing)	=	4 S.F.
TOTAL PERMANENT BUSINESS SIGN AREA	=	34 S.F.

H5 / A200 Proposed North Elevation
SCALE: 3/32"-1'-0"

SAROKI ARCHITECTURE
430 N. OLD WOODWARD
BIRMINGHAM, MI 48009
P. 248.258.5707
F. 248.258.5515
SarokiArchitecture.com

Project:

Corner Bar
100 Townsend St.
Birmingham, MI 48009

Date:	Issued For:
04-22-2016	DESIGN REVIEW

Sheet No.:

A200
Proposed North Elevation

H5 / A201 Proposed East Elevation

SCALE: 3/32"-1'-0"

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ARCHITECTURE

430 N. OLD WOODWARD
BIRMINGHAM, MI 48009

P. 248.258.5707
F. 248.258.5515

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Project:

Corner Bar
100 Townsend St.
Birmingham, MI 48009

Date:	Issued For:
04-22-2016	DESIGN REVIEW

Sheet No.:

A201

Proposed East Elevation

13-1
Summit
electric
248-689-0300
TROY, MI
USDOT 1897596

THE CORNER
877-476-8294
Licensed Limo
MICHIGAN GREEN CARS,

STOP
ALL WAY
PARK
Pierce
Street
P

THE CORNER

THE CORNER

Birmingham

THE TOWNSEND HOTEL

THE TOWNSEND HOTEL

VALET PARKING

HOTEL CHECK-IN ON TOWNSEND STREET

Forbes

NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION
SPECIAL LAND USE PERMIT AMENDMENT

Meeting Date, Time, Location:	Monday, June 27, 2016, 7:30 PM Municipal Building, 151 Martin Birmingham, MI
Location of Request:	Lavery Porsche/Audi Dealership 835-909 Haynes
Nature of Hearing:	To consider an amendment to the Special Land Use Permit and Final Site Plan to allow for the use of the first floor of 909 Haynes as offices for the Audi dealership for one year only.
City Staff Contact:	Jana Ecker 248.530.1841 jecker@bhamgov.org
Notice Requirements:	Mailed to all property owners and occupants within 300 feet of subject address. Publish June 5, 2016
Approved minutes may be reviewed at:	City Clerk's Office

Persons wishing to express their views may do so in person at the hearing or in writing addressed to City Clerk, City of Birmingham, 151 Martin, Birmingham, MI 48009.
Persons with disabilities needing accommodations 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.

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Division

DATE: June 20, 2016

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: Public Hearing for Final Site Plan & Temporary Special Land Use Permit Amendment at 835-909 Haynes, Lavery Porsche/Audi Dealership

Lavery Porsche is located at the corner of Elm and Haynes. The applicant is seeking approval for a Revised Final Site Plan and a Temporary SLUP Amendment for the existing establishment, Lavery Porsche to allow for the use of the neighboring building at 909 Haynes to be used as a temporary office for the Lavery Audi dealer. The applicant is conducting renovations to the existing Audi dealership at 34602 Woodward, and wishes to amend its existing SLUP at 835 Haynes to temporarily include 909 Haynes Street. The applicant is requesting temporary use of the first floor of 909 Haynes Street as office space and business operations for their Audi car dealership for no more than 12 months. Accordingly, the applicant is required to obtain a recommendation from the Planning Board and then approval from the City Commission for the Final Site Plan and SLUP.

On April 27, 2016, the Planning Board conducted a public hearing to discuss a request by the applicant for a Final Site Plan and Special Land Use Permit (SLUP) Amendment to allow the applicant temporary use of the first floor of 909 Haynes Street as office space and business operations for their Audi car dealership for no more than 12 months. After much discussion, the Planning Board voted to recommend approval of the Revised Final Site Plan and Temporary Special Land Use Permit Amendment for Lavery Porsche located at 835 & 909 Haynes to the City Commission with the following condition:

- Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

On May 23,2016, the City Commission subsequently set a public hearing date for June 27, 2016 to consider approval of the Revised Final Site Plan and Temporary Special Land Use Permit Amendment for Lavery Porsche to allow for the use of the first floor of 909 Haynes as offices for the Audi dealership for one year only. Please find attached the staff report presented to the Planning Board, along with the relevant meeting minutes for your review.

SUGGESTED ACTION:

To APPROVE the Revised Final Site Plan and Temporary Special Land Use Permit Amendment of one year for 835 & 909 Haynes – Lavery Porsche with the following condition:

- Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

LAVERY PORSCHE
835 & 909 HAYNES
TEMPORARY SPECIAL LAND USE PERMIT AMENDMENT
2016

WHEREAS, Lavery Porsche has applied for a Temporary Special Land Use Permit Amendment of one year to operate an Audi automobile sales agency on the first floor of the building located at 909 Haynes,

WHEREAS, The land for which the Temporary Special Land Use Permit Amendment is sought is located on the north side Haynes east of Elm,

WHEREAS, The land is zoned MU-5, Mixed Use 5, which permits automobile sales agencies with a Special Land Use Permit,

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning, requires a Special Land Use Permit Amendment 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 reviewed the proposed Temporary Special Land Use Permit Amendment request on April 27, 2016 at which time the Planning Board voted to recommend approval of the Final Site Plan and SLUP to the City Commission with the following condition:

1) Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on April 27, 2016;

WHEREAS, The Birmingham City Commission has reviewed the Lavery Porsche Temporary Special Land Use Permit Amendment application as well as the standards for such review as set forth in Article 7, section 7.34 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 the Lavery Porsche application for a Temporary Special Land Use Permit amendment is hereby approved for one year from the date of approval, subject to the attached site plan, and subject to the following conditions:

1) Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

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, Lavery Porsche 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 Lavery Porsche to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit.

I, Laura M. Pierce, 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 June 27th, 2016.

_____

Laura M. Pierce, City Clerk

City of Birmingham
A Walkable Community

MEMORANDUM

Planning Department

DATE: **April 21, 2016**

TO: **Planning Board**

FROM: **Matthew Baka, Senior Planner**

SUBJECT: **Fred Lavery Special Land Use Permit amendment (SLUP) for temporary expansion of the SLUP of 835 Haynes to include 909 Haynes Street. (All changes in Blue type)**

Executive Summary

The subject site is located at 909 Haynes St, on the north side of the street between Woodward and Elm St. The parcel is zoned B-2, General Business and MU-5 in the Triangle Overlay District. The applicant, Fred Lavery Company, owns the adjacent property to the west, 835 Haynes Street, which received a Special Land Use Permit in 2010 to operate a Porsche car dealership within the B2 Zone and MU-7 Triangle District Overlay.

The applicant is conducting renovations to the existing Audi dealership at 34602 Woodward, and wishes to amend its existing SLUP at 835 Haynes to temporarily include 909 Haynes Street. The applicant is requesting temporary use of the first floor of 909 Haynes Street as office space and business operations for their Audi car dealership for no more than 12 months. Along with the dealership, there is an existing beauty salon on the second floor of 909 Haynes Street, Spa Mariana.

Spa Mariana is classified as a beauty salon, which is a commercially permitted use in the B2 General Business District. Auto sales agencies require a Special Land Use Permit to operate in the B2 District, which can be obtained as long as long as they meet their obligations required by the City. Failure to do so can result in the revocation of their SLUP.

The Birmingham Zoning Ordinance requires that the applicant obtain a Special Land Use Permit Amendment and approval from the City Commission to expand the auto sales agency and showroom to temporarily include the property at 909 Haynes. Accordingly, the applicant will be required to obtain a recommendation from the Planning Board on the Final Site Plan and Special Land Use Permit amendment, and then obtain approval from the City Commission for the Final Site Plan and Special Land Use Permit amendment.

On March 23, 2016 the Planning Board reviewed the proposal to temporarily expand the SLUP to include 909 Haynes for one (1) year. However, at that time the architect indicated that the property owner would like the expansion to be permanent. The Planning Board and Planning Staff indicated that a permanent expansion would not be considered without the level of details normally provided for a SLUP amendment. The applicant was postponed until the April 27, 2016 meeting to allow them time to consider how they wish to proceed. The applicant has now

indicated that they intend to proceed with the temporary proposal and apply at a later date for a permanent expansion of the SLUP.

1.0 Land Use and Zoning

1.1 Existing Land Use – First floor is vacant, second floor occupant is Spa Mariana. Land uses surrounding the site are retail, commercial.

1.2 Existing Zoning – The property is currently zoned B-2, Business-Residential, and MU-5 in the Triangle 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	Office (Parmely's Paint and Body Works)	Commercial (Walgreens)	Commercial (Goodwin & Scieszka Law)	Commercial / Retail (Porsche)
Existing Zoning District	B-2, General Business	B-2, General Business	B-2, General Business	B-2, General Business
Triangle Overlay Zoning District	MU-3	MU-7/MU-5	MU-5	MU-7

1.4 Proposed Use – All proposed uses within the building are permitted in the Birmingham Triangle District as of right or with a Special Land Use Permit. At this time, the applicant is requesting approval of a SLUP Amendment for 835 Haynes to temporarily allow an auto sales agency.

2.0 Screening and Landscaping

2.1 Screening –All parking facilities must be screened in accordance with Article 4, section 4.53 of the Zoning Ordinance. A minimum 32" masonry screen wall is required. However, the Planning Board may permit landscaping as an alternative if it is determined that a permanent visual barrier is provided. The applicant is proposing to utilize the existing landscaping along the front property line as screening. At the March 23, 2016 Planning Board meeting it was determined that the existing landscaping did not provide a permanent visual barrier as

required. The applicant is now proposing to plant twenty-four (24) 32" high Box Yews along the front of the parking lot to provide a permanent visual barrier as required. A row of Yews are also proposed to be planted at the northwest corner of the site to screen the parking lot in that area.

2.2 Landscaping– The existing site has 5 planting beds along the front edge of the property with trees, green shrubs, and flower plants of various colors.

The size of the parking area exceeds 7,500 sq. ft. (approximately 14,908 sq ft), thus in order to be consistent with the Zoning Ordinance the applicant must have landscaping that equals 5% of the parking lot size. (14,908/0.05= 745 square feet of required landscaping). Measurements from aerial imagery show a total of 775 square feet for plantings at the front of the property.

Article 04 section 4.20 LA-01 states that the interior planting areas shall be located in a manner that breaks the expanse of paving throughout the parking lot interior. Each interior planting area shall be at least 150 square feet in size, and not less than 8 feet in any single dimension. **Current landscaping is only located at the front of the property, and does not break up the expanse of the parking lot interior. The Applicant must place landscaping plantings no smaller than 150 square feet, and not less than 8 feet in any single dimension throughout the parking lot in a manner that breaks the expanse of paving throughout the parking lot interior, or obtain a variance from the Board of Zoning Appeals.**

Article 04 section 4.20 LA-01 also states there shall be at least one canopy tree for each 150 square feet or fraction thereof of interior planting area required. **The applicant is required to plant 5 canopy trees (745 /150=4.9) within the parking lot area, or obtain a variance from the Board of Zoning Appeals.**

The applicant is now proposing to install the five required canopy trees and create three new landscaped areas in the interior of the parking lot. **The applicant must provide the dimensions of the landscaped areas to determine if they meet the size requirements mandated by the Zoning Ordinance.**

3.0 Parking, Loading, Access, and Circulation

3.1 Parking – The floor space plans indicate 3,500 sq. ft. for Audi office space on the first floor, as well as 3,500 sq. ft. on the second floor for Spa Mariana. In accordance with Article 4, section 4.46-PK-02 (A) of the Zoning Ordinance, the applicant is required to provide one parking space for each 300 sq. ft. of floor area of sales room plus one space for each auto service stall, not to be used for new or used car storage. For the Spa the applicant is required to provide two (2) spaces for every booth, bed, or chair; or 1 space per 300 sq ft of floor area, whichever is greater. In this case 1/300 applies. Accordingly, the applicant is required to provide 24 parking spaces (2*(3,500/300)) = 24 parking spots. The

property at 909 Haynes Street location has 36 dedicated parking spots provided (including three (3) on-street spaces).

The Zoning Ordinance requires that the 24 parking spaces required be available for employees and customers of the businesses within the 909 Haynes St building, and cannot be used as car storage for dealership inventory. Multiple photos and site visits indicate 909 Haynes Street is being used for storage of excess cars from the dealership. Site photos submitted by the applicant indicate dealership cars are being parking in the 909 Haynes Street lot as well. Please see attached photos submitted by the applicant below.

All of the proposed parking spaces meet the minimum requirement of 180 sq. ft stated in the Zoning Ordinance.

3.2 Loading – Article 4, section 4.24 LD-01 of the Zoning Ordinance requires one usable loading space for commercial uses between 5,001-20,000 square feet. The applicant is proposing 7,000 square feet of commercial use at 909 Haynes Street, therefore must provide one loading space, or obtain a variance from the Board of Zoning Appeals. The plans do not indicate a designated loading space, but the parking lot area on the north side of the building exceeds the minimum dimensions of 40 feet long, 12 feet wide and 14 feet high, and does not stop the flow of parking traffic. The plans now include the previously approved loading space directly to the east of the Porsche building.

3.3 Vehicular Access & Circulation - Vehicular access to the building will not be altered. The existing vehicular access is via two curb cuts, both on Haynes on the east and west side of the building.

3.4 Pedestrian Access & Circulation –Pedestrian access is via sidewalks along Haynes and Elm. City sidewalks will connect to a pedestrian walkway along the front of the building.

3.5 Streetscape – This site is located within the Triangle District, and in accordance with Article 3, section 3.06, the new use proposed on the site requires the site to be brought into compliance with the requirements of the Triangle Overlay District to the maximum extent practical. Walkability and streetscape are key elements within the Triangle District Urban Design Plan. The Triangle District Plan states that the sidewalk environment should accommodate ample space for pedestrians, street furniture and prominent storefronts. The Plan also states that there should be ample space for sidewalk cafés, street trees, pedestrian scale lights, benches and other elements in order to create a comfortable pedestrian experience.

The applicant is not proposing any changes to the existing streetscape. The current streetscape in front of the subject building does not match the Triangle District standard as installed on the Porsche site. The proposed use is proposed to be temporary, and the current proposal doesn't not have any implications on

the long term implementation of the Triangle plan. **However, the Planning board may want to consider whether the applicant should be required to bring the sidewalk up to the current standard that exists along the frontage of the Porsche dealership and Walgreen's across the street.**

4.0 Lighting

The applicant is not proposing any changes to the existing lighting on site. However, the Planning Division observes that the existing wall packs on the east and west side of the building do not comply with the light standards of the Zoning Ordinance as they are not full cut-off fixtures. **The Planning Division suggests that the applicant replace the existing fixtures with cut-off fixtures as required by the Birmingham Zoning Ordinance. The applicant is now proposing to replace the existing wall packs with cut-off 400w metal halide light fixtures.**

5.0 Departmental Reports

6.1 Engineering Division – No concerns were reported by the Engineering Division.

6.2 Department of Public Services – No concerns were reported from DPS.

6.3 Fire Department – No concerns were reported from the Fire Dept.

6.4 Police Department - No concerns were reported from the Police Dept.

6.5 Building Division –Standards Comments were provided by the Building Department.

6.0 Design Review

Facade
No changes to the façade are proposed.

7.0 Signage Review

The applicant has applied to add four signs to the west wall of 909 Haynes Street. This includes a 23.28 sq. ft. Audi symbol, a 6.83 sq. ft "Audi" sign, a 17.27 sq. ft. "Fred Lavery" sign, and a 20 sq. ft. "Spa Mariana" sign. On the east facing wall, one 20 sq. ft "Spa Mariana" sign is proposed. The total amount of signage proposed is 87.38 sq. ft. The 909 Haynes Street building has 40 ft. of street frontage, therefore a cumulative of 40 sq. feet of signage is allowed on site as per The City of Birmingham's Sign Ordinance, Business Sign Standards, Table B. **The applicant has been informed that they will be required to reduce the total amount of signage on the site to no more than 40 sq. ft. They have indicated that they intend to comply with the requirements of the Sign Ordinance and have asked permission to apply for sign approval administratively. The Planning Division suggests that the Planning Board require that the applicant submit a proposal that is compliant with the Sign Ordinance prior to appearing before the City Commission for final approval. The applicant has revised their signage proposal to bring the**

amount of signage down to 40 square feet. The sign proposal now complies with the regulations of the sign ordinance.

8.0 Birmingham Triangle District

The site is located within the MU-7 zone of the Triangle District. The MU-7 zone encourages mixed use, seven to nine story buildings. Auto sales agency and showrooms are permitted under within the Triangle land use matrix. The area of Elm at Haynes where this site is located is identified in the Triangle Plan as a gateway from Woodward Ave (E). The plan states *"Several small open spaces are proposed along Woodward Avenue to provide relief from the building mass and serve as gateways to the Triangle District … These open space gateways must be carefully designed with landscaping and wayfinding signage to create a welcoming effect"* (pg. 10).

As the proposed use is to be temporary, the current proposal doesn't not have any implications on the long term implementation of the Triangle plan. However, the Planning board may want to consider whether the applicant should be required to bring the sidewalk up to the current standard that exists along the frontage of the Porsche dealership and Walgreen's across the street.

9.0 Approval Criteria for Final Site Plan

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.

10.0 Approval Criteria for Special Land Use Permits

Article 07, section 7.34 of the Zoning Ordinance specifies the procedures and approval criteria for Special Land Use Permits. Use approval, site plan approval, and design review are the responsibilities of the City Commission. This section reads, in part:

> Prior to its consideration of a special land use application (SLUP) for an initial permit or an amendment to a permit, the **City Commission shall refer the site plan and the design to the Planning Board for its review and recommendation. After receiving the recommendation, the City Commission shall review the site plan and design of the buildings and uses proposed** for the site described in the application of amendment.
>
> The City Commission's approval of any special land use application or amendment pursuant to this section shall constitute approval of the site plan and design.

11.0 Suggested Action

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board RECOMMEND APPROVAL of the applicant's request for Final Site Plan and a SLUP amendment allow the expansion of the Auto sales agency and showroom at 835 Haynes to include 909 Haynes with the following conditions:

(1) Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

12.0 Sample Motion Language

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board RECOMMEND APPROVAL of the applicant's request for Final Site Plan and a SLUP amendment allow the temporary expansion of the Auto sales agency and showroom for up to one (1) year at 835 Haynes to include 909 Haynes with the following conditions:

(1) Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

OR

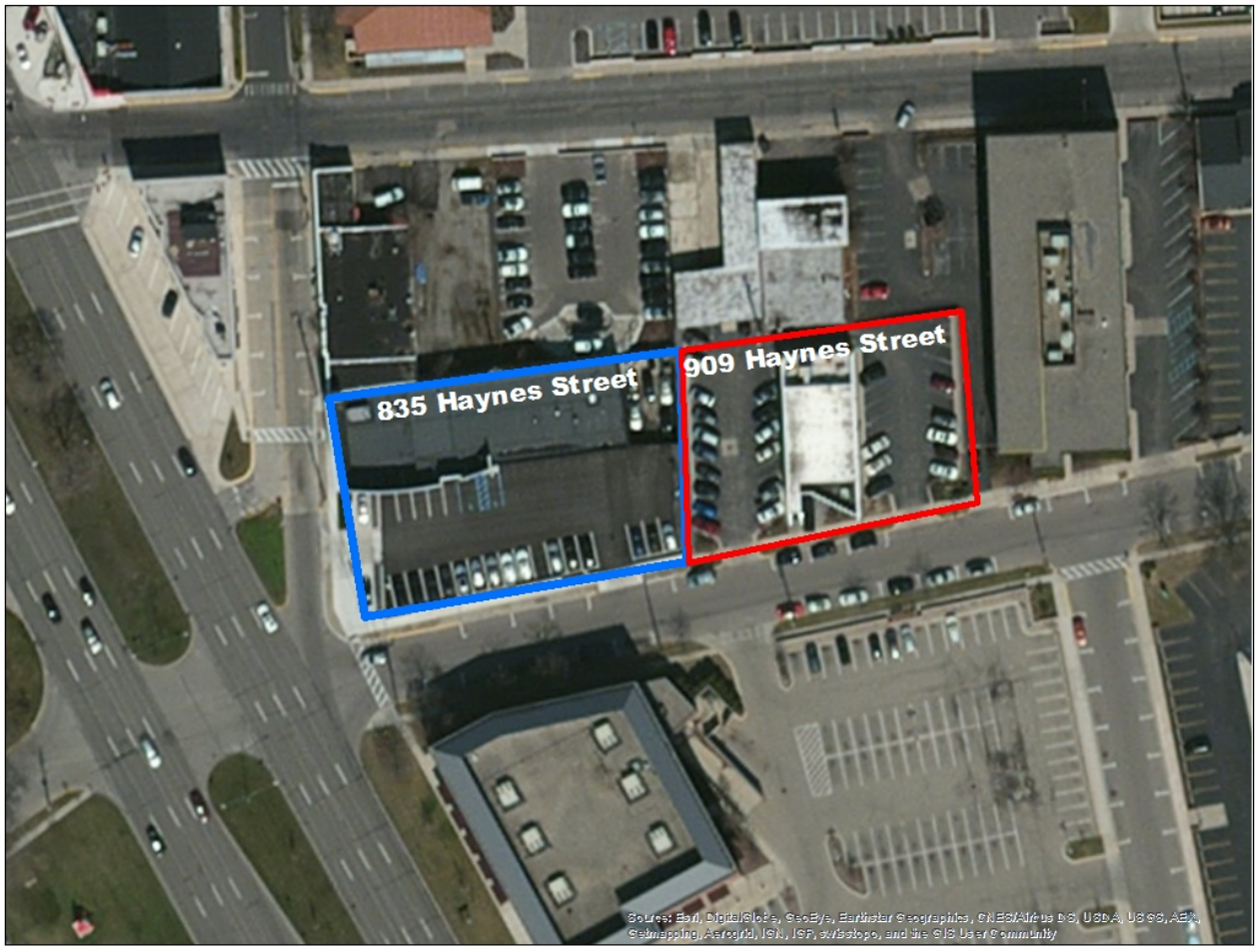
Motion to recommend DENIAL of the Final Site Plan and SLUP amendment to the City Commission for Lavery Porsche at 835 & 909 Haynes for the following reasons:

1. _____
2. _____
3. _____
4. _____
5. _____

OR

Motion to POSTPONE the Final Site Plan and SLUP amendment to the City Commission for Lavery Porsche at 835 & 909 Haynes, with the following conditions:

Aerial Image of 909 Haynes Street, Birmingham, MI 48009



Photos Submitted by Luckenbach Ziegelman Architects PLLC indicating car storage at 909 Haynes Street.

LOOKING WEST ON HAYNES ST.

VIEW FROM HAYNES ST.

Google Street View Images from August, 2015 indicating car storage at 909 Haynes Street.

909

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, SEPTEMBER 22, 2010
Commission Chamber, City Hall
151 Martin Street, Birmingham, Michigan

09-170-10

SPECIAL LAND USE PERMIT ("SLUP") REVIEW
835 Haynes St., Porsche Showroom and Sales
Request approval of a SLUP to allow an automobile sales agency in an existing building

FINAL SITE PLAN REVIEW
835 Haynes St., Porsche Showroom and Sales
Request approval of a SLUP to allow an automobile sales agency in an existing building

Mr. Baka explained the subject site is located on the east side of Woodward Ave., on the northeast corner of Haynes and Elm. The parcel is zoned B-2 Business-Residential and MU-7 in the Triangle Overlay District. The applicant, Fred Lavery Company, is seeking approval of an auto sales agency and showroom. The Birmingham Zoning Ordinance requires that the applicant obtain a SLUP and approval from the City Commission to operate an auto sales agency and showroom in the MU-7 District. ***Accordingly, the applicant will be required to obtain 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 and SLUP.***

Mr. Baka explained that the applicant is planning minimal changes to the actual site. They are basically looking at some improvements to the screening, lighting and also landscaping. The parking lot is over 7,500 sq. ft., which would kick in the 5 percent landscaping rule. However, because this area is identified as one of the gateways to the Triangle District, the Planning Division thought it would be more beneficial to pedestrians to locate the landscaping at the west end of the site on the outside of the screenwall.

The materials board was passed around for viewing.

The applicant proposes to install two name letter signs and one two-sided ground sign. The total linear building frontage is 165 ft. This permits 165 sq. ft. of sign area per the requirement of Article 1.0, section 104 (B) of the Birmingham Sign Ordinance, Combined Sign Area. The total area of all signs will be 128.59 sq. ft. which meets this requirement.

The proposed Porsche and Fred Lavery sign letters will be constructed of silver finished fabricated aluminum. The proposed Porsche ground sign will be a fabricated aluminum cabinet with an internal aluminum frame.

The Porsche name letter sign will be internally lit with 15mm red neon lamps.

The Fred Lavery name letter sign will be halo backlit with 15mm white neon tubes.
The Porsche ground sign is proposed to be internally backlit with fluorescent tubes.

Mr. Robert Ziegelman, Luckenbach Ziegelman Architects, PLLC, was present with Messrs. Lavery and Lavery; Mr. Pat Taylor from his office; along with Mr. Mark Daringowski, representing Porsche Cars North America. Mr. Ziegelman indicated they are not touching the footprint of the building. Mr. Koseck observed that floor plans would help to understand why the entry points are where they are.

Ms. Lazar arrived at this time.

Ms. Whipple-Boyce received clarification that the applicant is proposing roughly 700 sq. ft. of landscaping in the parking lot. 600 sq. ft. is required. Moving the screenwall to the inside of the landscaping would take the requirement down significantly.

Chairman Boyle suggested a Porsche display in the parking lot would be astonishingly attractive.

Mr. Fred Lavery, the owner and operator of the Porsche dealership, said they did not consider a car display because it wouldn't be seen as a result of the screenwall requirement.

Mr. Williams was not in favor of the display because it is not easy to negotiate out onto Woodward Ave. from Haynes and the display might be a distraction.

Mr. Koseck noted the existing aisles in the parking lot are 24 ft. wide and they exceed the required width by 4 ft. He thought the width could be reduced and that would allow additional room for landscaping. Further, he expected the main entrance to the building would be at the southwest corner so a pedestrian would not be forced to walk through the parking lot to enter. Mr. Lavery explained there are two pedestrian entrances. The second pedestrian entrance is also used for vehicles. He noted they adhere to the Porsche standards which they have no control over. The entire inside of the showroom is oriented towards the main entrance. Mr. Koseck then pointed out that the upper left hand section shows a thin wall that extends up, as opposed to wrapping around. The elevation that faces to the north is even thinner yet and they both look as though they were glued onto the building.

Ms. Lazar thought perhaps Porsche could offer the applicant some latitude given the fact that they are rehabbing the building.

Mr. Lavery went on to state that parking is an important part of their operation. His experience has been that the parking standards are minimal for a car dealership. They have always utilized other parking spaces in addition to those that have been required on-site.

Mr. Daringowski explained the Porsche concept of a jewel box with all of the Porsches illuminated inside that box. Their flexibility for change is minimal, but they will work with the comments that have been made tonight.

The chairman took the discussion to members of the public at 8:25 p.m.

Mr. James Ellsman, owner of the building immediately to the north, expressed his concern that this building offers no consistency with the concept of the Triangle District. At the entrance point to the Triangle District only a one-story renovated building is being considered. He asked about the longevity of the project.

Mr. Ted Mitchell, the owner of the building, verified that the term of the lease is five years.

Mr. Williams noted this is an area of at times very high traffic congestion and people driving too fast. So he is not troubled by moving access to the building away from Elm, far away from the intersection, He doesn't think that many people will actually walk to the Porsche car dealership.

Mr. Clein was not in favor of giving up on the pedestrian. Rather, implementing the streetscape improvement standards in conjunction with moving the screenwalls should be considered.

Ms. Whipple-Boyce thought that Mr. Koseck's proposal makes a lot of sense; but that said, the main entrance is further east where the interior of the building is oriented. She thinks Mr. Lavery made it clear that rather than turning the three extra parking spots that aren't required into landscaping, he needs the parking. However, she agrees that the screenwall should be moved to the interior of the parking lot so that the pedestrian side gets all of the greenery. Landscaping might look better than benches along the sidewalk.

Chairman Boyle said he is glad to see that the applicant is coming in to improve this property. A little trees and grass doesn't really help the attractiveness of this particular piece of property. Benches are to be encouraged. This dealership should be vibrant, colorful, lit at night, and have a red, shiny Porsche on display.

Mr. Williams thought the reality is that a five-story building is not going to be built on that site right now. This proposal is a significant improvement over what exists.

Motion by Mr. Williams
Seconded by Mr. Clein that the Planning Board recommends approval of the applicant's request for Final Site Plan and a SLUP to permit an auto sales agency and showroom at 834 Haynes with the following conditions:

1) **The applicant adds a canopy tree to each of the two landscaped areas;**
2) **The applicant moves the west facing screenwalls to expose the landscaped areas to the street; and**
3) **The applicant install tree grates around street trees and implement sidewalk standards along Haynes and Elm.**

Mr. Koseck reiterated that the extended fascia doesn't return on itself and he thinks it will look weird from two vantage points. Mr. Lavery indicated they will certainly suggest that to Porsche. He thinks the return on Elm St. is more critical than the return on Haynes because the building to the east screens that side of the façade. Mr. Daringowski is sitting in the audience and will ultimately be involved in that decision. Mr. Williams was not inclined to make the return on the parapets a condition of his motion.

Mr. Koseck said he will not approve the motion because there are subtle things that can be done that would make huge improvements to the plan.

Ms. Whipple-Boyce expressed her feeling that it is important for the parapets to become part of the motion because as proposed they are unlikely to be attractive to the community. She cannot support the motion without that addition.

The chairman opened discussion to the audience at 9 p.m.

Ms. Dorothy Conrad, 2252 Yorkshire, said that as a resident of the City of Birmingham she hopes that the motion will include the suggestions that have been discussed in great detail tonight. Shame on the board if it doesn't.

Motion failed, 3-3.

VOICE VOTE
Yeas: Williams, Clein, Boyle
Nays: Koseck, Lazar, Whipple-Boyce
Absent: DeWeese

Motion by Ms. Whipple-Boyce
Seconded by Ms. Lazar based on review of the site plan submitted the Planning Board recommends approval of the applicant's request for Final Site Plan and SLUP to permit an auto sales agency at 835 Haynes with the following conditions:

1) **The applicant adds a canopy tree to each of the two landscaped areas;**
2) **The applicant moves the west facing screenwalls to expose the landscaped areas to the street;**
3) **Install tree grates around street trees and implement sidewalk standards along Haynes and Elm; and**
4) **Create returns on the parapet wall on both Haynes and Elm to disguise the bracing.**

Mr. Williams indicated he would vote in favor of the motion because he thinks the project needs to move forward. Mr. Koseck did not see the urgency. He was uncomfortable because the board has not been provided with readings or a floor plan.

There were no final comments from members of the public at 9:05 p.m.

Mr. Ziegelman said they would be more than happy to discuss improvements with staff.

Motion carried, 5-1.

VOICE VOTE
Yeas: Whipple-Boyce, Lazar, Boyle, Clein, Williams
Nays: Koseck
Absent: DeWeese

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, MARCH 23, 2016
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on March 23, 2016. Board Member Robin Boyle convened the meeting at 7:33 p.m.

Present: Board Members Robin Boyle, Stuart Jeffares, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Lisa Prasad, Daniel Share

Absent: Chairman Scott Clein; Board Members Bert Koseck, Gillian Lazar; Student Representative Colin Cusimano

Administration: Matthew Baka, Senior Planner
Brooks Cowan, Planning Intern
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

03-52-16

SPECIAL LAND USE PERMIT ("SLUP") REVIEW
FINAL SITE PLAN REVIEW
835 - 909 Haynes St., Fred Lavery Porsche/Audi
Request for a SLUP Amendment to allow the temporary expansion of the existing SLUP at 835 Haynes St. to include 909 Haynes St. to allow an Audi sales facility for a maximum of one year.

The subject site is located on the north side of the street between Woodward Ave. and Elm St. The parcel is zoned B-2 General Business and MU-5 in the Triangle Overlay District. The applicant, Fred Lavery Co., owns the adjacent property to the west, 835 Haynes St., which received a SLUP in 2010 to operate a Porsche car dealership within the B-2 Zone and in the MU-7 Triangle District Overlay.

Mr. Baka advised that the applicant is conducting renovations to the existing Audi dealership at 34602 Woodward Ave., and wishes to amend its existing SLUP at 835 Haynes St. to temporarily include 909 Haynes St. The applicant is requesting temporary use of the first floor of 909 Haynes St. for office space and business operations for their Audi car dealership for no more than 12 months. Along with the proposed auto dealership sales office, there is an existing beauty spa on the second floor of 909 Haynes St.

Auto sales agencies require a SLUP to operate in the B-2 District. The Birmingham Zoning Ordinance requires that the applicant obtain a SLUP Amendment and approval from the City Commission to expand the auto sales agency and showroom to temporarily include the property at 909 Haynes St. Accordingly, the applicant will be

required to obtain a recommendation from the Planning Board on the Final Site Plan and SLUP Amendment, and then obtain approval from the City Commission for the Final Site Plan and SLUP Amendment.

No new screening is proposed. The applicant is proposing to utilize the existing landscaping along the front property line as screening for the parking lot. All parking facilities must be screened in accordance with Article 4, section 4.53 of the Zoning Ordinance. A minimum 32 in. masonry screenwall is required. The ordinance does grant the Planning Board authority to approve landscaping in place of a screenwall.

Article 04 section 4.20 LA-01 states that the interior planting areas shall be located in a manner that breaks the expanse of paving throughout the parking lot interior. Each interior planting area shall be at least 150 sq. ft. in size, and not less than 8 ft. in any single dimension. Current landscaping is only located at the front of the property, and does not break up the expanse of the parking lot interior. ***The applicant must place landscaping plantings no smaller than 150 sq. ft., and not less than 8 ft. in any single dimension throughout the parking lot in a manner that breaks the expanse of paving throughout the parking lot interior, or obtain a variance from the Board of Zoning Appeals ("BZA").***

Article 04 section 4.20 LA-01 also states there shall be at least one canopy tree for each 150 sq. ft. or fraction thereof of interior planting area required. ***The applicant is required to plant five canopy trees (745 /150=4.9) within the parking lot area, or obtain a variance from the BZA.***

Design Review
No changes to the facade are proposed.

Signage Review
The applicant has applied to add four signs to the west wall of 909 Haynes St. This includes a 23.28 sq. ft. Audi symbol, a 6.83 sq. ft "Audi" sign, a 17.27 sq. ft. "Fred Lavery" sign, and a 20 sq. ft. "Spa Mariana" sign. On the east facing wall, one 20 sq. ft "Spa Mariana" sign is proposed. The total amount of signage proposed is 87.38 sq. ft. The 909 Haynes St. building has 40 ft. of street frontage; therefore a cumulative of 40 sq. ft. of signage is allowed on site as per the Birmingham Sign Ordinance, Business Sign Standards, Table B. **The applicant has been informed that they will be required to reduce the total amount of signage on the site to no more than 40 sq. ft.** They have indicated that they intend to comply with the requirements of the Sign Ordinance and have asked permission to apply for sign approval administratively. **The Planning Division suggests that the Planning Board require that the applicant submit a proposal that is compliant with the Sign Ordinance prior to appearing before the City Commission for final approval.**

Mr. Share indicated he is having trouble conceptualizing where interior plantings would go in a parking lot with this configuration, other than perhaps in the far right corner. Mr. Baka responded that requirement is part of Article 4 Development Standards. Chairman Boyle did not think landscaping in the middle of the parking lot makes sense; but he did think screening, preferably a wall, would be appropriate.

Mr. Bob Ziegelman, Luckenbach Ziegelman Architects, clarified that the temporary use is for office space for the dealership. He assumed the SLUP itself would be permanent. Mr. Baka responded the request was for a 12 month temporary SLUP. Ms. Ecker added that right now the SLUP only includes the Porsche site. This request would expand it to include the 909 Haynes St. building only for a period for up to one year. Mr. Lavery had told the City he only needed to use that site for a period of approximately nine months while renovations are going on at the Woodward Ave. site. Mr. Ziegelman explained that his belief was that Mr. Lavery was seeking a permanent SLUP and the board should consider that request. Mr. Baka replied that the application form did not request approval for a permanent SLUP. Ms. Ecker also stated that the request was noticed as a temporary SLUP and thus could not be amended to a request for a permanent SLUP without be renoticed in the newspaper and to the surrounding property owners.

Chairman Boyle said that in order to grant a permanent SLUP the Planning Board would need to see a site plan indicating the permanent use of the building. Mr. Ziegelman indicated there is nothing planned now. Mr. Share explained they cannot have a permanent SLUP in the abstract. It must be linked to a permanent use. If they have no idea what the permanent use is, there is no reason to apply for a permanent SLUP.

Consensus was that Mr. Ziegelman should talk to Mr. Lavery in order to clarify his intention.

Motion by Mr. Williams
Seconded by Mr. Share to postpone consideration of the Special Land Use Permit Review and Final Site Plan Review for 835 - 909 Haynes St., Fred Lavery Porsche/Audi to April 27, 2016.

There were no comments from the public at 9:10 p.m.

Motion carried, 6-0.

VOICE VOTE
Yeas: Williams, Share, Boyle, Jeffares, Prasad, Whipple-Boyce
Nays: None
Absent: Clein, Koseck, Lazar

CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, APRIL 27, 2016
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on April 27, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Gillian Lazar, Lisa Prasad, Janelle Whipple-Boyce; Student Representative Colin Cusimano

Absent: Board Member Bryan Williams; Alternate Board Member Daniel Share

Administration: Matthew Baka, Senior Planner
Brooks Cowan Asst. Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

04-73-16

UNFINISHED BUSINESS
Special Land Use Permit ("SLUP") Review
Final Site Plan Review
835-909 Haynes
Fred Lavery Porsche/Audi
Request for a SLUP Amendment to allow the temporary expansion of the existing SLUP at 835 Haynes to include 909 Haynes to allow an Audi sales facility for a maximum of one year. (postponed from March 23, 2016)

Mr. Baka noted the subject site is located on the north side of the street between Woodward Ave. and Elm St. The parcel is zoned B-2 General Business and MU-5 in the Triangle Overlay District. The applicant, Fred Lavery Co., owns the adjacent property to the west, 835 Haynes St., which received a SLUP in 2010 to operate a Porsche car dealership within the B-2 Zone and MU-7 in the Triangle District Overlay.

The applicant is conducting renovations to the existing Audi dealership at 34602 Woodward Ave., and wishes to amend its existing SLUP at 835 Haynes St. to temporarily include 909 Haynes St. while the building on Woodward Ave. is being renovated. The applicant is requesting temporary use of the first floor of 909 Haynes St. for office space and business operations for their Audi car dealership for no more than 12 months. Along with the dealership, there is an existing beauty spa on the second floor of 909 Haynes St., Spa Mariana.

The Birmingham Zoning Ordinance requires that the applicant obtain a SLUP Amendment and approval from the City Commission to expand the auto sales agency and showroom to temporarily include the property at 909 Haynes St.. Accordingly, the applicant will be required

to receive a recommendation from the Planning Board on the Final Site Plan and SLUP Amendment, and then obtain approval from the City Commission for the Final Site Plan and SLUP Amendment.

On March 23, 2016 the Planning Board reviewed the proposal to temporarily expand the SLUP to include 909 Haynes for one year. However, at that time the architect indicated that the property owner would like the expansion to be permanent. The Planning Board and Planning Staff indicated that a permanent expansion would not be considered without the level of details normally provided for a SLUP Amendment. The applicant was postponed until the April 27, 2016 meeting to allow them time to consider how they wished to proceed. The applicant has now indicated that they intend to proceed with the temporary proposal and apply at a later date for a permanent expansion of the SLUP.

The applicant is now proposing to install the five (5) required canopy trees and create three (3) new landscaped areas in the interior of the parking lot. The applicant must provide the dimensions of the landscaped areas to determine if they meet the size requirements mandated by the Zoning Ordinance.

The applicant is not proposing any changes to the existing streetscape. The current streetscape in front of the subject building does not match the Triangle District standard as installed on the Porsche site.

The design for the building on Woodward Ave. has been approved by the Design Review Board and the applicant is getting ready to start the renovations.

Design Review
No changes to the facade are proposed.

Signage Review
The 909 Haynes St. building has 40 ft. of street frontage; therefore a total of 40 sq. ft. of signage is allowed, per the City of Birmingham's Sign Ordinance. The applicant has revised their signage proposal to bring the amount of signage down to 40 sq. ft. so that it complies with the regulations of the Sign Ordinance.

Ms. Ecker explained that because there were violations going on with the storage of vehicles, Code Enforcement went out, but enforcement activities have been put on hold until it is determined if the temporary SLUP is feasible.

Mr. Fred Lavery noted they will not display cars in the building; it will only contain offices for the sales staff and sales manager. They will probably park their demonstrators in the spaces that are not required to meet the parking requirement for the building. The Audi building on Woodward Ave. is being renovated to Audi's current corporate image.

Chairman Clein called for public comments at 8:32 p.m.

Mr. James Ellsman business owner at 635 Elm, asked if the approval of an amended SLUP is a guarantee that the Triangle District restrictions against car dealerships is waived. Ms. Ecker clarified the Triangle District doesn't prohibit the use for car sales agencies, but it only allows it

with the strict control and regulation of a SLUP because of the potential impact on the neighborhood. In this case the car dealership is only requesting approval for a period of one year.

Mr. Koseck commented that this is not his vision for the Triangle District. By granting this request it takes the property out of contention for other developments over the next 12 months. After the temporary SLUP amendment has expired he will not support this because the property has a higher and better use. Mr. Lavery responded that a seven story building cannot be constructed on this property without public parking. Only when public parking becomes available will there be a higher and better use for this property. Therefore, the proposed use bridges the gap so he doesn't have a $7 or $8 million investment that produces no visible revenue stream until public parking gets approved and constructed.

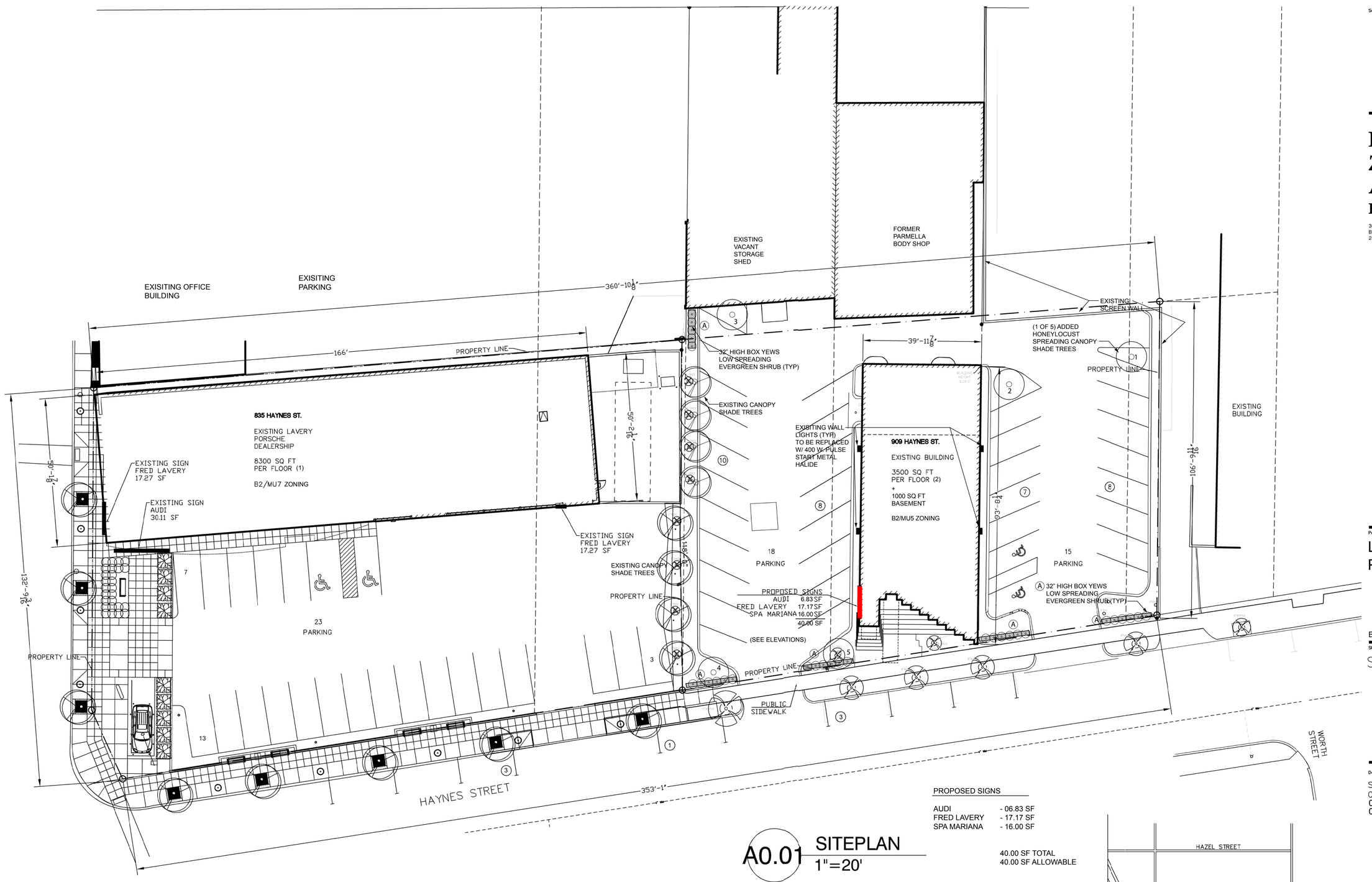
Motion by Ms. Whipple-Boyce
Seconded by Mr. Boyle that based on a review of the site plans submitted, the Planning Board recommends approval of the applicant's request for Final Site Plan and a SLUP Amendment to the City Commission to allow the temporary expansion of the auto sales agency and showroom for up to one (1) year at 835 Haynes to include 909 Haynes with the following condition:

- **Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.**

There were no comments on the motion from members of the audience at 8:40 p.m.

Motion carried, 7-0.

ROLLCALL VOTE
Yeas: Whipple-Boyce, Boyle, Clein, Jeffares, Koseck, Lazar, Prasad
Nays: None
Absent: Williams



A0.01 SITEPLAN
1"=20'

PROPOSED SIGNS

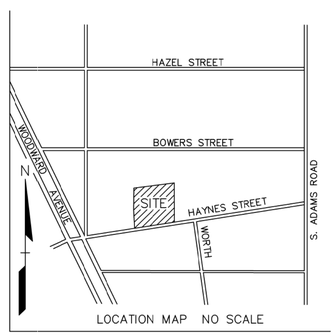
AUDI	- 06.83 SF
FRED LAVERY	- 17.17 SF
SPA MARIANA	- 16.00 SF
	40.00 SF TOTAL
	40.00 SF ALLOWABLE

TOTAL SITE AREA

45,000 TOTAL SQ FT

REQUIRED PARKING

EXISTING LAVERY PORSCHE	- 25 SPACES REQUIRED
	- 27 SPACES PROVIDED
909 HAYNES	
3500 SF / 300 SF	- 12 SPACES REQUIRED
AUDI SALES OFF	- 18 SPACES PROVIDED
3500 SF / 300 SF	- 12 SPACES REQUIRED
SPA MARIANA	- 18 SPACES PROVIDED
TOTAL REQ'D	- 49 SPACES
TOTAL PROVIDED	- 63 SPACES



Seal

Luckenbach Ziegelman Architects PLLC

36800 Woodward Suite 100
Bloomfield Hills, Michigan 48304
248.644.0600

Project
LAVERY PORSCHE

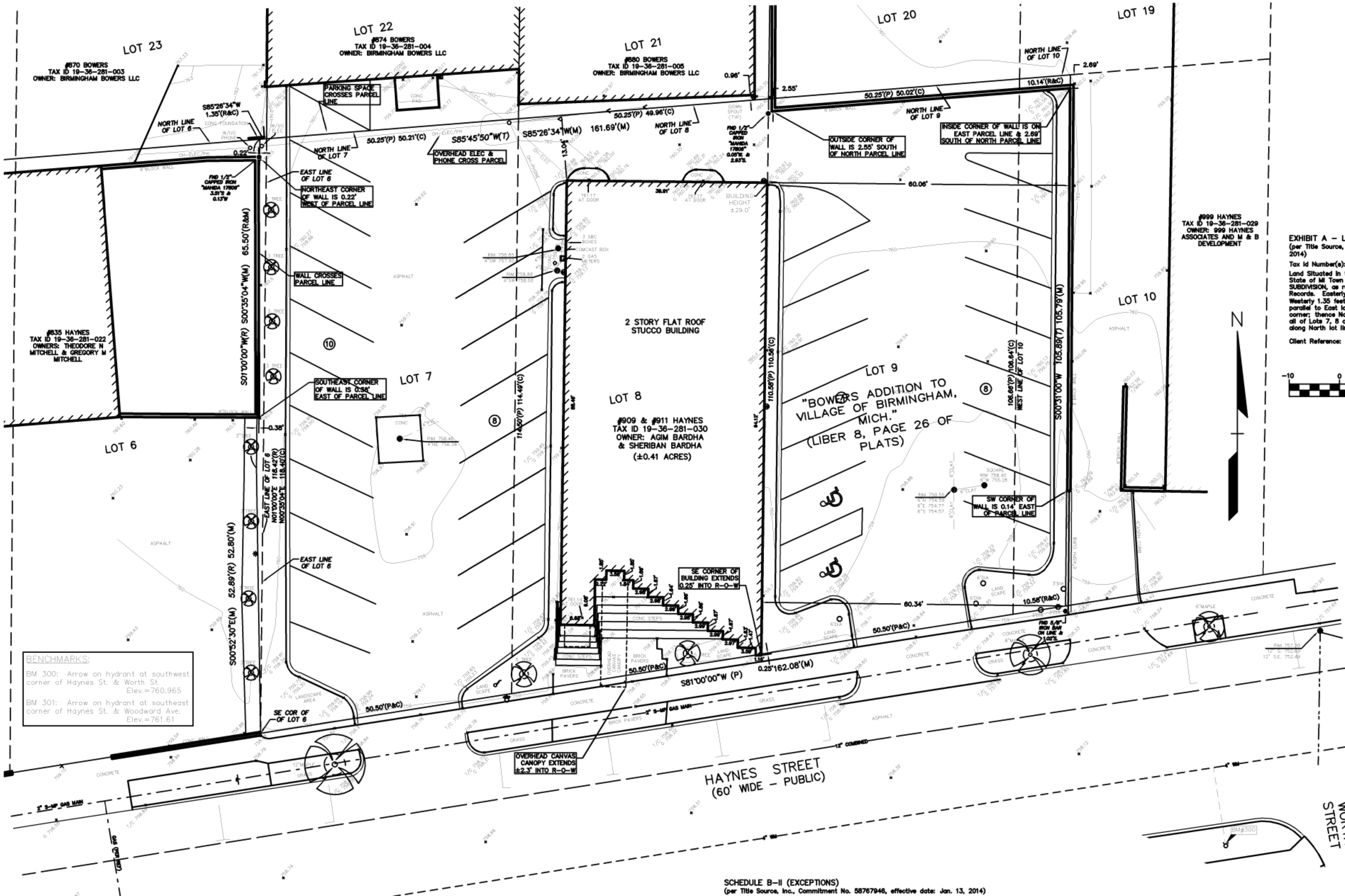
BIRMINGHAM, MI.

Sheet Title
SITE PLAN

Date Issued
SLUP SUBMISSION
02.01.16
02.12.16
04.13.16

Project Number

Sheet Number
A0.01



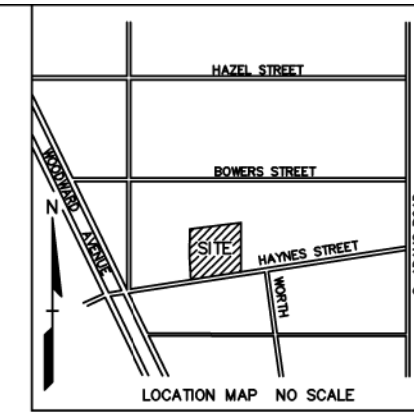


EXHIBIT A – LEGAL DESCRIPTION
(per Title Source, Inc., Commitment No. 58767946, effective date: Jan. 13, 2014)

Tax Id Number(s): 19-36-281-030

Land Situated in the City of Birmingham in the County of Oakland in the State of MI Town 2 North, Range 10 East, Section 36, BOWERS ADDITION SUBDIVISION, as recorded in Liber 8, Page 26 of Plats, Oakland County Records. Easterly part of Lot 6 beginning at Northeast lot corner; thence Westerly 1.35 feet along North lot line, thence S01°00'00"W, 65.50 feet parallel to East lot line; thence Southeasterly 52.89 feet to Southeast lot corner; thence Northerly 118.42 feet along East lot line to beginning; ALSO all of Lots 7, 8 and 9, also Westerly part of Lot 10 measures 10.14 feet along North lot line and 10.58 feet along South lot line.

Client Reference: 907 & 911 Haynes St. , Birmingham, MI 48009

GRAPHIC SCALE

-10 0 5 10 20 40

(IN FEET)
1 inch = 10 ft.

LEGEND

- IRON FOUND
- IRON SET
- NAIL FOUND
- NAIL & CAP SET
- SEC. CORNER FOUND

R RECORDED
M MEASURED
C CALCULATED
P PLAT
T TAX

EXISTING

- ELEC, PHONE OR CABLE TV O.H. LINE, POLE & GUY WIRE
- UNDERGROUND CABLE TV, CATV PEDESTAL
- TELEPHONE U.G. CABLE, PEDESTAL & MANHOLE
- ELECTRIC U.G. CABLE, MANHOLE, METER & HANDHOLE
- GAS MAIN, VALVE & GAS LINE MARKER
- WATERMAIN, HYD., GATE VALVE, TAPPING SLEEVE & VALVE
- SANITARY SEWER, CLEANOUT & MANHOLE
- STORM SEWER, CLEANOUT & MANHOLE
- COMBINED SEWER & MANHOLE
- CATCH BASIN
- INLET (NO INCOMING LINES)
- YARD DRAIN (2' DIA. & SMALLER)
- POST INDICATOR VALVE
- WATER VALVE BOX/HYDRANT VALVE BOX, SERVICE SHUTOFF
- MAILBOX, TRANSFORMER, IRRIGATION CONTROL VALVE
- UNIDENTIFIED STRUCTURE
- SPOT ELEVATION
- CONTOUR LINE
- FENCE
- GUARD RAIL
- LIGHT POLE
- SIGN
- CONCRETE
- ASPHALT
- PARKING COUNT

BENCHMARKS:

BM 300: Arrow on hydrant at southwest corner of Haynes St. & Worth St. Elev.=760.965

BM 301: Arrow on hydrant at southeast corner of Haynes St. & Woodward Ave. Elev.=761.61

FEMA FLOOD ZONE NOTE

BY GRAPHICAL DETERMINATION ONLY, SUBJECT PROPERTY IS WITHIN ZONE X, "AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN" ACCORDING TO THE FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 26125C0537F DATED SEPTEMBER 29, 2006.

SURVEY NOTES:

A. The subject parcel contains ±18,033 squ. feet, (±0.41 acres) of land, gross.

B. The subject parcel contains 33 parking spaces, including 2 handicapped spaces. The parking space at the northwest corner of the site was not counted since it is only half on the subject parcel.

C. At the time of survey there was no observed evidence of site use as a solid waste dump or sanitary landfill.

D. There is no visual evidence of current earth moving work, building construction, or building additions on the subject parcel at the time of this survey.

E. At the time of the survey there was in excess of 18 inches of snow on the ground, some features may have been obscured and may not be depicted.

F. Current zoning classification and building setback requirements, height and floor space restrictions as set forth in that classification, were not provided by the insurer, as required for certification to item 6(a) & 6(b) of the Table A, Optional Survey Responsibilities and Specifications included in the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys

SCHEDULE B-II (EXCEPTIONS)
(per Title Source, Inc., Commitment No. 58767946, effective date: Jan. 13, 2014)

If a policy or policies are requested, Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the Effective Date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by the report.
2. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
3. Rights or claims of parties in possession not shown by the Public Records.
4. Easements or claims of easements not shown by the Public Records.
5. Any lien or rights to lien for services, labor or material, heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
6. Taxes and assessments that have become a lien against the property but are not yet due and payable. The Company assumes no liability for tax increases occasioned by retroactive revaluation, changes in the land usage or loss of any exemption status for the insured premises.
7. Rights of tenants now in possession of the land under unrecorded leases or otherwise.
8. Any provision contained in any instruments of record, which provisions pertain to the transfer of divisions under Section 109(3) of the Subdivision Control Act of 1967, as amended.

NOTE: In the event that the Commitment Jacket is not attached hereto, all of the terms, conditions and provisions contained in said Jacket are incorporated herein.

NOTE: The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the amount, if any, set forth in the arbitration, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as exclusive remedy of the parties. Arbitration is voluntary and non-binding.

SURVEYORS CERTIFICATION

To: Title Source, Inc.
Lavery Michigan Dealership Properties No. 1, LLC, a Michigan limited liability company
Agim Bardha and Sheriban Bardha, his wife
Fred Lavery Company

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 2, 3, 4, 7(a), 7(c), 8, 9, 11(a), 13, 16 and 18 of Table A thereof. The field work was completed on February 24, 2014.

David A. Nord, PS No. 56501
Agent for Professional Engineering Associates, Inc.

Date

No.	BY	CHK	DESCRIPTION	DATE

REVISIONS

CAUTION!!
THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.

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website: www.peainc.com

LAVERY MICHIGAN DEALERSHIP PROPERTIES No.1 LLC
34602 WOODWARD AVENUE BIRMINGHAM, MICHIGAN - 48009

ALTA/ACSM LAND TITLE SURVEY
909 & 911 HAYNES
PART OF THE NE 1/4 OF SECTION 36, T. 02N., R. 10E., CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN

DES.	N/A	DN.	DN	SUR.	FC	P.M.	JPB

ORIGINAL
ISSUE DATE: MARCH 3, 2014

PEA JOB NO. 2014-014

SCALE: 1" = 10'

DRAWING NUMBER:
1

STRUCTURE TABLE

1. STORM CATCH BASIN
   RIM = 758.14
   6" VCP W INV = 755.58
2. STORM CATCH BASIN
   RIM = 758.13
   6" VCP INV E = 754.93
3. WATER MH
   RIM = 757.99
   TOP OF PIPE = 754.64
4. SANITARY MH
   RIM = 757.83
   48" CONC N INV = 746.13
   48" CONC S INV = 745.83
   48" CONC W INV = 746.23
5. STORM CATCH BASIN
   RIM = 757.51
   12" PVC S INV = 754.88
6. STORM MH
   RIM = 757.56
   12" PVC N INV = 754.56
   12" CONC W INV = 752.71
   12" CONC S INV = 752.76
7. STORM CATCH BASIN
   RIM = 757.57
   12" CONC N INV = 753.32
8. COMBINED S/ST MH
   RIM = 758.86
   48" CONC N INV = 747.41
   48" CONC S INV = 746.66
   8" VCP NE INV = 751.51
   12" CONC W INV = 753.26

SITE BENCHMARK NGVD 88 DATUM

SBM 201 = 760.84
ARROW ON HYDRANT
SSE COR HAYNES & WOODWARD

SBM 200 = 760.79
TOP OF IRON IN
4" CONC MON
NE COR BOWERS & ELM

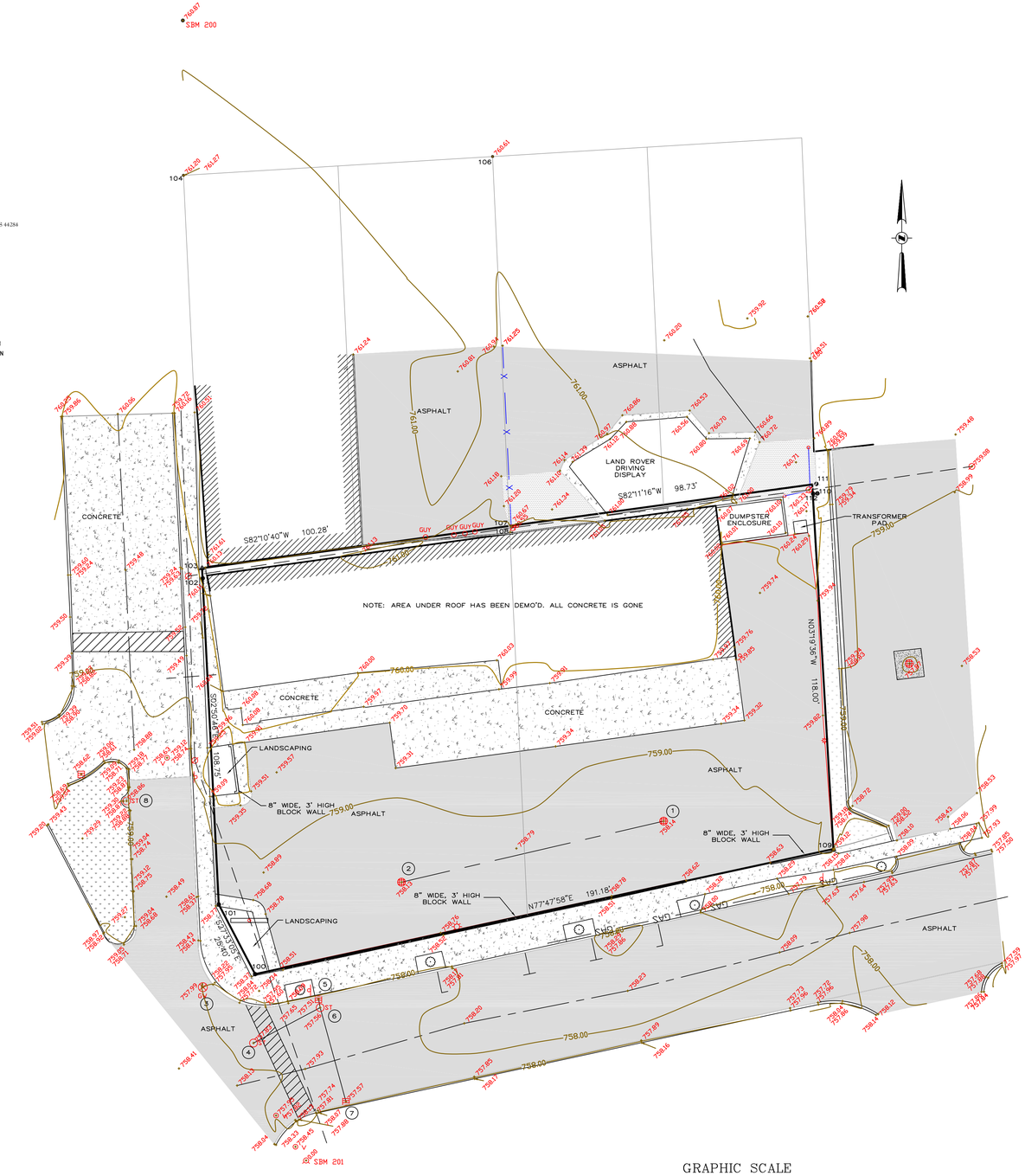
PROPERTY CORNER TABLE

100 = 1/2" FIR
MAHIDA 17806
101 = 1/2" FIR IN WALK
102 = 1/2" FIR
MAHIDA 17806
103 = F/MAG IN WALK
104 = 1/2" FIR
TIGHE 27462
105 = 1/2" FIR
TIGHE 27462
106 = 1/2" FIR
MAHIDA 17806
107 = 1/2" FIR
MAHIDA 17806
108 = 1/2" FIR
TIGHE 27462
109 = F/MAG NAIL IN WALL
110 = 1/2" FIR
MAHIDA 17806
111 = 1/2" FIR
MAHIDA 17806
112 = 1/2" FIR
TIGHE 27462

EXISTING FEATURES LEGEND

- MAG - "MAG" NAIL
- SIR - SET IRON ROD & CAP PLS 44284
- FIR - FOUND IRON ROD
- MON - MONUMENT
- DECIDUOUS TREE
- CONIFER TREE
- SOIL EVALUATION DIG
- SURVEY TRAVERSE POINT
- SIGN
- UTILITY POLE
- LIGHT POLE
- SANITARY SEWER MANHOLE
- STORM SEWER MANHOLE
- STORM SEWER ROUND CATCH BASIN
- STORM SEWER SQUARE CATCH BASIN
- TELEPHONE PEDESTAL
- HYDRANT
- GATE VALVE
- GATE VALVE & WELL
- CLEANOUT
- GAS RISER/VALVE
- GUY ANCHOR
- GAS METER
- ELECTRIC METER
- GAS VALVE
- MONITORING WELL
- MAIL BOX
- BOLLARD
- WATER VALVE
- UNDERGROUND GAS
- UNDERGROUND TELEPHONE
- STORM SEWER
- WATER MAIN
- SANITARY SEWER
- UNDERGROUND ELECTRIC
- OVERHEAD CABLE
- OVERHEAD ELECTRIC
- OVERHEAD TELEPHONE
- TOP OF SLOPE
- SBM SITE BENCH MARK

- ASPHALT
- CONCRETE
- GRAVEL
- GRASS



GRAPHIC SCALE

20 0 10 20 40 80

(IN FEET)
1 inch = 20 ft.

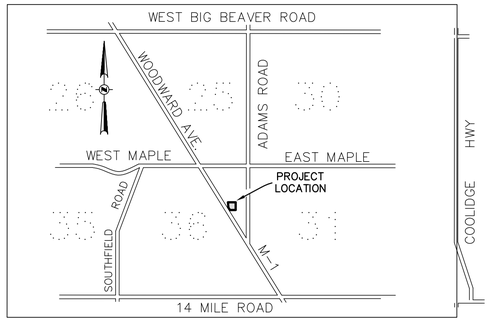
ZONING CLASSIFICATION

THE SUBJECT PROPERTY IS CLASSIFIED AS B2/MU-7 – GENERAL BUSINESS MIXED USE 7.
ZONING INFORMATION SHOWN BELOW WAS TAKEN FROM:
BIRMINGHAM, Michigan, TRIANGLE DISTRICT OVERLAY - ARTICLE 3.08, PARAGRAPH C.
SETBACKS:
FRONT – 0' MINIMUM
SIDE – A ZERO SIDE SETBACK WITH WALLS FACING SIDE LOT LINE THAT DO NOT CONTAIN WINDOWS.
SIDE – 10' FOR WALL THAT CONTAIN WINDOWS
REAR – N/A

MAXIMUM HEIGHT OF BUILDINGS:
34' AND 3 STORIES MINIMUM.
90' AND 7 STORIES MAXIMUM.
FOR SLOPED ROOFS, THE EAVE LINE SHALL BE NO MORE THAN 82 FEET AND THE ROOF PEAK SHALL BE NO MORE THAN 94 FEET.
ADDITIONAL 24 FEET AND/OR 2 STORIES OF BUILDING HEIGHT ALLOWED IF REQUIREMENTS OF SUBSECTION E ARE MET.
THE FIRST STORY SHALL BE A MINIMUM OF 14 FEET IN HEIGHT, FLOOR TOFLOOR.

LEGAL DESCRIPTION

Lot 3 EXCEPT that part taken for HIGHWAY, all of Lot 4 and 5, Also Lot 6 EXCEPT E'ly, part beginning at the N.E. Lot Corner, thence West 1.35 ft. along North Lot Line, thence S'ly 65.50 ft. parallel to the East Lot Line; thence S.E'ly 52.89 ft. to the S.E. Lot Corner, thence N'ly along Lot Line to the point of beginning; BOWER'S ADDITION to the City of Birmingham, Oakland County, Michigan. Plat recorded in LIBER 8, PAGE 26, Oakland County, Michigan. SUBJECT to easements and restrictions of record. Said property is not within the limits of a flood plain.



LOCATION MAP
NOT TO SCALE

ENGINEERS · SURVEYORS · CONSULTANTS · LANDSCAPE ARCHITECTS · LAND PLANNERS
P.O. BOX 1039
SOUTH GRAND AVE.
FOWLERVILLE, MICHIGAN 48836
(OFFICE) 517-223-3512
(FAX) 517-223-9987

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CLIENT :
LUCKENBACH/ZIEGLMAN ARCH, PLLC
36800 WOODWARD AVE
SUITE 1000
BLOOMFIELD HILLS, MI 48304
248-644-0600

TOPOGRAPHICAL SURVEY

835 HAYNES
BIRMINGHAM, MICHIGAN

DATE

REVISIONS

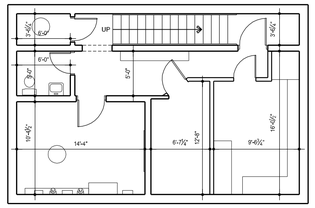
CONT. INT.: 1 FOOT
FIELD : ND-MB
V. SCALE :NA

SCALE: 1"=20'

JOB# : 11-016

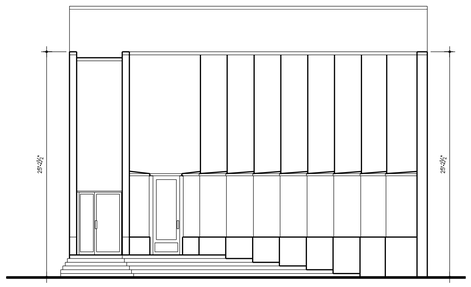
DRWG. by : AWP
CHECK : AP
DATE : 3-31-11
FILE : 11-016TOPO.DWG
SHEET : 1 OF 1

1



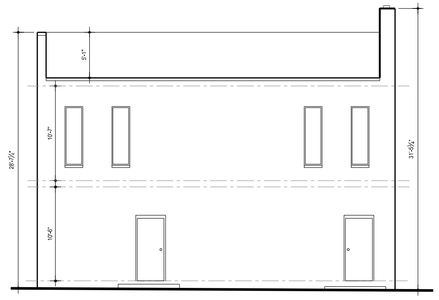
909-911 Haynes St - Basement Floor Plan

Date: 2-25-14 Scale: 1/8" = 1'-0"



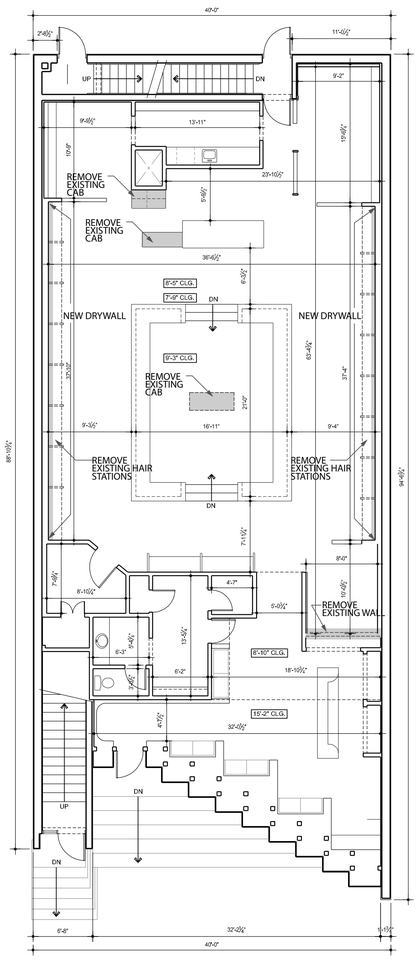
909-911 Haynes St - Front Elevation

Date: 2-25-14 Scale: 1/8" = 1'-0"



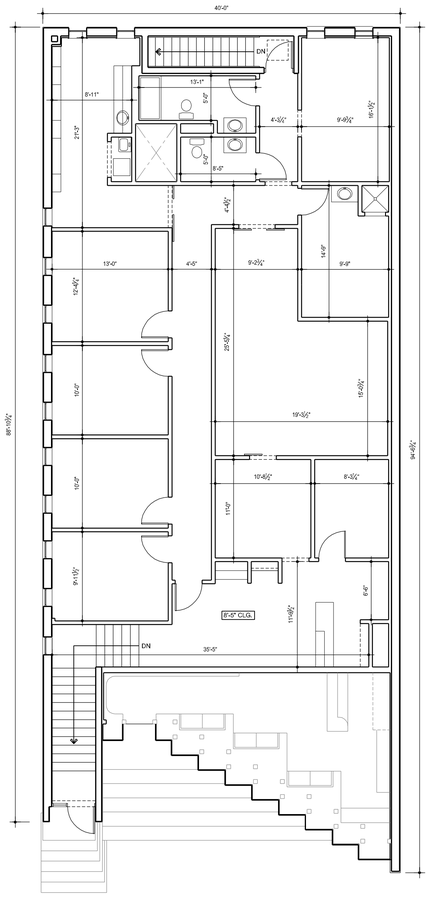
909-911 Haynes St - Rear Elevation

Date: 2-25-14 Scale: 1/8" = 1'-0"



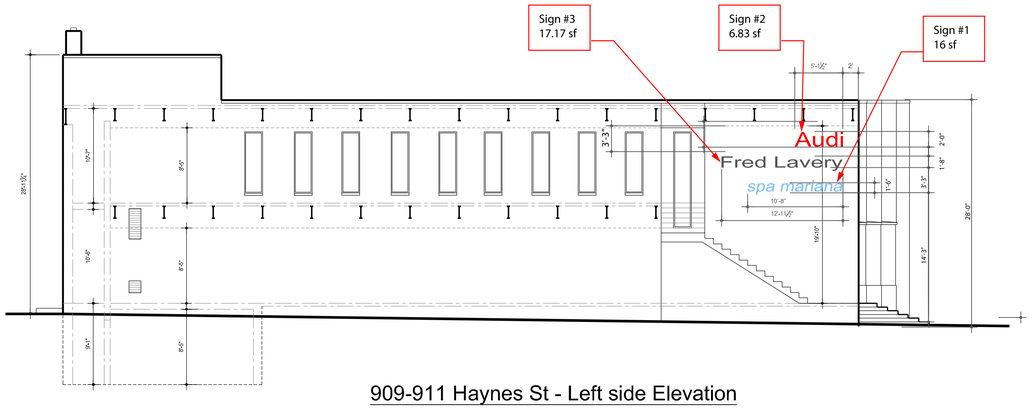
Demolition - First Floor Plan

Date: 2-25-14 Scale: 1/8" = 1'-0"



909-911 Haynes St - Second Floor Plan Existing

Date: 2-25-14 Scale: 1/8" = 1'-0"



909-911 Haynes St - Left side Elevation

Date: 2-25-14 Scale: 1/8" = 1'-0"

909-911 Haynes St - Right side Elevation

Date: 2-25-14 Scale: 1/8" = 1'-0"

Seal

Luckenbach Ziegelman Architects PLLC

36800 Woodward Suite 100
Bloomfield Hills, Michigan 48304
248.644.0600

Project

LAVERY PORSCHE

BIRMINGHAM, MI.

Sheet Title

Date Issued

SLUP SUBMISSION
02.01.16
04.13.16

Project Number

Sheet Number

A0.02

VIEW FROM HAYNES ST.

VIEW FROM BOWERS ST.

VIEW FROM HAYNES ST.

LOOKING WEST ON HAYNES ST.

LOOKING EAST FROM PORSCHE BUILDING TO BARDHA BUILDING

Luckenbach
Ziegelman
Architects
PLLC

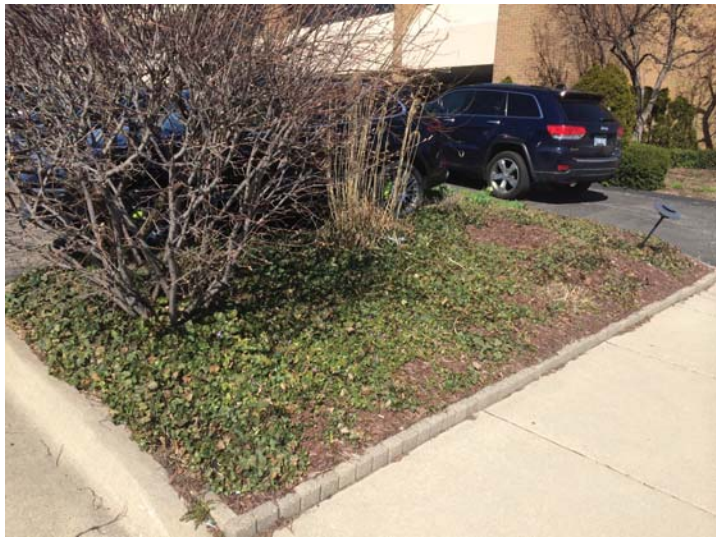
LAVERY
PORSCHE

BIRMINGHAM, MI.

SLUP SUBMISSION
02.01.16
04.13.16

1007

A0.03



Howard Lighting LFL-400-PS-4T-A - 400 Watt Pulse Start Metal Halide Flood Light W/ U-Bracket

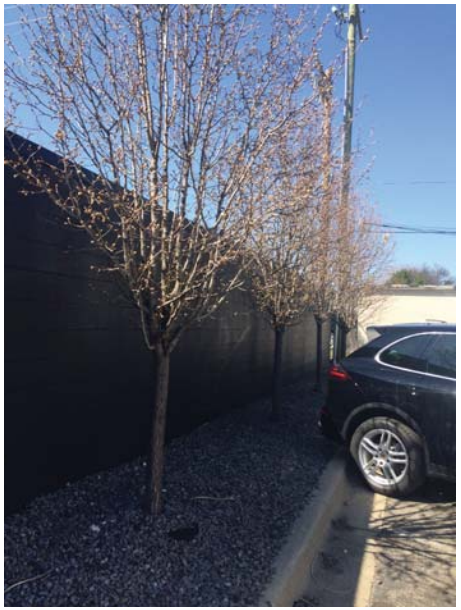
Product Overview

- Die-Cast Housing With Hinged Door Frame For Easy Re-Lamping
- Textured Bronze Finish
- Tempered Glass Lens
- UL Listed Wet Location
- 2 Year Warranty & Made In USA

Specifications

Manufacturer	Howard Lighting
Model Number	LFL-400-PS-4T-A
Voltage	Quad Tap (120, 208, 240, 277) Volts
Lamp Capacity	400 Watt Pulse Start Metal Halide (Included)
Lamp Hours	15,000
Lumens	40,000
Housing	Textured Bronze Die-cast Housing With Hinged Door Frame For Easy Relamping
Lens	Tempered Glass
Listings	UL Listed Wet Locations
Mounting Type	U-Bracket
Ballast Type	PS-CWA
ANSI	M150/E
Depth	6.69"
Width	16.5"
Height	16.5"
Weight	33.0 lbs
Warranty	2 Year

HAYNES STREET



LOOKING NORTH ON HAYNES STREET

Luckenbach Ziegelman Architects PLLC

30900 Woodward Suite 100
Bloomfield Hills, Michigan 48304
248.644.0800

Project
LAVERY PORSCHE

BIRMINGHAM, MI.

Sheet Title

Date Issued
SLUP SUBMISSION
02.01.16
04.13.16

Project Number
1007

Sheet Number
A0.04

MEMORANDUM

DATE: **June 14, 2016**

TO: **Joesph A. Valentine, City Manger**

FROM: **Mark H. Clemence, Chief of Police**

REFERENCE: **Southwest Oakland County Crash Investigation Team (SOCCIT)**

In the police departments continuing effort to improve service, increase efficiency and be fiscally responsible in the delivery of those services, the department is seeking Commission approval to join the Southeast Oakland County Crash Investigation Team or "SOCCIT." SOCCIT is a multi-jurisdictional traffic investigation team currently comprised of four communities: Auburn Hills, Bloomfield Township, Bloomfield Hills and Troy.

SOCCIT is called out when a major crash or fatal accident occurs in any of the four jurisdictions that make up the team. The team objectives for SOCCIT are as follows:

1. *Skill Use:* Investigators will get more opportunities to utilize highly technical skills and equipment acquired in advanced training.

2. *Reduction of time spent on the roadway:* By utilizing the team approach with a larger pool of investigators, the crash investigation is started faster and is completed with less impact on the surrounding community. The use of advanced technology (Total Station) means a higher quality investigation can be completed faster than using traditional measuring options.

3. *Reduction in Overtime:* The goal is to reduce the overtime load on a single agency by combining resources.

The department will assign three officers to SOCCIT on an on-call basis. SOCCIT will respond to the following types of incidents:

1. All crashes resulting in any fatality involving a combination of motor vehicles and pedestrians.
2. All serious injury crashes that could result in the death of a victim(s).
3. All serious injury crashes involving municipal vehicles of member agencies.
4. Any major crime scene requiring the forensic mapping of a highway.
5. Any special investigation request made by a Chief of Police from any member agency.

By joining SOCCIT, the police department adds to our collective efforts with other jurisdictions that already include: Dispatch, Narcotics Enforcement Team, Major Case Assistance Team, Special Investigations Unit and the Oakland Tactical Support Unit.

To that end, the police department seeks authorization to execute the attached Interlocal Agreement and Binder which were prepared by the City Attorney. The second

document, a “Binder Agreement,” would allow future petitioning agencies to join SOCCIT according to the terms and conditions set out in the Interlocal Agreement for participation in SOCCIT as though petitioning agencies had signed the original document. The signatories on the “Binder Agreement” will be each agency’s Chief of Police.

RESOLUTION:

To approve the Amendment to the Interlocal Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT) and Binder Agreement for Interlocal Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT).

Further, to direct the Mayor and the City Clerk to sign the Amendment to the Interlocal Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT) and Binder Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT).

AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR SOUTH OAKLAND COUNTY CRASH INVESTIGATION TEAM

THIS INTERLOCAL AGREEMENT entered into by and between the City of Troy, 500 W. Big Beaver Road, Troy, MI 48084 ("Troy"), the City of Auburn Hills, 1827 North Squirrel Rd., Auburn Hills, MI 48326 ("Auburn Hills"), the Charter Township of Bloomfield, 4200 Telegraph Rd., Bloomfield Hills, MI 48303 ("Bloomfield"), the City of Bloomfield Hills, 45 E. Long Lake, Bloomfield Hills, MI 48304 ("Bloomfield Hills"), and the City of Birmingham, 151 Martin Street, Birmingham, MI 48009 ("Birmingham"), all located in the County of Oakland, State of Michigan, collectively referred to as the "Parties", or "Party" shall govern participation in the South Oakland County Crash Investigation Team (hereafter "SOCCIT").

RECITALS

Article VII, Section 28 of the Michigan Constitution of 1963 provides, in part, that two or more counties, townships, cities, villages, or districts, or any combination thereof, may, among other things, enter into contractual undertakings or agreements with one another for the joint administration of any of the functions or powers which each would have the power to perform separately; and,

The Urban Cooperation Act of 1967, being MCL §124.501 et seq. provides that public agencies may exercise jointly any power, privilege, or authority that each agency may exercise separately; and,

The Parties have decided that it is in the best interest of such local governmental unit to participate in the South Oakland County Crash Investigation Team, to exercise such additional powers, functions, duties, and responsibilities granted to the SOCCIT and imposed upon it by this Agreement; and,

The Parties endeavor to realize and benefit from each other's Police Department's accumulated expertise and recognize substantial savings in time, effort, and expenses to each individual governmental unit by participating in the SOCCIT; and,

The Parties share concerns regarding the impact of traffic crashes on the commuting public and businesses within each community and the positive outcomes of an efficient crash investigation.

The Parties endeavor to realize and benefit from each officer's accumulated expertise and recognize substantial savings in time, effort, and expenses to each individual Agency by participating in the SOCCIT.

THEREFORE, IN CONSIDERATION OF THE FOREGOING, the Parties agree to this Amendment to Interlocal Agreement as set forth below.

AGREEMENT

Based upon the foregoing statements, the Parties agree to the following terms, conditions, representations, considerations and acknowledgements and mutually agree as follows:

1. The SOCCIT will perform the activities and duties described below:

    a. Combine officers from each jurisdiction when possible to assist with the investigation of fatal crashes.

    b. Combine officers from each jurisdiction when possible to assist with the investigation of serious injury crashes resulting in serious impairment of a body function where there is the probability of criminal prosecution. Serious impairment of a body function is defined in section 257.58c of the Michigan Motor Vehicle Code.

    c. Combine officers from each jurisdiction when possible to assist with the investigation of a large scale crash such as a multi-vehicle pileup on a freeway.

    d. SOCCIT officers will attend combined training sessions to maintain proficiencies in various areas of crash investigation.

    e. Evaluate opportunities to reduce costs to each agency by sharing expenses regarding the purchase of crash investigation equipment.

2. To accomplish the objectives of the SOCCIT, the City of Auburn Hills Police Department (AHPD), the Charter Township of Bloomfield Police Department (BTPD), City of Troy Police Department (TPD), City of Bloomfield Hills Department of Public Safety (BHDPS) and City of Birmingham Police Department (BPD) agree to detail at least one (1) officer with advanced accident investigation training when requested by a Party to this agreement. During this period of assignment, the agency having jurisdiction where the crash occurred shall maintain all supervisory responsibilities for the crash scene.

    a. Crash investigation officers assigned to the SOCCIT shall work under the authority of the requesting agency having jurisdiction over the crash scene.

b. Officers assigned to the SOCCIT shall have received certification in Accident Investigation level I and II at a minimum.

c. The agency having jurisdiction over the crash scene where any alleged misconduct has taken place will conduct investigations of misconduct by SOCCIT personnel and will assist each participating agency by investigating any allegations of misconduct by a SOCCIT officer relating to his or her SOCCIT activities. Any finding of misconduct by a SOCCIT officer will be referred to the respective agency for appropriate administrative action.

3. Each Party will provide their own office space and necessary resources for their own SOCCIT officers to finalize their investigation and storage of their respective agencies crash investigation equipment.

4. In no event will any Party to this agreement charge any costs to an agency covered by this agreement for the administration or implementation of this Agreement.

5. No Party is obligated under this Agreement to use SOCCIT resources exclusively and is expressly allowed to seek other similar venues on an as needed basis without violating this Agreement.

6. This Agreement shall remain in effect until terminated by all of the Parties. Any Party may terminate its participation under this Agreement by giving thirty (30) days written notice to the Parties. Any department may terminate this Agreement if it is no longer in the best interest of their agency to continue the same or for any other reason.

7. Parties agree that at all times and for all purposes under the terms of this Agreement, there is no employer-employee relationship between the Parties. No liability, right or benefit associated with any employer-employee relationship shall be implied by the terms of this Agreement or services, activities or duties performed under this Agreement. Each Party shall be responsible for all benefits for its officers, including, but not limited to, wages, salaries, disability payments and/or benefits, pension benefits, worker's compensation claims and/or benefits, including derivative benefits, dependent benefits or other benefits relating to disability and worker's compensation, and claims for damages to or destruction of its own equipment or its officer's clothing, and claims for its own officer's medical expenses.

8. Each participating agency shall assume the responsibility for the actions of its sworn or civilian personnel acting pursuant to this Agreement both as to liability and as to the payment of benefits to such sworn or civilian personnel all to the same extent as such personnel are insured, indemnified and otherwise protected when acting within

the participating agencies' respective corporate limits.

9. The parties agree to be responsible for the negligent or wrongful acts or omissions of their respective employees. Nothing in this Agreement shall be construed as creating an obligation to indemnify or defend any other party or parties for any claim, damage or liability arising out of or stemming from an act or action of a party.

10. Within ten (10) days from the execution of this Agreement, each Party shall provide a Certificate of Insurance, acceptable to the other Party, demonstrating that general liability coverage is available for any and all claims for personal injury or property damage which are or might be caused by activities or duties performed under this Agreement by any Party. Each Party agrees to keep said insurance coverage in full force and effect for the term of this Agreement. Each Party shall submit to the other Party, prior to the expiration of any insurance coverage, the new Certificate(s) of Insurance acceptable to the other Party. Any Certificate of Insurance shall name the other Parties as additional insureds and contain the following cancellation notice:

> "Should any of the above described policies be cancelled before the expiration date thereof, the Issuing insurer will mail 30 days written certificate holder."

Any Party may request a copy of said insurance certificate at any time.

During this Agreement, failure to produce a certificate of insurance within twenty (20) days of a request by a Party may allow the requesting Party to terminate this Agreement.

A lapse in the insurance coverage required under the Agreement shall be considered a material breach of this Agreement and the Agreement shall become null and void automatically as to the lapsing Party at any time such a lapse in coverage exists.

11. This Agreement sets forth the entire Agreement between the Parties. The language of this Agreement shall be construed as a whole according to its fair meaning and not constructed strictly for or against any Party. The Parties acknowledge that they have taken all actions and secured all approvals necessary to authorize and complete this Agreement.

12. This Agreement shall be in full force and effect and is legally binding upon each Party at such time as it is signed and certified by all Parties.

13. This Agreement may be amended from time to time in writing and approved by resolution of the appropriate governing body of the Parties. The effective date of any amendment all be the date as of which the last of the necessary Parties has approved the amendment.

14. This Agreement shall remain in full force and effect and shall bind the Parties executing the Agreement and said governing body of the Party adopting a resolution giving its approval to this Agreement until terminated as provided in this Agreement.

15. If a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, then that provision shall be deemed severed from this Agreement. The remainder of this Agreement shall remain in full force and effect.

16. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under 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 this Agreement shall be brought in the 6th Judicial Circuit Court, Oakland County, Michigan where jurisdiction and venue are proper.

17. The Recitals shall be considered an integral part of this Agreement.

18. The Parties agree that they shall promptly deliver to the other Parties written notice and copies of any claims, complaints, charges, or any other accusations or allegations of negligence or other wrongdoing, whether civil or criminal in nature that the other Parties become aware of and which involves the performance of activities or duties under this Agreement. Unless otherwise provided by law and/or Michigan Court Rule, the Parties agree to cooperate with one another in any investigation conducted by the other Party or Parties of any acts or performances of any activities under this Agreement.

19. Any written notice required or permitted under this Agreement shall be considered delivered to a Party as of the date that such notice is deposited, with sufficient postage, with the U .S Postal Services. All notices under this Agreement are to be sent to the Chief of Police of each of the Parties.

20. This Agreement may be executed in several counterparts each of which shall be an original and all of which shall constitute but one and the same Instrument.

21. The SOCCIT Board shall have the power to determine if a non-participating Agency police department should be allowed to join SOCCIT as a Participating Agency, but only if that police department is a governmental unit of Oakland County, Michigan and has petitioned the SOCCIT Board of Directors for membership. The SOCCIT Board of Directors may approve membership for the Petitioning Agency conditioned upon the governmental unit obtaining a certified resolution of its legislative body which approves this Agreement and authorizes the appropriate signatory to execute the Binder Agreement attached hereto and

incorporated herein as Exhibit. Execution of that Binder Agreement results in the acceptance of all terms and conditions set out in this Agreement. The certified resolution and an executed copy of the Binder Agreement shall be presented to the SOCCIT Board of Directors for vote to determine if the Board of Directors authorizes the Coordinator and/or Assistant Coordinator to execute the Binder Agreement on behalf of SOCCIT. If the Petitioning Agency has been conditionally approved for membership, but the SOCCIT Board of Directors is not given certified resolutions and an executed copy of the Binder Agreement within six (6) months after the date of conditional approval, the conditional approval becomes null and void and a Petitioning Agency must file a new request for membership. A two-thirds (2/3) vote of the total number of Participating Agencies is required to authorize the execution of the Binder Agreement and accept the Petitioning Agency as a member of SOCCIT. Membership will become effective after execution of Binder Agreement by the authorized representatives of the Petitioning Agency and SOCCIT.

IN WITNESS WHEREOF, this Agreement has been duly executed this _____ day of _____ 2016.

CITY OF AUBURN HILLS

By:_____
Its: _____
Dated: _____

TOWNSHIP OF BLOOMFIELD

By:_____
Its: _____
Dated:_____

CITY OF BIRMINGHAM

By: _____
Its: _____
Dated:_____

CITY OF TROY

By:_____
Its: _____
Dated:_____

CITY OF BLOOMFIELD HILLS

By: _____
Its: _____
Dated:_____

BINDER AGREEMENT FOR INTERLOCAL AGREEMENT FOR PARTICIPATION IN THE SOUTH OAKLAND COUNTY CRASH INVESTIGATION TEAM ("SOCCIT")

THIS BINDER AGREEMENT TO INTERLOCAL AGREEMENT FOR PARTICIPATION IN THE SOUTH OAKLAND COUNTY CRASH INVESTIGATION TEAM ("SOCCIT") is entered into by and between the City of Troy, the City of Auburn Hills, the Charter Township of Bloomfield, the City of Bloomfield Hills, and the City of Birmingham all located in the County of Oakland, State of Michigan, hereafter referred to individually as "Participating Agency" or "Party" or collectively referred to as "Participating Agencies" or "Parties", and the City of _____ Michigan _____hereafter referred to a "Petitioning Agency", also referred to as "Party" or "Parties" and the South Oakland County Crash Investigation Team shall be referred to as "SOCCIT" and any reference to "officer(s)" of the "SOCCIT" shall refer to all police officer assigned to SOCCIT under this Agreement.

RECITALS

WHEREAS, there currently exists an lnterlocal Agreement for Participation in the South Oakland County Crash Investigation Team ("SOCCIT") which was entered into by a number of governmental entities ("Participating Agencies") in Oakland County, Michigan. That Agreement is authorized under the Urban Cooperation Act of 1967 and is attached hereto as Exhibit 1;

WHEREAS, the Michigan Constitution of 1963, Article 7, § .28, and the Urban Cooperation Act of 1967, Act No. 7 of the Public Acts of 1967, Ex. Sess., being MCL §124.501, et. seq. (the "Act"), permit governmental units to exercise jointly with other governmental units any power, privilege or authority which such governmental units share in common which each might exercise separately; and

WHEREAS, for a Petitioning Agency consisting of an Oakland County governmental entity to become a Participating Agency of SOCCIT, it is necessary to enter into an Agreement accepting all terms and conditions set out in the existing lnterlocal Agreement for Participation in the South Oakland County Crash Investigation Team ("SOCCIT"); and

WHEREAS, pursuant to a resolution of the Petitioning Agency's legislative body, giving the signatories on this Binder Agreement the authority to bind the Petitioning Agency to the terms and conditions set out in the lnterlocal Agreement for Participation in the South Oakland County Crash Investigation Team ("SOCCIT') as though the Petitioning Agency had signed the original Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants, undertakings, understandings and agreements set forth above and in this Agreement, the Petitioning

Agency agrees to the following terms, conditions, representations, consideration and acknowledgements and mutually agree as follows:

1. Certified Resolution and Execution of Binder Agreement. Prior to the execution of this Binder Agreement, Petitioning Agency has petitioned SOCCIT for participation in SOCCIT. Each Chief of Police of the Participating Agencies of SOCCIT has approved the participation of Petitioning Agency as a Participating Agency in SOCCIT as signified by their signatures on this Binder Agreement for lnterlocal Agreement for Participation in the South Oakland County Crash Investigation Team ("SOCCIT"). To make participation effective, the Petitioning Agency shall obtain a Certified Resolution of the Petitioning Agency's City Council or legislative body approving this Binder Agreement and authorizing the appropriate signatories to execute this Binder Agreement. Petitioning Agency agrees to submit a signed executed copy of this Binder Agreement to the Chief of Police of the Troy Police Department. The Troy Police Department shall distribute a copy of a fully executed Binder Agreement and a copy of the Certified Resolution of the Petitioning Agency to each Participating Agency within a reasonable time after receipt of those documents. Failure to execute the Binder Agreement and provide a Certified Resolution to the Chief of Police of the Troy Police Department within ten (10) days of execution of the Binder Agreement and passage of the resolution shall revoke any offer to allow participation in SOCCIT as set out in this Agreement.

2. Agreement to be Bound by Terms and Conditions in Existing lnterlocal Agreement For Participation in the South Oakland County Crash Investigation Team. Petitioning Agency acknowledges that it has been given a copy of the existing lnterlocal Agreement For Participation in the South Oakland County Crash Investigation Team which is attached hereto as though fully set out herein as Exhibit 1 and that it has read and agrees to be bound by each and every terms and conditions contained therein.

3. Counterpart Signatures. This Agreement may be signed in counterpart. The counterpart taken together shall constitute one (1) agreement.

IN WITNESS WHEREOF, this Agreement is executed by the Petitioning Agency.

WITNESSES:

_____

_____

CITY OF _____,
PETITIONING AGENCY

By: _____
Its: _____

By: _____
Its: _____

Dated: _____

CITY OF AUBURN HILLS

By:_____
Its: Chief of Police
Dated: _____

TOWNSHIP OF BLOOMFIELD

By:_____
Its: Chief of Police
Dated:_____

CITY OF BIRMINGHAM

By: _____
Its: Chief of Police
Dated:_____

CITY OF TROY

By:_____
Its: Chief of Police
Dated:_____

CITY OF BLOOMFIELD HILLS

By: _____
Its: Chief of Police
Dated:_____

City of Birmingham
A Walkable Community

MEMORANDUM

Finance Department

DATE: **June 17, 2016**

TO: **Joseph A. Valentine, City Manager**

FROM: **Mark Gerber, Finance Director**

SUBJECT: **Fourth Quarter 2015-2016 Budget Amendment**

The Uniform Budgeting Act requires budgets to be amended on a periodic basis as needed. As the fiscal year end approaches, departments are asked to submit their final revenue and expenditure estimates for the fiscal year. These estimates are compared to the amended budget to determine whether additional budget adjustments are necessary. The following budget adjustments are recommended:

General Fund

Revenues:

General Fund revenues in total are expected to be approximately the same as total budgeted revenues. "Intergovernmental" is anticipated to be $150,000 over budget as a result of funding from the Local Community Stabilization Authority (LCSA) for reimbursement of personal property tax losses as result of the small taxpayer exemption. "Fines and Forfeitures" are anticipated to be $250,000 under budget as a result of a lower case load at the 48th District Court and lower parking ticket revenue collected. "Other Revenue" is expected to be $100,000 over budget as a result of surplus funds received from the Cable Board.

Expenditures:

Expenditures for "General Government" are anticipated to be $260,000 under budget mostly as a result of vacant positions in the Finance and Treasury Departments and lower expenditures in the Legal and Allen House budgets. "Community Development" expenditures are projected to be under budget by approximately $100,000 mostly as a result of delaying the update of the master plan from 2015-2016 to 2016-2017. "Transfers Out" are anticipated to be over budget by $748,000 as a result of the transfer of $1,000,000 to the Risk Management Fund for the Wolf lawsuit settlement. This transfer was partially offset by a decrease in 48th District Court expenditures of $235,900 as a result of fewer cases sent to the court and a decrease in transfers to other funds of $16,100. The difference between the reductions in "General Government" and "Community Development" and the increase in "Transfers Out", results in an overall increase in General Fund expenditures totaling approximately $388,000.

Fund Balance:

The current 2015-2016 amended budget anticipates an increase in fund balance of approximately $153,000. However, as a result of projected expenditures exceeding the budget by $388,000, it is anticipated that the General Fund's fund balance will decrease by approximately $235,000. It is anticipated that the City's unassigned fund balance will be just under the 40% City Commission policy.

Greenwood Cemetery Perpetual Care Fund
No adjustments needed.

Major Streets
Projected expenditures for "Traffic Controls and Engineering" are estimated to be over budget by approximately $60,000 as a result of work related to the Maple Road restriping project which was not originally budgeted. Additionally, "Street Trees" is estimated to be over budget by approximately $30,000 as a result of additional staff time worked in this area. As a result of the mild winter, it is projected that "Snow & Ice Control" will be under budget by approximately $175,000. It is recommended to transfer $90,000 from the Snow and Ice Control budget and transfer $60,000 to the Traffic Controls and Engineering budget and $30,000 to the Street Trees budget.

Local Streets
It is estimated that the City will receive approximately $80,000 more than it budgeted in State road funding revenue as a result of an additional appropriation made by the Michigan Legislature. "Traffic Controls and Engineering" expenditures are projected to be slightly over budget by $2,000. "Street Cleaning" expenditures are projected to be over budget by approximately $10,000 as a result of additional staff and equipment rental charges in this area. Additionally, "Capital Outlay – Engineering and Construction of Roads" is estimated to be approximately $125,000 over budget as a result of other construction costs like outside engineering services ($100,000) and pre-construction costs for Villa Avenue ($25,000). "Snow and Ice Control" expenditures are projected to be approximately $80,000 under budget as the result of the mild winter. It is recommended to use the $80,000 in additional state funding to partially offset the overage in the "Capital Outlay – Engineering and Construction of Roads" budget. Additionally, it is recommended to transfer $57,000 from the "Snow & Ice Control" budget and transfer $45,000 to the "Capital Outlay – Engineering and Construction of Roads" budget, $2,000 to the "Traffic Controls and Engineering" budget, and $10,000 to the "Street Cleaning" budget.

Solid Waste Fund
No adjustments needed

Brownfield Redevelopment Authority
No adjustments needed

Principal Shopping District
Projected revenue for this fund is expected to be $15,000 more than budget as a result of higher than expected special event revenue. Projected expenditures for the PSD are anticipated to be $70,000 over budget as a result of additional DPS staff time on PSD maintenance, the cost of valet service, and higher special event costs.

Triangle District Corridor Improvement Authority
No adjustments needed

Law and Drug Enforcement Fund
No adjustments needed

Debt Service Fund
No adjustments needed.

Capital Projects Fund
No adjustments needed.

Suggested Resolution: To approve the appropriations and amendments to the fiscal year 2015-2016 budget as follows:

General Fund:

Revenues:		
Intergovernmental	101-000.000-569.0000	$ 150,000
Fines & Forfeitures	101-000.000-657.0000	(170,000)
	101-000.000-656.0000	(80,000)
Other Revenue	101-000.000-678.0000	100,000
Draw from Fund Balance	101-000.000-400.0000	388,000
Total Revenue Adjustments		$ 388,000
Expenditures:		
General Government	101-191.000-702.0001	$ (73,000)
	101-191.000-706.0012	(12,000)
	101-191.000-706.0013	(5,000)
	101-253.000-702.0001	(35,000)
	101-253.000-706.0002	(32,000)
	101-253.000-706.0004	(35,000)
	101-253.000-706.0010	(6,500)
	101-253.000-811.0000	(11,500)
	101-266.000-801.0200	(30,000)
	101-804.002-811.0000	(10,000)
	101-804.002-977.0000	(10,000)
Community Development	101-721.000-811.0000	(75,000)
	101-721.000-825.0100	(25,000)
Transfers Out	101-136.000-999.9999	(235,900)
	101-999.000-999.2430	(11,100)
	101-999.000-999.4010	(5,000)
	101-999.000-999.6770	1,000,000
Total Expenditure Adjustments		$ 388,000

Major Streets Fund:

Expenditures:		
Traffic Controls & Engineering	202-303.002-804.0200	$ 60,000
Street Trees	202-449.005-702.0001	12,000
	202-449.005-702.0002	1,000
	202-449.005-706.0002	2,000
	202-449.005-941.0000	15,000
Snow & Ice Control	202-449.006-729.0000	(70,000)
	202-449.006-941.0000	(20,000)
Total Expenditure Adjustments		$ -0-

Local Streets Fund:

Revenues:		
Intergovernmental	203-000.000-540.0000	$ 80,000
Total Revenue Adjustments		$ 80,000
Expenditures:		
Traffic Controls & Engineering	203-303.001-937.0300	$ 2,000
Street Cleaning	203-449.004-941.0000	10,000
Capital Outlay – Engineering &		
Construction of Roads	203-449.001-981.0100	100,000
	203-449.001-985.7300	25,000
Snow & Ice Control	203-449.006-702.0001	(7,000)
	203-449.006-729.0000	(40,000)
	203-449.006-941.0000	(10,000)
Total Expenditure Adjustments		$ 80,000

Principal Shopping District:

Revenues:		
Other Revenue	247-000.000-676.0001	$ 15,000
Draw from Fund Balance	247-000.000-400.0000	55,000
Total Revenue Adjustments		$ 70,000
Expenditures:		
Principal Shopping District	247-441.005-702.0002	$ 15,000
	247-441.005-941.0000	15,000
	247-748.000-811.0000	25,000
	247-748.000-829.0200	(5,000)
	247-748.000-903.0000	(5,000)
	247-748.000-904.0000	10,000
	247-748.000-909.0000	15,000
Total Expenditure Adjustments		$ 70,000

City of Birmingham
A Walkable Community

MEMORANDUM

Finance Department

DATE: **May 24, 2016**

TO: **Joseph A. Valentine, City Manager**

FROM: **Mark Gerber, Finance Director/Treasurer**

SUBJECT: **Water/Sewer Rate Changes for 2016-2017**

Water Rates

Water rates are recommended to increase $.15 from $4.21 to $4.36, or 3.6%. The increase would raise the annual cost to the average homeowner using 90 units of water by $13.50. The increase is mostly the result of an increase in personnel costs and associated benefit costs such medical insurance and retiree health care costs and an increase in contractual services.

Sewer Rates

Sewer rates are recommended to increase $.80 from $8.88 to $9.68, or 9%. The increase would raise the annual cost to the average homeowner using 90 units of water by $72.00. Approximately 63% of the increase is the result of an increase in sewage disposal costs for sanitary sewage and storm water. Approximately 21% of the increase reflects $175,000 in extra funding for future sewer improvements. The remaining amount portion is the result of an increase in personnel costs and associated benefits.

The charges for Industrial Surcharge and Industrial Waste Control Charge are determined by Great Lakes Water Authority (GLWA). These charges are collected by the City and remitted to GLWA. The City does not keep any of the money it collects for these fees. The Industrial Waste Control Charge is scheduled to increase approximately 2.7%. Currently, there are no Birmingham customers charged an Industrial Surcharge.

The new rates will take affect for all billings where the read date is on or after July 1, 2016.

Below are the recommended fee changes:

FEES, CHARGES, BONDS AND INSURANCE AMENDMENT

DEPARTMENT OF PUBLIC SERVICE

Section	Existing Fee	Proposed Fee	Change Code
Water			
Additional charge for water used:			
For each 1,000 gallons or part thereof	$ 4.21	$ 4.36	B

FINANCE

Section	Existing Fee	Proposed Fee	Change Code
Sewer Service Rates (Chapter 114)			
For each 1,000 gallons or part thereof	$ 8.88	$ 9.68	B
Industrial Surcharge (Chapter 114)			
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	$ 0.477	$ 0.491	C
Total suspended solids (TSS), over 350 mg/l	$ 0.483	$ 0.498	C
Phosphorus (P), over 12 mg/l	$ 7.129	$ 7.346	C
Fats, oils, grease (FOG) over 100 mg/l	$ 0.459	$ 0.473	C
Industrial Waste Control IWC (Chapter 114)			
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"	$ 16.50	$ 16.95	C
3/4"	$ 24.75	$ 25.44	C
1"	$ 41.25	$ 42.39	C
1 1/2"	$ 90.75	$ 93.24	C
2"	$ 132.00	$ 135.60	C
3"	$ 239.25	$ 245.79	C
4"	$ 330.00	$ 339.00	C
6"	$ 495.00	$ 508.50	C
8"	$ 825.00	$ 847.50	C
10"	$1,155.00	$1,186.50	C
12"	$1,320.00	$1,356.00	C
14"	$1,650.00	$1,695.00	C
16"	$1,980.00	$2,034.00	C
18"	$2,310.00	$2,373.00	C
20"	$2,640.00	$2,712.00	C
24"	$2,970.00	$3,051.00	C
30"	$3,300.00	$3,390.00	C
36"	$3,630.00	$3,729.00	C
48"	$3,960.00	$4,068.00	C

CHANGE CODES

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 – Explain

SUGGESTED RESOLUTION:

To amend the Schedule of Fees, Charges, Bonds and Insurance, Water and Sewer Service Sections, for changes in water and sewer rates and changes in industrial surcharges and industrial waste control charges to be effective for bills with read dates on or after July 1, 2016.

City of Birmingham
A Walkable Community

MEMORANDUM

Office of the City Manager

DATE: **June 13, 2016**

TO: **City Commission**

FROM: **Joseph A. Valentine, City Manager**

SUBJECT: **Request for Closed Session – Pending Litigation**
Shellaberger vs City of Birmingham

It is requested that the city commission meet in closed session to review pending litigation regarding Shellaberger vs City of Birmingham pursuant to Section 8(e) of the Open Meetings Act.

SUGGESTED RESOLUTION:
To meet in closed session to review pending litigation regarding Shellaberger v City of Birmingham pursuant to Section 8(e) of the Open Meetings Act.

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

City of Birmingham
A Walkable Community

MEMORANDUM

Office of the City Manager

DATE: June 14, 2016

TO: City Commission

FROM: Joseph A. Valentine, City Manager

SUBJECT: Request for Closed Session
Attorney-Client Privilege

It is requested that the city commission meet in closed session pursuant to Section 8(h) of the Open Meetings Act to discuss an attorney/client privilege communication.

SUGGESTED RESOLUTION:
To meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

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

Laura Pierce <lpierce@bhamgov.org>

VILLA ROAD PAVING PROJECT, PLEASE FORWARD TO CITY COUNCIL TODAY

1 message

Troy Testa <lilutesta@gmail.com> Mon, Jun 6, 2016 at 11:51 AM
To: Laura Pierce <lpierce@bhamgov.org>, afletcher@bhamgov.org, "Testa, Troy" <Troy.Testa@cunamutual.com>, weiner@michigansurgery.com, Troy Testa <lilutesta@gmail.com>, pomeara@bhamgov.org

June 6, 2016

City of Birmingham

151 Martin Street

Birmingham, MI 48009

Attention: Birmingham City Council Board members, Paul O'Meara, and Austin Fletcher

We are residents of Villa Road, house number 1474 in Birmingham Michigan, which calls itself "A Walkable Community". We are writing you all today regarding the Road project on the street in which we live and raise our family.

We are totally outraged by the lack of information and utter disregard for the management of the Road project thus far, and it has not even begun.

We are **for** the upgrade to Villa being a paved road with curbs. However, we feel the project is being mismanaged and at hefty expense to the residents of the road footing the bill.

We pay almost $1000 a month in taxes already and cannot believe we have to pay for the road in the first place. However, when the petition came around we supported the need for a road for the greater good of the neighborhood. Now with the 30% unexplainable increase it is just unacceptable and a burden for our family.

We are a hard working family with 3 school-aged children. We did not have 'extra' money to pay

for something of this nature when it was approximately $8,000. The 30% increase just makes it an even larger burden and paying for the street takes money away from other essentials for our family. And I'm not talking about lofty vacations, I'm talking about issues we have with our house that we will not be able to take care of because the road expense. Currently, we need a new refrigerator and driveway, we could do both of those with the money we have to pay for the road…does that seem right?! Would you spend your own money on a road vs. a refrigerator?!?!? These are the decisions you have made for us, unfair to say the least!

A project of this nature requires transparency to the residents who are paying for it and an experienced Project manager. I do not feel that there is transparency on what is happening, the communication has been less then adequate and I cannot help but feel bullied and backed into a corner by the city. It is my belief that the lack of transparency is due to some mismanagement of the Road Project because the timelines are not adding up. Somehow Consumer Energy got in to upgrade the gas lines before a Contractor was hired for the road to be completed, seems odd that this is the order of which things are done. The sidewalk and street in front of my house is half torn up and an absolutely dirty mess. WHY would you not coordinate all of this in one timeline to all residents? Also, who is repaving the sidewalk and frontage and where is the cost savings going…obviously Consumers would have done this if the road wasn't being paved but now I guess they are just saving the money?? Why doesn't Consumers pave it at the end and the residents get the cost savings?????

We want to move forward with the Road project based on the initial costs provided (~$8,000). We also want to ensure the project is completed by the end of October and respectfully request that a completion date be put into the contract. If the completion date is not met then the contractor losses money every day over that completion date and this money is credited back to the residents who are paying for this project!

Please consider the families you are affecting, not just our family but all of our neighbors, some elderly and a lot with young families who are struggling to make ends meet. This is real money we are dealing with and real choices these families will have to make long after the road project is completed and they still have to pay for it.

Please feel free to call us to discuss.

Sincerely,

Troy and Lisa Testa

1474 Villa Road

Birmingham, MI 48009

248-928-6217 (Troy)

516-978-7252 (Lisa)

City of Birmingham
A Walkable Community

June 9, 2016

RE: City Meeting on Villa Road Project

Dear Villa Resident and Property Owner,

As you may know, a petition to make Villa Avenue an improved street with new sewer lines and a new engineered paved surface with curbs was approved in November of 2015. Since that time, a bid package was prepared and issued with bids coming in higher than the initial construction estimate. Regretfully, this is a new trend within the road construction industry and has recently been experienced on other city road projects as well. On May 23, 2016 the City Commission considered whether to proceed or delay the project to next year. Following much discussion, the decision was ultimately made to proceed with the project this year for the following key reasons: 1) delaying the project in the current environment for road construction would likely increase costs rather than reduce them, and 2) delaying the project to next year would prolong the water ponding and freezing concerns and add to the disruption that has already occurred with work performed by Consumers Energy.

With the decision to procced this year, **work is scheduled to begin on Monday, June 13th to improve Villa**. If you want to receive important updates on this project, you are encouraged to sign up for email notifications, which can be accessed at http://www.bit.ly/bhamnews by selecting the **"Villa Ave. Paving Project."** You can also contact the Engineering Department at (248) 530-1840 for details.

This decision to proceed in light of the increased cost has raised many questions and concerns from residents and property owners on Villa about the project and its process. In response to these concerns, the City had initially offered to meet with a group of residents this week. Regretfully, confirmation of this meeting had not been received as of the above date. Consequently, the opportunity to reschedule this meeting allows for a personal invitation to each resident and property owner on the street along with sufficient notice for a meeting. The purpose of this meeting is to clarify the process and respond to any questions and concerns regarding this project. This meeting is scheduled for: **Tuesday, June 28, 2016 at 7:00 p.m. at the Department of Public Services Facility located at 851 S. Eton.**

We welcome all interested residents and property owners on Villa Avenue to attend this meeting to learn more about the project, what has occurred so far and what will happen next. We also look forward to addressing any questions or concerns you may have.

Sincerely,

Joseph A. Valentine
City Manager

151 Martin Street • P.O. Box 3001 • Birmingham, MI 48012-3001
(248) 530-1800 • Fax (248) 530-1080 • www.bhamgov.org

RECEIVED BY
JUN 15 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

June 15, 2016

Dear City Commissioners,

My name is Terry Holmes and I live at 1460 Washington Blvd.. On Thursday, June 10 we had a tragic event take place on our street. My next-door neighbor's dog was attacked and killed by two vicious dogs. The owners of the attack dogs live at 1390 Washington Blvd.. This was not the first time those dogs have attacked. Another dog was attacked last month and Birmingham officials were contacted but no action was taken. We, who loved Maddy, are heartbroken and her owners, Mike and Jennifer Onofray are beyond grieved.

Enclosed is a petition signed by neighbors on and around Washington Blvd. who agree that something needs to be done before another innocent pet is killed.

Thank you, in advance, for addressing this situation.

Sincerely,

Terry Holmes
1460 Washington Blvd.
Birmingham

248-723-0152
tmbholmes@me.com

Justice For Maddie

On Thursday, June 9, our little friend and neighbor, Maddie, was viciously attacked by the two dogs residing at 1390 Washington Blvd.. Maddie's owner was taking her for a quiet walk when the two dogs broke through their fence and mauled her. As a result of her injuries, Maddie died a few hours later. In speaking with neighbors we have found out that this is not the first time these dogs have escaped, nor is it the first time they have attacked. Now that these dogs have caused our Maddie to lose her life, it is time for the Birmingham City Commission to finally take strong action. Our pets are precious to us. We don't want another senseless tragedy.

NAME	ADDRESS
Terry Holmes	1460 Washington Blvd.
Tim Holmes	1460 WASHINGTON BLVD.
Sheila Vermeulen	1948 Maryland Blvd.
Trini Beardman	1470 Washington Blvd.
Mahmoud Habbaub	1470 Washington Blvd.
Sheri Serrano	810 Chapin Ave
LORI PILE	1542 Washington Blvd.
Karin Hoffecker	1558 Washington Blvd.
Aurore Henze	1608 Washington
Kaya Adamkiewicz	1608 Washington blvd
M L Betts	
Lisa Gromer	1708 Washington blvd

Justice For Maddie

On Thursday, June 9, our little friend and neighbor, Maddie, was viciously attacked by the two dogs residing at 1390 Washington Blvd.. Maddie's owner was taking her for a quiet walk when the two dogs broke through their fence and mauled her. As a result of her injuries, Maddie died a few hours later. In speaking with neighbors we have found out that this is not the first time these dogs have escaped, nor is it the first time they have attacked. Now that these dogs have caused our Maddie to lose her life, it is time for the Birmingham City Commission to finally take strong action. Our pets are precious to us. We don't want another senseless tragedy.

NAME	ADDRESS	
DAVID Rife	1756 WASHINGTON, BIRMINGHAM	48009
Steve Sollish	1878 Washington	48009
Nancy Klinkhamer	1862 Washington	48009
Michael Matuszewski	1896 WASHINGTON	48009
Karen Gray	1930 Washington	48009
[illegible]	1970 Washington	48009
[illegible]	1992 Washington	48009
Michele Stevens	1977 Washington Blvd.	48009
Jeremy Stevens	1977 Washington Blvd	48009
M. Rae Rydell	1941 Washington	48009
Amy Underdown	1495 Washington	48009
Linda Underdown	437 Suffield	48009
David Underdown	437 Suffield	48009

Justice For Maddie

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NAME	ADDRESS
	1410 Washington Blvd
	1482 WASHINGTON BLVD
	1482 Washington Blvd
	1130 Washington Blvd
	1197 Washington Blvd
	1431 Washington Blvd
	1431 Washington Blvd.
	1495 Washington Blvd.
	1058 Wakefield St.
	1418 Washington Blvd.
	1465 WASHINGTON BLVD.
Caprice Aerts	1512 Washington Blvd.

Justice For Maddie

On Thursday, June 9, our little friend and neighbor, Maddie, was viciously attacked by the two dogs residing at 1390 Washington Blvd.. Maddie's owner was taking her for a quiet walk when the two dogs broke through their fence and mauled her. As a result of her injuries, Maddie died a few hours later. In speaking with neighbors we have found out that this is not the first time these dogs have escaped, nor is it the first time they have attacked. Now that these dogs have caused our Maddie to lose her life, it is time for the Birmingham City Commission to finally take strong action. Our pets are precious to us. We don't want another senseless tragedy.

NAME	ADDRESS
Julie Purther	340 Wellesley St. Birmingham, MI 48009
Rich Faria	1927 Maryland Blvd., 48009
Jeanette Faria	" " " "
DAVID MUNDT	1887 MARYLAND BLVD., 48009
Sarah Balcueva	1826 Maryland Blvd. 48009
Robert Wolff	1798 Maryland Birmingham 48009
Helen Wolff	1798 Maryland " "
Bill Davidson	1776 MARYLAND Bham 48009
Kyle Chaney	1744 MARYLAND 48009
Mary Ann McKenna	1905 Maryland 48009
Amanda Rizzari	1647 Shipman Blvd 48009

Birmingham Police Department

Mark H. Clemence, Chief of Police

June 17, 2016

Terry Holmes

1460 Washington Blvd.

Birmingham, MI 48009

Ms. Holmes,

The City is in receipt of your petition, "Justice for Maddie." The petition will be shared with members of the City Commission. I appreciate the fact that you and other members of your neighborhood are concerned over the two incidents that occurred with your neighbor's dogs at 1390 Washington. Please be assured that we at the police department take the safety of our residents as our primary concern.

In the first incident in May of this year, one of the two dogs at 1390 Washington was able put its head through a slat in the fence and bite the nose area of a dog walking on the sidewalk with its owner. In that case, the victim dog received a minor injury. The owner of the victim dog did not want the homeowner at 1390 Washington cited for the offense, but wanted a "record" made of the incident. The responding officer noted that there had been no prior incidents at the address, the dogs were in a fenced yard and the homeowner's were responsive to the victim and cooperative with police.

In the most recent incident with "Maddie," once the police were made aware of the incident, an officer was sent to 1390 Washington to speak with the owners of the offending animals. The owners were cited under city ordinance, Section 18-36, for owning or harboring a "vicious" dog. The city ordinance reads as follows:

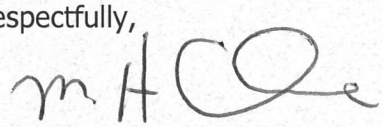
"No person shall own or harbor a fierce or vicious dog, or a dog that has been bitten by any animal known to have been afflicted with rabies. All dogs found to be vicious and all rabid dogs shall be destroyed, unless otherwise disposed of by the owner thereof."

151 Martin Street P.O. Box 3001 Birmingham, MI 48012
Phone: 248.530.1870 Fax: 248.530.1270 www.bhamgov.org

The case has been turned over to the City Attorney's office for prosecution. All matters related to the two offending dogs and their owners will be addressed in a court of law to ensure the situation does not repeat itself again.

Again, thank you for your concern and be assured that all measures are being taken to address the issue to ensure a safe community for everyone.

Respectfully,



Mark H. Clemence

Chief of Police

Cc: Joe Valentine

.

June 18, 2016

Dear Birmingham City Commission -

Please stop looking the other way on the subject of vicious dogs loose in the city of Birmingham. We have a leash law here and every day there are loose dogs attacking leashed dogs on the Rouge River Trail between Lincoln and Maple & the trail to Booth Park from Willits. I personally have had to defend my dogs from loose dogs on dozens of occasions in the last two years.

There is not any evidence of the city enforcing the leash law to a degree that would deter this serious problem.

I am not singling out Pit Bulls but we have had 3 encounters of a very volatile nature with just this breed in the past 3 months and it is terrorizing.

Possibly part of the walking police beat should include these areas. Cameras would certainly confirm the present danger.

Thank you. Robin Smith

RECEIVED BY
JUN 21 2016
CITY CLERK'S OFFICE

City of Birmingham
A Walkable Community

MEMORANDUM

Department of Public Services

DATE: June 13, 2016

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services

SUBJECT: Staff Report - Mosquito Control Update

This serves as a follow-up to the May 9, 2016 City Commission meeting in which the question was raised about the West Nile treatment program and whether it would kill the Zika mosquito. The City has concluded the treatment of the approximately 2300 catch basins, an application that will destroy the mosquito larva and prevent mosquito emergence. The Culex mosquito carries the West Nile virus.

The Aedes mosquito is known to carry the Zika virus. It is a hot weather mosquito that has not travelled north of Tennessee. The Aedes mosquito is a fresh water breeder, which is different than the Culex mosquito which is a dirty water breeder.

Our treatment over the past twelve years has been for the West Nile virus. According to our training sessions with Oakland County along with a variety of other resources, the Aedes mosquito does not travel to Michigan, so far. It is strictly a hot weather mosquito. However, our current treatment program would work on this mosquito, too.

As health organizations are still learning about the Zika virus, public awareness and ongoing educational efforts are most critical for everyone to better understand prevention and learn about the warnings when traveling.

GREENWOOD CEMETERY ADVISORY BOARD
2015 ANNUAL REPORT

Section 34-30 (h) of the Birmingham City Code requires the Greenwood Cemetery Advisory Board to submit an annual report to the City Commission. The report consists of the general activities, operation and condition of the cemetery for the preceding twelve months.

"The Greenwood Cemetery advisory board shall make and submit to the city commission annually a report of the general activities, operation, and condition of the Greenwood Cemetery for the preceding 12 months. The Greenwood Cemetery advisory board shall, from time to time, as occasion requires, either in the annual report, or at any time deemed necessary by the Greenwood Cemetery advisory board, advise the city commission in writing on all matters necessary and proper for and pertaining to the proper operation of Greenwood Cemetery and any of its activities or properties."

This report is broken down into several sections:

1. Background
2. 2015 Accomplishments
3. Status of the grave sales
4. Status of the Perpetual Care Fund
5. 2016 Goals

The following documents have been attached for reference:

- Ordinance Establishing GCAB
- Recommendations Checklist
- Cemetery Regulations
- Perpetual Care Ordinance

1. BACKGROUND

The Greenwood Cemetery Advisory Board (GCAB) was established in October, 2014. The Board was charged with the following duties:

A. To provide recommendations to the City Commission: Section 34-30 (g)
   1. Modifications: As to modifications of the rules and regulations governing Greenwood Cemetery.
   2. Capital Improvements: As to what capital improvements should be made to the cemetery.
   3. Future Demands: As to how to respond to future demands for cemetery services.

B. The Board may call upon the City Manager for such services and data from the various departments as it may require. The GCAB may recommend to the City Commission the securing of such professional and consulting services as it may require, however, the GCAB shall not have any authority to authorize or otherwise obligate the City to incur expenses and/or approve contracts. Requests for expenditures shall be routed through the ex-officio member(s) of the GCAB to the City Commission for consideration. Section 34-30 (h)

C. Day to Day Administration: The day to day administration of the cemetery shall be under the direction and control of the City, through the City Manager or his/her designee. Section 34-30 (g) (4)

The GCAB consists of seven members. The members were initially appointed to the GCAB in November, 2014. The members must be residents of the City and insofar as possible, represent diverse interests, such as persons with family members interred in Greenwood Cemetery; owners of burial sites within Greenwood Cemetery intending to be interred in Greenwood Cemetery; persons familiar with and interested in the history of Birmingham; persons with familiarity and experience in landscape architecture, horticulture, law or cemetery or funeral professionals. Every July, the Board elects a chairperson and vice-chairperson.

The GCAB is required to hold at least one regular meeting each quarter. The Board held ten meetings in 2015.

2. 2015 ACCOMPLISHMENTS

The GCAB has been working its way through the "Recommendations Checklist" assembled by the former Greenwood Cemetery Advisory Committee in its Final Report.

SPACE AVAILABILITY AND THE SALE OF GRAVES – Recommendations #4, 5, 8, 11

The demand for graves in Greenwood Cemetery has been very high. After reviewing the City records, the City Contractor, Elmwood Cemetery, found a number of grave spaces that had never been sold or used for burials. In addition, they identified several areas which could be used for burials in the green space between existing lots.

The Board thoroughly discussed whether this green space should be used for additional burials. Since Greenwood Cemetery is designated as a historic district, the Board recommended the Historic District Commission (HDC) review whether the green space could be used for additional burials and whether there were any limitations that would prohibit or be impacted by such action. The HDC was supportive of the sale of graves including the newly designated grave sites.

The GCAB recommended the City offer the graves located in the green space of Sections B, C, D, K, L and O for sale with several conditions. The City Commission approved the sale of graves as recommended (initially limiting the sale of new grave spaces in Section B & C to 240. Once 200 grave spaces are sold in Section B & C, the GCAB will review those sections again).

GROUND PENETRATING RADAR (GPR) – Recommendation #12

Prior to the sale of graves, the GCAB discussed the use of Ground Penetrating Radar (GPR), whether it should be done and if so, the entire cemetery or only the green space. The Board recommended staff obtain quotes for the GPR. Preliminary proposals were obtained from three companies and ranged from $7,800 - $36,000 for the entire cemetery and $3,900 - $19,500 for only the green space.

GPR has the capability of detecting metallic and non-metallic objects such as concrete, wood, and bones. It provides a cross-sectional view of objects embedded within the subsurface. The non-metallic items are not always distinguishable from the surrounding materials. GPR signal response is dependent on the burial material type as well as soil type, subsurface debris, and other sources of radio frequency noise.

The GCAB recommended that the City Commission authorize a Request for Proposal be issued for Ground Penetrating Radar services for both the entire cemetery and also only sections B, C, D, K, L, and O. Since that time, the contractor offered to have the GPR service done on the green space in these Sections. The City authorized the contractor to proceed with GPR on the green space in the Sections recommended for sale. The service was paid for by the contractor at no cost to the City.

CEMETERY REGULATIONS – Recommendation #7

In order to offer the graves for sale, the GCAB had to review the cemetery regulations. Recommendation #7 recommended the Greenwood Cemetery Operational Procedures, Conditions and Regulations be reviewed to ensure the regulations are fully inclusive. The GCAB discussed the regulations at length and made a number of revisions. The revisions were approved by the City Commission in August, 2015.

3. STATUS OF GRAVE SALES

On August 10, 2015, the City Commission authorized the Contractor to begin selling the newly identified grave spaces, in Sections B, C, D, K, L, and O, to individuals on the Grave Interest List. The breakdown of sales in these Sections are listed below.

NEWLY IDENTIFIED GRAVE SPACES**
TOTAL NUMBER OF GRAVES SOLD PER SECTION (AS OF 12/31/15)

Section	Number of Graves Identified	Number of Graves Sold	Number of Graves Remaining
B	408	33*	375
C	72	11*	61
D	8	6	2
K	16	14	2
L	16	8	8
O	10	6	4
TOTAL	530	78	452

*Per City Commission request, once 200 graves are sold in Sections B & C, the GCAB must review those Sections prior to additional graves being sold. No more than 240 graves can be sold in those two sections prior to GCAB review.

**Only flush memorials are allowed in the newly identified grave spaces.

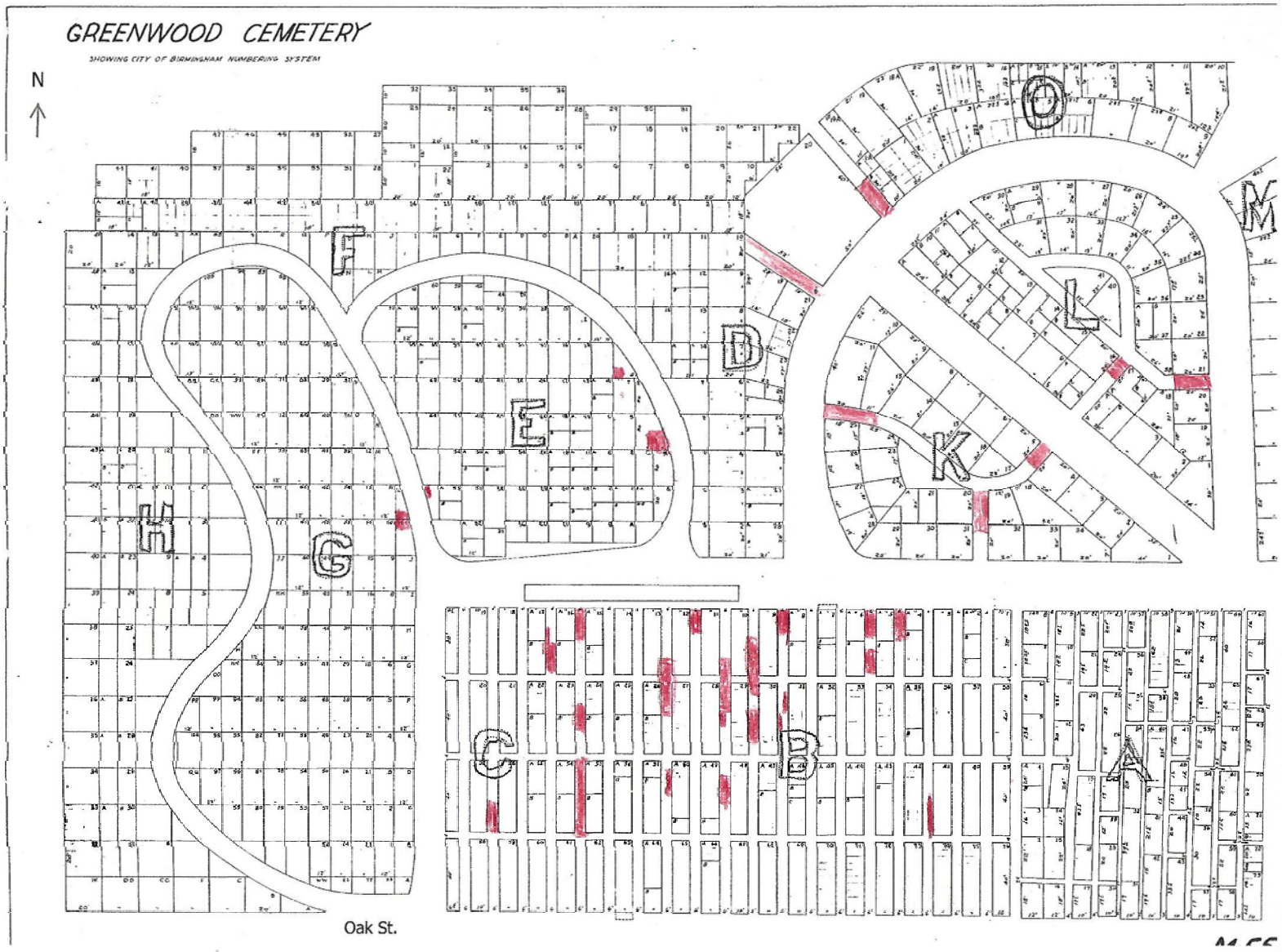
In addition to the newly identified grave spaces above, the Contractor was able to identify several odd shaped areas along the road that could be used for grave spaces.

AREAS ALONG THE ROAD
TOTAL NUMBER OF GRAVES SOLD PER SECTION (AS OF 12/31/15)

Section	Number of Graves Sold
G	14
E	11
TOTAL	25

NOTE: Anyone interested in purchasing a grave space, must add their name to the Grave Interest List.

A map showing the location of the graves purchased (highlighted in red) is below.



BREAKDOWN OF GRAVES SOLD BY QUARTER

JANUARY – MARCH (FIRST QUARTER)

2015	Purchased one grave	Purchased two graves	Purchased three or more graves	TOTAL SOLD	75% of sale paid to the City	25% of sale paid to the Contractor
Resident	1	-	-	1	$2,250.00	$750.00
Non-Resident	-	-	-	-	-	-
TOTAL	1	-	-	1	**$2,250.00**	**$750.00**

APRIL – JUNE (SECOND QUARTER)

2015	Purchased one grave	Purchased two graves	Purchased three or more graves	TOTAL SOLD	75% of sale paid to the City	25% of sale paid to the Contractor
Resident	-	1*	1 (6 graves purchased)	8	$15,000.00	$5,000.00
Non-Resident	-	-	-	-	-	-
TOTAL	-	2	6	8	**$15,000.00**	**$5,000.00**

*cremation only grave purchased at $1,000 each.

JULY – SEPTEMBER (THIRD QUARTER)

2015	Purchased one grave	Purchased two graves	Purchased three or more graves	TOTAL SOLD	75% of sale paid to the City	25% of sale paid to the Contractor
Resident	3	8	1 (6 graves purchased)	25	$51,750.00	$17,250.00
Non-Resident	2	7	1 (4 graves purchased)	20	$36,000.00	$12,000.00
TOTAL	5	30	10	45	**$87,750.00** (Does not include 6 graves currently on a payment plan)	**$29,250.00**

OCTOBER – DECEMBER (FOURTH QUARTER)

2015	Purchased one grave	Purchased two graves	Purchased three or more graves	TOTAL SOLD	75% of sale paid to the City	25% of sale paid to the Contractor
Resident	4	1	1	9	$18,000.00	$6,000.00
Non-Resident	3	8	5 (3, 3, 3, 4 & 8* graves purchased)	40	$62,250.00	$20,750.00
TOTAL	7	18	24	49	**$80,250.00** (Does not include 8 graves currently on a payment plan)	**$26,750.00**

*cremation only grave purchased at $1,000 each.

Breakdown of Graves Sold by Quarter Continued:

The fees to purchase a grave space are listed below:

$3,000.00	Full size
$2,000.00	Cremation size (accommodating two cremated remains)
$1,000.00	Cremation size (accommodating one cremated remains)

4. STATUS OF THE PERPETUAL CARE FUND

The Perpetual Care Fund was established in October, 2014 (Section 34-20 of the City Code). It can only be used for the perpetual care and maintenance of Greenwood Cemetery. The use of these funds are approved by the City Commission during the budget process.

"Sec. 34-29(a) - Perpetual care fund. Establishment of fund; name. The city hereby establishes, subject to the control of the city commission, a fund separate and apart from all other funds, property or securities belonging to the city, or belonging to any other entity, for the perpetual care and maintenance of Greenwood Cemetery property owned by the city, together with its buildings and appurtenances, any extension or enlargements thereof, and any mausoleum or burial crypts thereon. All deposits hereafter deposited with the city pursuant to this section and earnings thereon (such deposits and earnings being hereinafter referred to collectively as "Care Funds"), shall be administered in accordance with Act 215 of 1937 (MCL § 128.1 et seq.) and the terms of this section. The perpetual care fund hereby established shall be known as the Greenwood Cemetery Perpetual Care Fund."

The City receives 75% of the price for the sale of non-private grave spaces. Below is a breakdown of funds received by the City.

TOTAL CITY PERCENTAGE (75% OF THE SALE PAID TO THE CITY)

2015	FIRST QUARTER	SECOND QUARTER	THIRD QUARTER	FOURTH QUARTER		YEAR TO DATE
Grave Sales	$2,250.00	$15,562.50*	$88,312.50*	$80,250.00		$186,375.00
Interest Earned	$0	$30.29	$47.72	$139.58		$217.59
Fees Paid on Perpetual Care Fund	($0)	($3.44)	($8.56)	($20.29)		($32.29)
TOTAL	**$2,250.00**	**$15,589.35**	**$88,351.66**	**$80,369.29**		**$186,560.30**

*Reflects an overpayment made by the contractor to the City in the amount of $562.50 for additional rights of burial. The contractor will make the adjustment in the next payment to the City.

TOTAL CONTRACTOR PERCENTAGE (25% OF THE SALE PAID TO THE CONTRACTOR)

2015	FIRST QUARTER	SECOND QUARTER	THIRD QUARTER	FOURTH QUARTER		YEAR TO DATE
Grave Sales	$750.00	$5,000.00	$29,250.00	$26,750.00		$61,750.00
TOTAL	**$750.00**	**$5,000.00**	**$29,250.00**	**$26,750.00**		**$61,750.00**

The Contractor receives 25% of the price for the sale of non-private grave spaces. In addition to grave sales, the Contractor also provides cemetery management services for the operation of Greenwood Cemetery. This includes services such as burials, foundations, lawn care, processing ancestry inquiries and sales.

5. 2016 GOALS

The GCAB has several items remaining on the Recommendations Checklist (listed below).

As approved by the GCAB on February 5, 2016:

1	To recommend an RFP for GPR services be issued for the entire cemetery to develop a map of all known burial sites
2	To investigate the feasibility of installing columbaria for the inurnment of cremated remains
3	To develop a donor program for improvements specific to and appropriate to the cemetery
4	To digitize the burial records
5	To recommend an RFP for a Master Plan for Greenwood Cemetery
6	To recommend that the City of Birmingham review the Greenwood Cemetery Management Agreement
7	To contact owners whose records reflect no burials in the last fifty years to determine if they wish to sell graves back to the City
8	To commence reclamation and review records every ten years
9	To continue to review the cemetery regulations

City of Birmingham
A Walkable Community

MEMORANDUM

City Clerk's Office

DATE: June 10, 2016

TO: Joseph A. Valentine, City Manager

FROM: Laura M. Pierce, City Clerk
Mark Gerber, Finance Director

SUBJECT: Status Update on Cemetery Management Services Agreement with Historic Elmwood Cemetery

Duties of City & Contractor

Prior to the City contracting the management services with the Historic Elmwood Cemetery, the City Clerk's Office was responsible for scheduling burials and foundations, responding to ancestry inquires, maintaining the grave interest list and updating the cemetery records for burials, foundations, and processing deeds for private sales. Due to the age of the cemetery, the City Clerk's Office was in frequent contact with the City Attorney to determine next of kin rights for burials and private sales. These questions took a lot of time and there was frequent back and forth with the next of kin to ensure proper documentation was obtained.

The Department of Public Services was responsible for maintaining the cemetery grounds, forestry services, preparing the graves for burials, pouring foundations, and locating specific grave locations for owners and individuals interesting in purchasing a private sale grave.

In June, 2013, the City entered into an agreement with the Historic Elmwood Cemetery (contractor) for Cemetery Management Services of Greenwood Cemetery. An electronic copy of the records was given to the contractor and the City retained the original records. The contractor then took over the work previously performed by the City Clerk's Office and the Department of Public Services. Attachment A lists the work currently performed by the City and the contractor.

The permanent record keeping is still maintained by the City Clerk's Office. Every quarter the contractor sends the deeds and work orders to the Clerk's Office. The Clerk's Office updates the cemetery record books, the Laserfiche document imaging program, and files the hard copy deeds and work orders.

The Department of Public Services (DPS) is still responsible for forestry services and road improvements, however the contractor took over the responsibilities for prepping the grave for burial, pouring foundations, snow removal, lawn care, general clean-up of the grounds, and meeting with the families regarding grave location. There have been no road improvements to date, however it is anticipated that the road will need to be done in the future.

DPS contracts out the lawn care for the entire City, including the cemetery. The contractor is responsible for the lawn care and reimburses the City for the cemetery portion of the lawn care.

The contractor receives a bill from the City once a month for the cemetery portion of the lawn care contract.

The contractor is responsible for scheduling burials and foundations, responding to ancestry inquires, and updating the electronic cemetery records for burials, foundations, and sales. In addition, the contractor is responsible for meeting with individuals interested in purchasing a grave, the sale of the grave, and financial record keeping of those sales. The contractor is also responsible for prepping the grave for burial, pouring foundations, snow removal, lawn care and general clean-up of the grounds.

The care, maintenance and operation of Greenwood Cemetery remain under the supervision and control of the City Manager in accordance with Section 34-26 of the City Code.

Grave Interest List & Sale of Graves

In order to purchase a grave in the cemetery, one must be on the Grave Interest List or have an immediate need for a grave. Since the newly designated grave spaces have been made available, the Grave Interest List has grown to over 300 names. The contractor has made its way through over half of the names on the list.

The contractor makes contact with an individual or family from the Grave Interest List. It generally takes about two to three meetings at the cemetery before the individual decides which grave spaces to purchase. The fee and deeds are processed by the contractor. Each quarter the City receives, a list of sales, the deeds and City percentage of the fee. The Clerk's Office compares the list of sales to the deeds received, updates the cemetery record books, the Laserfiche document imaging program, and files the hard copy deeds and work orders.

The Contractor offers a 0% interest payment plan for individuals interested in purchasing graves. The payment plan is a standard practice offered at all cemeteries operated by the contractor. Individuals have the option of a twenty-four month plan, however most individuals are opting for a twelve month plan. Once the payment plan is fulfilled, the City will receive its 75% portion. Burials cannot be done until the payment plan is paid in full. To date, fourteen graves were purchased utilizing the payment plan and two of the fourteen graves have already been paid in full.

Only two private sales have occurred since the newly designated grave spaces were made available. Both private sale purchases were made for $3,000.00 – the same amount for the full size grave spaces sold by the City. Opening the newly designated grave spaces greatly reduced the price on the private sale graves.

Perpetual Care Fund

The City receives 75% of the fee for the newly designated grave space sales. The entire 75% is deposited into the Greenwood Cemetery Perpetual Care Fund.

In October, 2014, the City Commission established the Greenwood Cemetery Perpetual Care Fund in accordance with Act 215 of 1937. The purpose of the fund is to account for the investment earnings on the sale of City-owned plots and donations which will be used for the perpetual care and maintenance of the Greenwood Cemetery. Funds received from the sale of

plots are considered public funds and are invested in accordance with P.A. 20 of 1943 and the City's General Investment Policy.

By state law, the funds are invested in the same manner as the City's general investments (non-retirement investments) which means it is invested in US treasuries, US agencies, CD's, commercial paper, and securities of the State of Michigan. Currently, the fund is earning approximately less than 1% (.8%). The primary goal of the investment policy for the City's funds and the cemetery funds is preservation of principal which means investing in very safe low yielding securities. The Finance Department is in charge of overseeing the investments and will recommend any changes to the investments if needed.

Public Act 13

Public Act 13 became effective on May 16, 2016. This act allows a municipality to invest money deposited into a perpetual care and maintenance fund into mutual funds consisting of fixed income securities and/or equity securities. No more than 60% of the fund balance of the perpetual care and maintenance fund may be invested in equity securities and the equity securities of the mutual fund cannot be made up of more than 40% of one asset class (for example, large cap stocks, international stocks, etc.). Also the mutual funds must be rated in the top 2 tiers of mutual funds as rated by Morningstar, Inc. or another nationally recognized mutual fund rating agency at the time of purchase.

P.A. 13 is not mandatory. The City can continue to invest these funds under P.A. 20 if it desires. P.A. 13 gives the City an option to potentially earn greater returns for the fund. However, as with any investment in the stock market, there is potential for greater losses as well.

As an additional investment mechanism, City staff researched the opportunity to invest these funds with the Community Foundation for Southeast Michigan, however, due to fact that these funds are public funds, state law would prohibit this kind of investment. In order to invest in greater risk mutual funds, as permitted under P.A. 13, staff is reviewing the requirements of the act and will propose a risk allocation policy that will incorporate mutual funds into a cohesive investment strategy.

Conclusion

The contract for cemetery management services has been successful to date. The cemetery services are performed by the contractor at no cost to the City. The City Clerk's Office remains in close contact with the contractor to ensure the needs of community are met. The contractor is very responsive to all inquiries by the City and its residents. The work is performed in a professional manner by experts in the cemetery industry.

The following documents are attached for reference:

A. List of Responsibilities of the City vs Contractor
B. Cemetery Management Agreement with Historic Elmwood Cemetery
C. Summary of the City Commission decisions regarding cemetery 2012-2015
D. City Commission minutes regarding cemetery 2012-2015
E. Cemetery Rules and Regulations
F. Ordinance regarding Greenwood Cemetery
G. Fee Schedule

Cemetery Service	Service Provider			
	City			**Elmwood**
	Clerk	DPS	Private Contractor	
Permanent record keeping	X			
Tree removal		X		
Road improvements		X		
Financial record keeping				X
Meet with families to identify space				X
Coordinate with Funeral Director/Family time & date of service and service type				X
Document next of kin and deceased information				X
Issue work order				X
Excavate grave				X
Set up tent and chairs				X
Perform burial				X
Attend burial				X
Post burial tent and chairs are removed and packed				X
Grave is seeded and top dressed				X
Maps and records are marked to reflect the burial information				X
Records are scanned and emailed to City Clerk				X
Lawn care			X	
Contracting lawn care and weed care/fertilization				X
Inspection of lawn care and weed care contractor's work				X
Raise and level markers/monuments				X
Seeding grass is necessary				X
Repairing graves as needed				X

Address customer service requests				X
Installation of foundations				X
Snow removal				X
Maintain water system				X
General clean- up of grounds, e.g. trimming bushes, picking up branches, trash pick-up				X
Update interest list				X
Mail and/or email interest list to families				X
Issue work orders for customer requests				X
Transfer of Burial Rights - assist both parties with transfer, e.g. identify locations using records and physically, issue forms, assist in form completion, confirm forms and fees received to both parties, update all records, issue deed, scan and email updates to Clerk				X
Assist families with information regarding disinternment and internment				X

AGREEMENT

For Greenwood Cemetery Management Services

This AGREEMENT, made this 24th day of June, 2013, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and Elmwood Historic Cemetery, having its principal office at 1200 Elmwood Road, Detroit, MI 48207 (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its City Manager's Office, is desirous of having professional cemetery management services provided at the Greenwood Cemetery, located in the City of Birmingham.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to provide management services for the City's historic Greenwood Cemetery, and in connection therewith has prepared a request for sealed proposals ("RFP"), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to provide management services for the City's historic Greenwood Cemetery.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to provide management services for the City's historic Greenwood Cemetery and the Contractor's cost proposal dated April 29, 2013, 2013 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. As compensation, the contractor shall receive one-hundred percent (100%) of the income from interment services, the sale of second rights of interment, foundations and memorial installations and other miscellaneous service fees, as approved by the City. Additionally, the Contractor shall receive twenty-five percent (25%) of the proceeds from the sale of new or reclaimed grave spaces.

3. This Agreement shall commence upon execution by both parties, and shall remain in effect for a period of ten (10) years, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals. Prior to the expiration of the original term, the parties may mutually agree, in writing, to renew the agreement for an additional ten (10) years beyond the original term.

expiration of the original term, the parties may mutually agree, in writing, to renew the agreement for an additional ten (10) years beyond the original term.

A. In addition to the above, either party may terminate this agreement, for any reason, by providing ninety (90) days written notice to the other party of its intention to do so.

4. The Contractor shall employ personnel and engage subcontractors of good moral character and fitness in performing all services under this Agreement.

5. The Contractor and the City agree that the Contractor is acting as an independent Contractor with respect to the Contractor 's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

6. The Contractor acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Contractor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Contractor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Contractor shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Contractor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The Contractor agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

8. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

9. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by the Contractor without the prior written consent of the City. Any attempt at assignment without prior written consent shall be void and of no effect.

10. The Contractor agrees that neither it nor its subcontractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The Contractor shall inform the City of all claims or suits asserted against it by the Contractor's employees who work pursuant to this Agreement. The Contractor shall provide the City with periodic status reports concerning all such claims or suits, at intervals established by the City.

11. The Contractor shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham. The Contractor shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, 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 the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement 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.

D. Additional Insured: Commercial General Liability 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 employee 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 by primary, contributing or excess.

E. Professional Liability: Professional liability insurance with limits of not less than $1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage.

F. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than $1,000,000, per occurrence preferred, but claims made accepted.

G. Owners Contractors Protective Liability: The Contractor shall procure and maintain during the life of this contract, an Owners Contractors Protective Liability Policy with limits of liability not less than $3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be "Name Insured" on said coverage. Thirty (30) days Notice of Cancellation shall apply to this policy.

H. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance (and Professional Liability Insurance, if applicable), as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal, shall be sent to: Finance Director, City of Birmingham, PO Box 3001, 151 Martin Street, Birmingham, MI 48012-3001.

I. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
5) If so requested, Certified Copies of all policies mentioned above will be furnished.

J. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.

K. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

13. To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham.

14. If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Contractor, the City shall have the right to terminate this Agreement without further liability to the Contractor if the disqualification has not been removed within thirty (30) days after the City has given the Contractor notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

15. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

City of Birmingham
Attn: Christian Wuerth
151 Martin Street
Birmingham, MI 48009
Ph. 248.530.1807
cwuerth@bhamgov.org

Elmwood Historic Cemetery
Attn: Lawrence Sloane
1200 Elmwood Road
Detroit, MI 48207
Ph. 313.567.3453
lfsloane@aol.com

17. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL§600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

18. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

[Signatures on next page]

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:

TRUSTEES OF ELMWOOD CEMETERY

By: _____
Francis W. McMillan II
Its: President

CITY OF BIRMINGHAM

By: _____
George Dilgard
Its: Mayor

By: _____
Laura Broski
Its: City Clerk

Approved:

_____
Christian Wuerth,
Assistant to the City Manager
(Approved as to substance)

_____
B. Sharon Ostin, Director of Finance
(Approved as to financial obligation)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Robert J. Bruner, Jr., City Manager
(Approved as to substance)

ELMWO-1 OP ID: PAB

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 06/21/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Comerica Insurance Services MC7969 P. O. Box 75000 Detroit, MI 48275 Michael Maldegen Phone: 800-713-0336 Fax: 313-222-3131	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:
INSURED Elmwood Cemetery Greenwood Cemetery 1200 Elmwood Detroit, MI 48207	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Citizens Insur. Co of America — 31534 INSURER B : Citizens-Allmerica Fin Benefit — 41840 INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR [X] *GL Broad GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [ ] LOC			Z7B9170151	06/01/2013	06/01/2014	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ *500,000 $ *15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [X] HIRED AUTOS [X] NON-OWNED AUTOS			AWB9164224	06/01/2013	06/01/2014	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	[X] UMBRELLA LIAB [X] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 0			U7B9173262	06/01/2013	06/01/2014	EACH OCCURRENCE AGGREGATE	$ 2,000,000 $ 2,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		W2B9164845	06/01/2013	06/01/2014	WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 500,000 $ 500,000 $ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof are named as additional insured with respects to teh general liability policy as their interest may appear by written contract, all above coverage are primiary.

CERTIFICATE HOLDER CIT1BIR

City of Birmingham
Attn: Christian Wuerth
151 Martin Street
Birmingham, MI 48009

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

M J Maldegen

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REQUEST FOR PROPOSALS
For Greenwood Cemetery Management Services

Sealed proposals endorsed **"Greenwood Cemetery Management"**, will be received at the Office of the City Clerk, 151 Martin Street, PO Box 3001, Birmingham, Michigan, 48012; until 3:00 p.m. on Thursday, May 2, 2013 after which time bids will be publicly opened and read.

Bidders will be required to attend a mandatory pre-bid meeting on Thursday, April 18, 2013 at 2:00 p.m. in Room #205 of the Birmingham Municipal Building, located at 151 Martin, Birmingham, MI 48009. Bidders must register for the pre-bid meeting by Wednesday, April 17, 2013 by contacting Christian Wuerth at 248.530.1807 or cwuerth@bhamgov.org.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to provide management services for the City's historic Greenwood Cemetery. This work must be performed as specified accordance with the specifications contained in the Request For Proposals (RFP).

The RFP, including the Specifications, may be obtained online from the Michigan Inter-governmental Trade Network at http://www.mitn.info or at the City of Birmingham, 151 Martin St., Birmingham, Michigan; ATTENTION: Christian Wuerth, Assistant to the City Manager.

The acceptance of any proposal made pursuant to this invitation shall not be binding upon the City until an agreement has been executed.

Submitted to MITN:	Tuesday, April 2, 2013
Mandatory Pre-Bid Meeting:	Thursday, April 18, 2013 at 2:00 p.m.
Deadline for Submissions:	3:00 p.m. on Thursday, May 2, 2013
Contact Person:	Christian Wuerth, Assistant to the City Manager P.O. Box 3001, 151 Martin Street Birmingham, MI 48012-3001 Phone: 248.530.1807 Email: cwuerth@bhamgov.org

REQUEST FOR PROPOSALS
For Greenwood Cemetery Management Services

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INTRODUCTION

For purposes of this request for proposals the City of Birmingham will hereby be referred to as "City" and the private firm will hereby be referred to as "Contractor."

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to provide management services for the City's historic Greenwood Cemetery. This work must be performed as specified accordance with the specifications outlined by the Scope of Work contained in this Request For Proposals (RFP).

During the evaluation process, the City reserves the right where it may serve the City's best interest to request additional information or clarification from proposers, or to allow corrections of errors or omissions. At the discretion of the City, firms submitting proposals may be requested to make oral presentations as part of the evaluation.

It is anticipated the selection of a firm will be completed by late May 2013. An Agreement for services will be required with the selected Contractor. A copy of the Agreement is contained herein for reference. Contract services will commence upon execution of the service agreement by the City.

NOTE: In September 2012, the City received a report prepared by the L.F. Sloane Consulting Group, Inc., which may be found as Attachment E (pg. 26). The report serves as an evaluation of current operations and makes a series of recommendations for future operations of the Cemetery.

REQUEST FOR PROPOSALS (RFP)

The purpose of this RFP is to request sealed bid proposals from qualified parties presenting their qualifications, capabilities and costs to provide to provide management services for the City's historic Greenwood Cemetery.

MANDATORY PRE-BID MEETING

Prior to submitting a bid, interested firms are required to attend a pre-bid meeting to make inquiries about the RFP. The mandatory pre-bid meeting will take place on Thursday, April 18, 2013 at 2:00 p.m. in Room #205 of the Birmingham Municipal Building, located at 151 Martin, Birmingham, MI 48009. Bidders must register for the pre-bid meeting by Wednesday, April 17, 2013 by contacting Christian Wuerth at 248.530.1807 or cwuerth@bhamgov.org.

INVITATION TO SUBMIT A PROPOSAL

Proposals shall be submitted no later than 3:00 p.m. on Thursday, May 2, 2013 to:

City of Birmingham
Attn: City Clerk
151 Martin Street
Birmingham, Michigan 48009

One (1) original and one (1) electronic copy, in PDF format, of the proposal shall be submitted. The proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside, **"Greenwood Cemetery Management"**. Any proposal received after the due date cannot be accepted and will be rejected and returned, unopened, to the proposer. Proposer may submit more than one proposal provided each proposal meets the functional requirements.

INSTRUCTIONS TO BIDDERS

1. Any and all forms requesting information from the bidder must be completed on the attached forms contained herein (see Contractor's Responsibilities). If more than one bid is submitted, a separate bid proposal form must be used for each.

2. Any request for clarification of this RFP shall be made in writing and delivered to: Christian Wuerth, Assistant to the City manager, 151 Martin, Birmingham, MI 48009 or cwuerth@bhamgov.org. Such request for clarification shall be delivered, in writing, no later than 5 days prior to the deadline for submissions.

3. All proposals must be submitted following the RFP format as stated in this document and shall be subject to all requirements of this document including the instruction to respondents and general information sections. All proposals must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the RFP format by the respondent.

4. The contract will be awarded by the City of Birmingham to the most responsive and responsible bidder with the lowest price and the contract will require the completion of the work pursuant to these documents.

5. Each respondent shall include in his or her proposal, in the format requested, the cost of performing the work. Municipalities are exempt from Michigan State Sales and Federal Excise taxes. Do not include such taxes in the proposal figure. The City will furnish the successful company with tax exemption information when requested.

6. Each respondent shall include in their proposal the following information: Firm name, address, city, state, zip code, telephone number, and fax number. The

company shall also provide the name, address, telephone number and e-mail address of an individual in their organization to whom notices and inquiries by the City should be directed as part of their proposal.

EVALUATION PROCEDURE AND CRITERIA

The evaluation panel will consist of City staff and any other person(s) designated by the City who will evaluate the proposals based on, but not limited to, the following criteria:

1. Ability to provide services as outlined.
2. Related experience with similar projects, Contractor background, and personnel qualifications.
3. Quality of materials proposed.
4. Overall Costs.
5. References.

TERMS AND CONDITIONS

1. The City reserves the right to reject any or all proposals received, waive informalities, or accept any proposal, in whole or in part, it deems best. The City reserves the right to award the contract to the next most qualified Contractor if the successful Contractor does not execute a contract within ten (10) days after the award of the proposal.

2. The City reserves the right to request clarification of information submitted and to request additional information of one or more Contractors.

3. The City reserves the right to terminate the contract at its discretion should it be determined that the services provided do not meet the specifications contained herein. The City may terminate this Agreement at any point in the process upon notice to Contractor sufficient to indicate the City's desire to do so. In the case of such a stoppage, the City agrees to pay Contractor for services rendered to the time of notice, subject to the contract maximum amount.

4. Any proposal may be withdrawn up until the date and time set above for the opening of the proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, to provide the services set forth in the proposal.

5. The cost of preparing and submitting a proposal is the responsibility of the Contractor and shall not be chargeable in any manner to the City.

6. The successful bidder will be required to furnish a Performance Bond in an amount not less than 100% of the contract price in favor of the City of Birmingham, conditioned upon the faithful performance of the contract, and completion on or before the date specified.

7. Payment will be made within thirty (30) days after invoice. Acceptance by the City is defined as authorization by the designated City representative to this project that all the criteria requested under the Scope of Work contained herein have been provided. Invoices are to be rendered each month following the date of execution of an Agreement with the City.

8. The Contractor will not exceed the timelines established for the completion of this project.

9. The successful bidder shall enter into and will execute the contract as set forth and attached as Attachment A.

CONTRACTOR'S RESPONSIBILITIES

Each bidder shall provide the following as part of their proposal:

1. Complete and sign all forms requested for completion within this RFP.
   a. Bidder's Agreement (Attachment B - p. 18)
   b. Cost Proposal (Attachment C - p. 19)
   c. Agreement (p. 11 – **only if selected by the City**).

2. Provide a description of completed projects that demonstrate the firm's ability to complete projects of similar scope, size, and purpose, and in a timely manner, and within budget.

3. Provide a written plan detailing the anticipated timeline for completion of the tasks set forth in the Scope of Work (p. 9).

4. The Contractor will be responsible for any changes necessary for the plans to be approved by the City of Birmingham.

5. Provide a description of the firm, including résumés and professional qualifications of the principals involved in administering the project.

6. Provide a list of sub-contractors and their qualifications, if applicable.

7. Provide three (3) client references from past projects, include current phone numbers. At least two (2) of the client references should be for projects utilizing the same materials included in the Contractor's proposal.

8. The Contractor will be responsible for the disposal of all material and any damages which occur as a result of any of employees or subcontractors of the Contractor during this project.

9. The contractor will be responsible for obtaining any building and parking permits at no cost to the contractor.

10. Provide a project timeline addressing each section within the Scope of Work and a description of the overall project approach. Include a statement that the Contractor will be available according to the proposed timeline.

CITY RESPONSIBILITY

1. The City will provide a designated representative to work with the Contractor to coordinate both the City's and Contractor's efforts and to inspect and verify any work performed by the Contractor.

2. The City will provide access to the City of Birmingham during regular business hours or during nights and weekends as approved by the City's designated representative.

SETTLEMENT OF DISPUTES

The successful bidder agrees to certain dispute resolution avenues/limitations. Please refer to paragraph 17 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

INSURANCE

The successful bidder is required to procure and maintain certain types of insurances. Please refer to paragraph 12 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

CONTINUATION OF COVERAGE

The Contractor also agrees to provide all insurance coverages as specified. Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the agreement, the City may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the contract amount. In obtaining such coverage, Birmingham shall have no obligation to procure the most cost effective coverage but may contract with any insurer for such coverage.

EXECUTION OF CONTRACT

The bidder whose proposal is accepted shall be required to execute the contract and to furnish all insurance coverages as specified within ten (10) days after receiving notice of such acceptance. Any contract awarded pursuant to any bid shall not be binding upon the City until a written contract has been executed by both parties. Failure or refusal to execute the contract shall be considered an abandoned all rights and interest in the award and the contract may be awarded to another. The successful bidder agrees to enter into and will execute the contract as set forth and attached as Attachment A.

INDEMNIFICATION

The successful bidder agrees to indemnify the City and various associated persons. Please refer to paragraph 13 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

CONFLICT OF INTEREST

The successful bidder is subject to certain conflict of interest requirements/restrictions. Please refer to paragraph 14 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

EXAMINATION OF PROPOSAL MATERIALS

The submission of a proposal shall be deemed a representation and warranty by the Contractor that it has investigated all aspects of the RFP, that it is aware of the applicable facts pertaining to the RFP process and its procedures and requirements, and that it has read and understands the RFP. Statistical information which may be contained in the RFP or any addendum thereto is for informational purposes only.

PROJECT TIMELINE

It is anticipated that the Birmingham City Commission will consider the agreement with the successful bidder in late May 2013. Following approval, City staff will schedule a meeting with the successful bidder to begin transition of daily management tasks and finalize a schedule for the processes to identify additional space for burials and the interment of cremated remains within the cemetery, as identified in the Scope of Work.

The Contractor will not exceed the timelines established for the completion of this project.

SCOPE OF WORK

The Contractor shall perform the following services in accordance with the requirements as defined and noted herein:

1. The City is seeking a qualified contractor to provide service to the City within Greenwood Cemetery to include, but not be limited to, the following:
    a. Lawn care, weed control, monument trimming
    b. Burial services
    c. Permanent record keeping
    d. Financial record keeping
    e. Customer service and marketing
    f. Advising the City on the development and long-term care of the cemetery

2. The Contractor shall solely be responsible for all expenses for labor, equipment and materials for services provided under the agreement. The City shall maintain the insurance for the Cemetery grounds at its expense.
    a. To cover such expenses, the Contractor shall receive the income from interment services, second rights of interment, foundations and memorial installations and other miscellaneous service fees, as approved by the City.
    b. The Contractor may offer other services, including memorial sales and floral sales.
    c. The City will approve certain policies and fund the development of new burial spaces within the Cemetery. The Contractor will assist the City in this design and development of such inventory of ground burial spaces and cremation burial options.

3. Upon the sale of new and reclaimed burial spaces and, 50% of such funds shall be placed in an endowment fund to be established for the perpetual care of the Cemetery, the contractor shall receive a percentage equal to 25% of the sale price, and the remaining 25% of such sales shall be returned to the City as a capital cost recovery.

4. The City shall establish an endowment fund for the perpetual care and maintenance of Greenwood Cemetery, which will be invested by a third party trustee. At the City's sole discretion, the Contractor may assist in the development of the fund.

5. The Contractor and City shall meet on a regular basis to review the operations and financial status of the Cemetery. The schedule for such meetings shall be established by the parties following the execution of the agreement.

6. The City maintains the right to inspect, without any advance notice, all permanent and financial records associated with the Greenwood Cemetery.

7. The Contractor must maintain the Cemetery in a manner which is fully in compliance with the City's adopted Operational Procedures, Conditions, and Regulations. The current version is included as **Attachment D – pg. 19**.
    a. From time to time, the Contractor will assist the City in reviewing the Operational Procedures, Conditions, and Regulations in order to ensure the needs of the community are being met in a manner consistent with industry best practices.

8. Greenwood Cemetery is a historic site within the City of Birmingham. All actions and recommendations by the Contractor shall be done in a manner which maintains the historic character and setting of the cemetery.

9. The Contractor shall be responsible for the disposal of all materials in a safe and legal manner.

10. The Contractor shall operate in a safe manner and will observe all MIOSHA guidelines.

11. This section and referenced documents shall constitute the Scope of Work for this project and as such all requirements must be met.

ATTACHMENT A

AGREEMENT

For Greenwood Cemetery Management Services

This AGREEMENT, made this 24th day of June, 2013, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and Elmwood Historic Cemetery, having its principal office at 1200 Elmwood Road, Detroit, MI 48207 (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its City Manager's Office, is desirous of having professional cemetery management services provided at the Greenwood Cemetery, located in the City of Birmingham.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to provide management services for the City's historic Greenwood Cemetery, and in connection therewith has prepared a request for sealed proposals ("RFP"), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to provide management services for the City's historic Greenwood Cemetery.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to provide management services for the City's historic Greenwood Cemetery and the Contractor's cost proposal dated April 29, 2013, 2013 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. As compensation, the contractor shall receive one-hundred percent (100%) of the income from interment services, the sale of second rights of interment, foundations and memorial installations and other miscellaneous service fees, as approved by the City. Additionally, the Contractor shall receive twenty-five percent (25%) of the proceeds from the sale of new or reclaimed grave spaces.

3. This Agreement shall commence upon execution by both parties, and shall remain in effect for a period of ten (10) years, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals. Prior to the expiration of the original term, the parties may mutually agree, in writing, to renew the agreement for an additional ten (10) years beyond the original term.

expiration of the original term, the parties may mutually agree, in writing, to renew the agreement for an additional ten (10) years beyond the original term.

A. In addition to the above, either party may terminate this agreement, for any reason, by providing ninety (90) days written notice to the other party of its intention to do so.

4. The Contractor shall employ personnel and engage subcontractors of good moral character and fitness in performing all services under this Agreement.

5. The Contractor and the City agree that the Contractor is acting as an independent Contractor with respect to the Contractor 's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

6. The Contractor acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Contractor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Contractor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Contractor shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Contractor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The Contractor agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

8. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

9. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by the Contractor without the prior written consent of the City. Any attempt at assignment without prior written consent shall be void and of no effect.

10. The Contractor agrees that neither it nor its subcontractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The Contractor shall inform the City of all claims or suits asserted against it by the Contractor's employees who work pursuant to this Agreement. The Contractor shall provide the City with periodic status reports concerning all such claims or suits, at intervals established by the City.

11. The Contractor shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham. The Contractor shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, 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 the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement 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.

D. Additional Insured: Commercial General Liability 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 employee 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 by primary, contributing or excess.

E. Professional Liability: Professional liability insurance with limits of not less than $1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage.

F. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than $1,000,000, per occurrence preferred, but claims made accepted.

G. Owners Contractors Protective Liability: The Contractor shall procure and maintain during the life of this contract, an Owners Contractors Protective Liability Policy with limits of liability not less than $3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be "Name Insured" on said coverage. Thirty (30) days Notice of Cancellation shall apply to this policy.

H. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance (and Professional Liability Insurance, if applicable), as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal, shall be sent to: Finance Director, City of Birmingham, PO Box 3001, 151 Martin Street, Birmingham, MI 48012-3001.

I. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
5) If so requested, Certified Copies of all policies mentioned above will be furnished.

J. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.

K. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

13. To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham.

14. If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Contractor, the City shall have the right to terminate this Agreement without further liability to the Contractor if the disqualification has not been removed within thirty (30) days after the City has given the Contractor notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

15. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

City of Birmingham
Attn: Christian Wuerth
151 Martin Street
Birmingham, MI 48009
Ph. 248.530.1807
cwuerth@bhamgov.org

Elmwood Historic Cemetery
Attn: Lawrence Sloane
1200 Elmwood Road
Detroit, MI 48207
Ph. 313.567.3453
lfsloane@aol.com

17. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL§600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

18. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

[Signatures on next page]

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:

TRUSTEES OF ELMWOOD CEMETERY

By: _____
Francis W. McMillan II
Its: President

CITY OF BIRMINGHAM

_____
Cheryl Arft

By: _____
George Dilgard
Its: Mayor

_____
Cheryl Arft

By: _____
Laura Broski
Its: City Clerk

Approved:

_____
Christian Wuerth,
Assistant to the City Manager
(Approved as to substance)

_____
B. Sharon Ostin, Director of Finance
(Approved as to financial obligation)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Robert J. Bruner, Jr., City Manager
(Approved as to substance)

ATTACHMENT B - BIDDER'S AGREEMENT

For Greenwood Cemetery Management Services

In submitting this proposal, as herein described, the Contractor agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.

2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

LAWRENCE F SLOANE	4/30/13
BID PREPARED BY (Print Name)	**DATE**
DIRECTOR	4/30/13
TITLE	**DATE**
Lawrence Sloane	LFSLOANE@AOL.COM
AUTHORIZED SIGNATURE	**E-MAIL ADDRESS**
ELMWOOD CEMETERY	
COMPANY	518-424-7757 (C)
1200 ELMWOOD AVENUE	313-567-3453 (O)
ADDRESS	**PHONE**
ELMWOOD CEMETERY	SAME
NAME OF PARENT COMPANY	**PHONE**
1200 ELMWOOD AVENUE DETROIT MICHIGAN 48207	
ADDRESS	

ATTACHMENT C - COST PROPOSAL

For Greenwood Cemetery Management Services

In order for the bid to be considered valid, this form must be completed in its entirety.

As compensation, the contractor shall receive one-hundred percent (100%) of the income from interment services, the sale of second rights of interment, foundations and memorial installations and other miscellaneous service fees. Additionally, the Contractor shall receive twenty-five percent (25%) of the proceeds from the sale of new or reclaimed grave spaces.

The additional annual cost, if any, for the Scope of Work as stated in the Request for Proposal documents shall be an amount, as follows:

COST PROPOSAL	
ITEM	**ANNUAL AMOUNT**
TOTAL ANNUAL AMOUNT	

Firm Name Elmwood Cemetery

Authorized signature Scott Moore Date 4/30/13

ATTACHMENT D – EXISTING POLICIES AND PROCEDURES

For Greenwood Cemetery Management Services RFP

CITY OF BIRMINGHAM
GREENWOOD CEMETERY OPERATIONAL PROCEDURES, CONDITIONS AND REGULATIONS

DEFINITIONS:

The following words and phrases, when used, the following sections shall, for the purposes of these sections, have the meanings respectively ascribed to them, except in those instances where the context clearly indicates a different meaning.

a. "Cemetery" shall mean Greenwood Cemetery.

b. "Superintendent" shall mean the City Manager or his designee.

C. "Marker" shall mean a stone or object denoting the location of a grave and which does not exceed eighteen (18) inches in height, sixteen (16) inches in width, and twenty-four (24) inches in length.

d. "Monument" shall denote a memorial stone or object of a size in excess of that of a marker.

e. "Permanent outside container" shall be a container which encloses a casket. The following are considered permanent outside containers: concrete boxes, concrete, copper or steel burial vaults.

f. "Department" shall mean the Department of Public Services.

CONDUCT OF PERSONS

Every person entering the cemetery shall be responsible for any damage caused by such person while within the cemetery. No person under eighteen years of age shall enter the cemetery grounds unless accompanied by an adult responsible for his conduct, or unless permission has been granted by the Superintendent.

No person shall:

a. Enter the cemetery except through an established gate, and only during the hours from 8:00 A.M. to sundown.

b. Deposit or leave rubbish and debris on any part of the cemetery grounds.

c. Pick, mutilate, remove, or destroy any living plants or parts thereof, whether wild or domestic, on the cemetery grounds, except in the work of maintenance by City employees.

d. Break, injure, remove, or deface any monument or marker on the cemetery grounds.

e. Bring any dog or animal into the cemetery grounds, except by permission of the Superintendent.

f. Bring or discharge any firearm on the cemetery grounds, except in the conduct of military funerals.

g. Carry any refreshments or intoxicants into the cemetery grounds, or consume such while in the cemetery.

h. Use any form of advertising on cemetery grounds.

i. Conduct her/himself in any other than a quiet and respectful manner while on the cemetery grounds.

TRAFFIC REGULATIONS

All traffic laws of the City of Birmingham that are applicable to the operation of vehicles in cemeteries shall be strictly observed. Every person driving a vehicle into the cemetery shall be responsible for any damage caused by such vehicle.

No person shall:

a. Drive a vehicle within the cemetery at a speed in excess of ten (10) miles per hour.

b. Drive or park a vehicle on other than established driveways except for the purpose of maintenance or construction.

c. Turn a vehicle around within the cemetery except by following established driveways.

d. Use a cemetery driveway as a public thoroughfare.

MAINTENANCE AND PERPETUAL CARE

The City shall be responsible for the maintenance and repair of the driveways, buildings, water system and fences. The City shall also cut and maintain the grass areas, rake the leaves, trim and remove trees and shrubs, apply fertilizer as necessary, and in general maintain the cemetery as a place of natural beauty devoted to the burial of the dead.

The City shall not be responsible for any special care of any particular section, lot or burial space or for the maintenance or repair of any monument, marker or planting placed by the owner. The City shall not contract or agree to give special care to any section, lot or burial space except as above provided.

MONUMENTS, GRAVE MARKERS AND FOUNDATIONS FOR SAME

Monuments will be permitted only on lots having 90 or more square feet of area under one ownership. No more than one monument shall be erected on any lot.

The erection of all monuments and markers shall be subject to the following conditions:

a. Each monument or marker shall be supported on a concrete foundation not smaller than the base of the monument or marker it supports and not less than forty-two (42) inches deep below the ground surface. Such foundation shall be constructed only by the City after payment therefore has been made. Foundations will be poured April to November, weather dependent, as determined by the Superintendent. Requests received after November 1st will be held until conditions allow for installation.

b. Markers shall not exceed 1 ½ feet in height and shall have a minimum horizontal dimension at the base of not less than half of the height. All markers shall be in one piece, and shall be dressed on the bottom at right angles to the vertical axis. These measurements do not apply to government issue markers.

c. Designs for monuments or markers must be submitted to the Superintendent or to a person designated by him to act in his stead, when application is made for construction of foundations.

d. No monument or marker of artificial stone, sandstone, limestone, or soapstone will be permitted.

f. All contractors and workmen engaged in setting monuments shall be under the supervision of the Superintendent or a person designated by him, and they will be held responsible for any damage resulting from their negligence or carelessness. No work of setting monuments or markers shall be started that cannot be completed by the end of the day following the start of such work.

FLUSH MEMORIAL SECTION - F-NORTH ONLY

a. No, structures shall be placed or constructed by anyone other than employees of the Department of Public Services in the area of Greenwood Cemetery designated as the "Flush Memorial Section".

b. Bronze or granite markers only, set flush with the turf, will be permitted in this section. No structures which would extend above the ground level shall be permitted.

FUNERALS AND INTERMENTS

No lot or burial space shall be used for any purpose other than the interment of human remains and the erection of appropriate memorials to the dead.

No interment shall be made in Greenwood Cemetery until a proper burial permit has been issued, and until all other legally required permits have been issued by, and filed with, the proper authorities.

Department personnel will provide opening and closing of grave, initial and periodic maintenance only, and will not be responsible for handling and lowering vault or casket. Tents, lowering devices and other materials shall be furnished by the funeral director or vault company.

No grave shall be dug closer than six (6) inches from the line of any lot.

In all full burial interments, the casket shall be enclosed in a permanent outside container and shall be installed by the funeral director or vault company.

In all interments of cremated remains, the container shall be installed by the funeral director or vault company. The size of the container must be submitted with the request for burial.

All funerals within the cemetery shall be under the supervision of the Department. No burials are to be made on Sunday or legal holidays, except by permission of the Superintendent. Overtime charges will apply.

The Department must be notified through the City Clerk, of the time and exact location of proposed interments in time to allow not less than ten (10) hours of daylight to prepare the grave. If notification occurs less than 10 hours of daylight prior to burial, overtime charges will apply.

Interments that involve preparation or follow-up work during other than regular working hours will be done at an additional charge for the overtime portion of the time required. The maximum charge shall not exceed the normal charges plus the weekend/holiday fee.

When it is necessary to prepare for an interment or disinterment (location, opening and/or closing), an overtime charge will apply. This fee is in addition to the normal interment or disinterment fee charged during regular working hours.

Interments of the remains of any persons other than the owner or an immediate member of his family will be permitted only after the written consent of the owner or the owner's authorized agent has been filed with the City Clerk. In case of a minor being the owner, the guardian may give consent upon proof of this authority to act.

Only one (1) interment in any one grave space shall be permitted, except in the case of a parent and infant child, two (2) children dying at about the same time, or in such other unusual cases as it shall seem to the Superintendent to be proper under the circumstances. Up to two cremated remains may be placed in the same space if the owner of the grave space or his heirs purchase the right to such inurnments. Should the owner permit the burial of such cremated remains, only one additional memorial shall be permitted on the grave space and such memorial shall not be larger than 24 x 12 x 4 inches and installed at lawn level. Up to three (3) cremated remains (only) may be placed on a single grave space.

DISINTERMENT

Disinterment of a full burial shall not be made without first obtaining a permit for the removal from the local health officer of Oakland County. Such request for removal is to be made upon such forms as may be provided, and shall include such information as may be required, by the local health officer.

SCHEDULE OF FEES AND CHARGES

Fees and other charges are as set forth in the City Code.

Adopted by the Birmingham City Commission October 18, 1971 Resolution No. 1434-71.

REVISION
Adopted by the Birmingham City Commission February 13, 1984 Resolution No. 02-97-84.

Adopted by the Birmingham City Commission February 23, 2009 Resolution No. 02-52-09.

Adopted by the Birmingham City Commission December 17, 2012 Resolution No. 12-356-12

The obligations of the City as herein set forth may, from time to time, be modified by the Birmingham City Commission.

OPERATIONAL REGULATIONS

The following operational regulations shall apply to all areas within the cemetery:

a. Corners of all lots will be marked by the City with permanent markers set flush with the ground surface, and these shall not be disturbed.

b. The erection of any fence, railing, wall, coping, curbing, trellis, or embankment, or the planting of any hedge, on any lot or grave is prohibited. No cutting of paths shall be permitted.

c. The City shall have the right to remove from any lot any objects, including trees and shrubs and flower pots, that, in the opinion of the Superintendent are injurious to the appearance of the cemetery.

d. Ironwork, seats, vases, and urns shall be allowed on lots, providing that the same shall be kept in good repair and well painted. If not kept in good repair and painted, the Superintendent shall have power and authority to remove same from cemetery, and shall not be liable for any such removal.

e. Urns of iron or granite for the planting of flowers will be removed from lots and put in storage if not filled by July 1st. Urns so removed will be sold for cartage and storage charges, or destroyed, if not claimed within a period of one year.

f. No person shall plant, cut down, remove, or trim any tree, shrub, or plant within the cemetery except by permission of the Superintendent, or a person authorized by him to act in his stead in matters pertaining to the cemetery.

g. The planting of flowers on any lot, or otherwise disturbing the sod, shall release the City from all obligation to resod without extra charge therefore. The planting of spirea, rose bushes, peonies, or shrubs that grow over three feet in height, will not be permitted.

h. As soon as flowers, floral pieces, potted plants, artificial flowers, flags, emblems, etc., used at funerals or placed on grave at other times, become unsightly or faded, they will be removed, and no responsibility for their protection will be assumed.

i. The Superintendent reserves the right to remove from beds, graves, vases, urns, or other containers, all flowers, potted plants, or other decorations, that are set out and then not kept properly watered, trimmed and free from weeds, and to do so as soon as they become objectionable.

ATTACHMENT E – CEMETERY EVALUATION & RECOMMENDATIONS

For Greenwood Cemetery Management Services RFP

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CEMETERY EVALUATION AND RECOMMENDATIONS

GREENWOOD CEMETERY
BIRMINGHAM, MICHIGAN

SEPTEMBER – 2012

PREPARED BY;
L. F. SLOANE CONSULTING GROUP, INC.

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III.	POLICY RECOMMENDATIONS	10
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APPPENDIX

A.	RULES AND REGULATIONS
B.	MAP OF THE CEMETERY, FEE SCHEDULE, REVENUE HISTORY
C.	GLOSSARY OF TERMS
D.	CONSULTANT'S CREDENTIALS

I. FACTUAL INFORMATION

Historic Greenwood Cemetery was established in 1821 on donated land. The cemetery was managed by a non-profit organization until 1946 when the City of Birmingham assumed responsibility for the care and preservation of the community amenity.

Located on Oak Boulevard, near Woodward Avenue, the cemetery is very near the City center. The site is modest in scale, yet has a charm. The north edge of the site is a treed ravine. The frontage on Oak is fenced with the wrought iron fence in good repair.

The roads are appropriately narrow and, although they are paved, some road repairs are needed. All sections but one are monumented with several very distinguished memorials and sculptures.

The records are in good order and are maintained by the City Clerk. The Birmingham Historical Society has painstakingly located burials, lot by lot, throughout the site. The Public Services Department provides for the burials. Just over a year ago, the lawn care and trimming was outsourced.

A map of the cemetery with its sections denoted is included in Appendix B to this report. This appendix also contains the revenue history over the past three (3) fiscal years and the current fee schedule.

The fee schedule is a bit misleading as the schedule lists fees for burial rights, however, there are no spaces available for sale in the cemetery currently. Numerous residents have placed their names on a waiting list with the City Clerk should spaces become available.

For some time, a study to possibly reclaim unused spaces has been ongoing. To date, no space reclamations have occurred. With no spaces to sell, the cemetery revenues are modest from service fees.

The expenses are also reasonably contained with the outsourced lawn care contract and labor and supplies from the Department. The lawn care cost is $18,000. The labor costs to the Department were under $12,000 in the last fiscal year. The City Clerk's office provides the administration, however, does not allocate costs to the cemetery.

Currently, the cemetery has no perpetual care fund or endowment to provide income for current or future care. There is a parcel contiguous with the cemetery on Oak Boulevard which may be a mechanism to provide some additional burial space for Greenwood. Additionally, there is a parcel adjacent to the northwest corner of the cemetery as well. Both parcels are currently for sale.

II. REVENUE ENHANCEMENTS

Currently, the City operates the cemetery with little offsetting revenue within the overall Public Service Department's and City Clerk's office budgets. Revenues in the last fiscal year were less than $7,500. The fee schedule can be revised to reflect market area prices. This, coupled with a policy change on the interment of cremated remains on existing family lots, can add to the revenues.

The rules today do not allow for the interment of cremated remains in a grave where a full-casketed burial has been previously placed. An approach would be to allow the heirs to a grave or lot in Greenwood to purchase additional rights of burial for cremated remains. The family could purchase the right for up to two interments of cremated remains on a grave containing a casketed burial. The space would be limited to the placement of only one additional marker. All such markers would be 24" x 12" x 4" and installed at lawn level.

The current fee schedule reflects this approach if there were spaces to purchase. A space for one cremated remains is $1,000. A space for two cremated remains is $2,000. A space for a casketed burial and up to three cremated remains is $3,000.

This structure can be recast as follows:

PROPOSED FEE SCHEDULE

Full Size Grave Space	$3,000
Additional Rights of Burial for Cremated Remains, Each	$ 750
Interment Fee	$1,000
Before 3:00PM Weekdays Before 2:00PM Saturdays No Services on Sundays or Holidays	
Interment of Cremated Remains	$ 750
Memorial Installations	$ 250
Foundations	$ 125 per linear ft
Ownership Transfer Fee	$ 150

This fee structure eliminates overtime on Saturdays. The foundation/installation costs are simplified from a 'per square inch' calculation. The service fees are increased to reflect market rates while recognizing the service is not precisely comparable for burial services.

Currently, the City staff excavates the burial space. However, when a full-casketed burial occurs, the family pays a fee through the funeral home to set and seal the vault and for the funeral committal tent if one is selected. The current fees are:

Set and Seal - $240	Saturday - $355
Set, Seal, Equipment - $310	Saturday - $430

The family wishing to inter cremated remains in a family lot would pay for the right of burial and $750 for the interment service. If this occurred ten times per year, this would add $15,000 to the annual revenues.

The current service fees at $600 for a casketed burial and $150 for the interment of cremated remains are well below what area cemeteries are charging. The following charts reflect some area fees for spaces, service fees and second rights of burial.

CEMETERY	FULL CASKETED GRAVES	SECOND RIGHT OF INTERMENT		CORPORATE STRUCTURE
Michigan Memorial Park	$1,500 - $2,900	$695*		For-Profit
Oakland Hills	$1595 or $1895 or $2295	½ grave price, i.e. $800-$1150		For-Profit
Cadillac Memorial Gardens East	$1,300 - $2,200	½ grave price, i. e. $650-$1,100		For-Profit
Diocese of Saginaw	$1,100+	$550		Religious
Diocese of Lansing	$750	$300		Religious
Diocese of Grand Rapids	$775 - $875	$440		Religious
Glen Eden Memorial Park	$750 - $1,450	No Charge		Religious
City of Lansing	$800 Res/$1,200 Non-Resident	No Charge		Municipal
City of Grand Rapids	$500 - $800	$200		Municipal
ARCHDIOCESAN CEMETERIES		**Casketed**	**Cremated**	
Holy Sepulchre	$1,225	$500	$250	Religious
Our Lady of Hope	$1,225	$500	$250	Religious
Mount Carmel	$1,550	--	$250	Religious
St. Joseph's	$1,225	--	$250	Religious

*If you add a second cremation (i. e., a third person), it's $695 plus the o/c at $445; if you purchase a marker for that third person, you get a $495 credit.

CEMETERY	OPEN/CLOSE CASKETED BURIAL	OPEN/CLOSE CREMATION BURIAL
Michigan Memorial Park	$1,070	$445
Oakland Hills	$1,295	$695
Cadillac Memorial Gardens East	$1,295	$695
Diocese of Saginaw	$ 825	$450
Diocese of Lansing	$ 800	$400 (add $100 for 2 at same time)
Diocese of Grand Rapids	$1,080	$540
Glen Eden Memorial Park	$1,195	$595
City of Lansing	$ 750	$350
City of Grand Rapids	$1,300	$685
ARCHDIOCESAN CEMETERIES		
Holy Sepulchre	$1,395	$690
Our Lady of Hope	$1,395	$690
Mount Carmel	$1,000	$500
St. Joseph's	$1,000	$500

There appears to be one area where the City may be able to develop additional burial space. In our opinion, the cemetery should not be expanded into the adjacent vacant lots. The lot to the northwest of the cemetery would not be accessible from the cemetery due to the presence of burials along the entire edge of the cemetery. The lot on Oak is accessible, however, it would be an awkward area to utilize. Additionally, it may be costly to acquire, properly fence, lay out and landscape. This needs to be fully explored as a specific study.

However, there is an area within the existing cemetery that appears to present an opportunity. The diagonal road between Sections K and L could be removed and this property can be utilized for burial purposes. The site is approximately 20 x 200 feet. This area could be designed to accommodate a mixed use of in-ground, casketed burials and in-ground interment and aboveground inurnment of cremated remains.

Within the area, once the existing road is removed, we believe a design can be implemented to provide for columbarium development of 288 niche spaces and 80 casketed burial spaces.

The casketed burial spaces can be developed using pre-installed vaults (called lawn crypts). This will maximize the land use and reduce labor costs when burials are provided. The pre-installed lawn crypts could be double depth, which would double the burial capacity.

The niche development would be for three (3) 96-niche, freestanding units. These can be installed one at a time or all three can be built as one phase.

Based upon recent projects in the greater Detroit area, we believe this development could be built with landscaping and design fees for $250,000 to

$300,000. The proceeds from the sale of these options for burial could be as follows, depending upon policies and fee discussions.

Suggested Fees for Model

Single Burial Right, Lawn Crypt 24" x 12" x 6" Bevel Granite Memorial	$6,000
Niche Space – Up to Two (2) Cremated Remains 12" x 12" x 9"	$2,500
Engraving Fee (Niche or Marker)	$ 300

Proceeds from Sales

80 Lawn Crypts at $6,000 Each	$ 480,000
288 Niche Spaces at $2,500 Each	$ 720,000
Total	$1,200,000
Construction cost (Estimated)	($ 300,000)
Gross Income	$ 900,000

This gross income could be used to capitalize the endowment trust.

In addition to this development, additional residents could be served by identifying areas on the grounds where 3 foot by 3 foot sites could be laid out to accommodate the burial of up to two (2) cremated remains and one memorial. These spaces could be priced at $1,500 plus the service fees and memorial.

Further, over time, plans can be developed to utilize the small parcels now occupied by the small garage and the curb cut entry point to the lawn level garden area.

The lot on Oak, contiguous with the cemetery, is for sale. The lot is 70 feet, east to west and 200 feet deep adjacent to the cemetery fence. The asking price is substantial at $500,000. This site could be developed. To secure approvals, the area at the east of the parcel would likely have a significant landscape setback.

If the setback were 20 feet in width, this would allow for a maximum of five rows of grave spaces. If the rows of grave spaces were 150 feet long, the likelihood is that 250 pre-installed lawn crypts could be placed on this site. The memorials could be at lawn level to further mitigate the impact on the neighbor.

The fence would need to be extended on Oak in wrought iron and chainlink fence placed or relocated within the landscape buffer. With 250 spaces, the land cost alone would be $2,000 per space. The development and landscape would add to this total cost.

WAITING LIST SURVEY RESULTS

Question 1. Based upon City of Birmingham records, you have expressed interest in obtaining one or more burial plots within Greenwood Cemetery and have been placed on a "grave interest list". Do you remain interested in obtaining burial rights within Greenwood Cemetery?

Number of Respondents:	YES – 50	93%
	NO – 4	7%

Question 2. I intend to have Full Burial or Cremation?

Number of Respondents:	FULL BURIAL – 25.5	54%
	CREMATION – 21.5	46%

Question 3. If you are selecting cremation as a step in the memorial process,
(a) Do you have a preference for Ground Burial of the cremated remains, a Niche Space above ground in a columbarium or Other?

Number of Respondents:	GROUND BURIAL – 23	74%
	NICHE SPACE – 7	23%
	OTHER – 1	3%

(b) Greenwood Cemetery policy currently allows the interment of one (1) full burial or three (3) cremated remains in each burial plot (except in some cases involving children). Other cemeteries allow the interment of cremated remains above full burials in the same burial plot. Would you be interested in such an option if it was allowed at Greenwood Cemetery?

Number of Respondents:	YES – 29	73%
	NO – 11	28%

Question 4. (a) If you prefer full burial, what would be your preference for a memorial?

Number of Respondents:

LAWN LEVEL MARKER	9	26%
UPRIGHT INDIVIDUAL MARKER	15.5	44%
MONUMENT FOR MULTIPLE INTERMENTS	10.5	30%

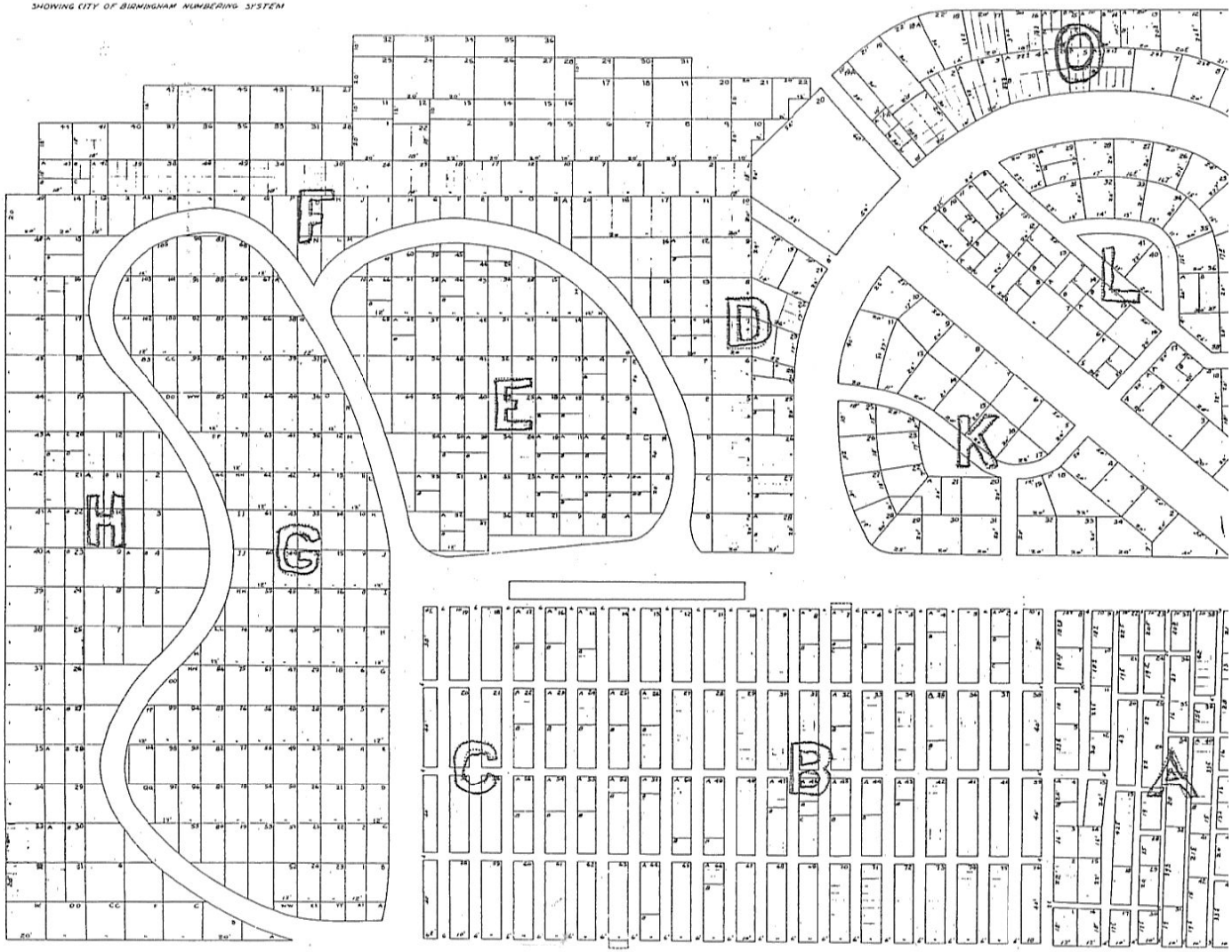
(b) Would you be interested in one or more burial plots with pre-installed double depth burial vaults that allow two full burials in each burial plot?

Number of Respondents:

	YES – 25	61%
	NO – 16	39%

GREENWOOD CEMETERY

SHOWING CITY OF BIRMINGHAM NUMBERING SYSTEM



III. POLICY RECOMMENDATIONS

The initial policy question is—Is it best for the City and the residents to offer new burial options or is it best to allow the cemetery to become entirely dormant and be well maintained over time? The cost for lawn care and other basic maintenance of the parcel are known and relatively modest.

These costs could be covered if the City determined it made sense to utilize General Fund money to establish an endowment for the cemetery to protect taxpayers going forward. The costs today, annually, are $30,000±. A fund of $720,000 with a 4% return would cover these costs.

We recommend that the cemetery continue to be active and that those areas within the cemetery that can be utilized for burial purposes be so utilized. The burial rights, with proper market pricing, can produce significant returns. Additionally, it is clear from the survey and waiting list that a good number of area residents concur.

The combination of the policy modification to allow additional rights of burial on existing graves, market fee schedules and a development through a road closure can largely meet the current public demand.

The current rules and regulations as modified last in 2009 can be amended on Page Six as follows:

“Only one interment of casket remains shall be placed in a grave space. Up to two cremated remains may be placed in the same space if the owner of the grave space or his heirs purchase the right to such inurnments. Should the owner permit the burial of such cremated remains, only one additional memorial shall be permitted on the grave space and such memorial shall not be larger than 24 x 12 x 4 inches and installed at lawn level.” Up to three cremated remains (only) may be placed on a single grave space.

The option for reclamation of burial spaces should be pursued to the point where the results could be quantified to reach a final determination if such an effort should go forward. This requires a separate analysis which should be completed as part of the decision whether to activate the cemetery again or to continue towards a ‘maintenance-only’ status.

Should the development of new inventory proceed, the City may wish to restrict sales to City residents in the initial 12-month period to meet current demand by City residents first.

IV. LONG-TERM FINANCIAL PLAN

The long-term financial goal could be the establishment of the Greenwood Cemetery Endowment Trust. The purpose of the trust would be to provide sufficient income to provide for the proper care and preservation of Greenwood Cemetery in perpetuity.

The trust could be managed by an institution able to prudently invest the assets of the trust to provide such income and to grow the principal to provide higher levels of income over time. The third party trustee would contract with the City.

Today, the basic care and preservation of the cemetery costs the City $30,000± annually. Funds will also be needed periodically to maintain the fence, roads and trees. Additionally, the $30,000 figure does not include costs incurred at the City Clerk's office or insurance or overhead for financial record keeping, payroll and the like.

The trust could utilize a Total Return Investment approach and anticipate paying to the cemetery 4% of principal annually. If this were the policy, to provide $30,000 of income would require principal of $720,000. A reasonable goal for the Endowment Trust to be fully funded would be $1,000,000 of principal.

The principal can come from the City as a one-time contribution to, in time, eliminate this ongoing cost to taxpayers. Further, a percentage of the sale of new burial rights can be placed in the trust.

As the City considers the expansion of Greenwood Cemetery in a ten- (10) year effort to create a sustaining endowment fund, it may be advisable to partially or totally outsource this program. If this plan is adopted, can the Public Services Department support greater levels of burial activity? Who will provide the sales and marketing support, greater levels of accounting and record keeping activity? The answers to these questions need to be fully understood to allow the program to move forward and succeed.

As a part of this process, we suggest a Request for Proposals be posted for a cemetery management proposal. The RFP can define the concept in terms which can best achieve the City's short-term and intermediate-term goals to enable a sustainable long-term solution.

<u>The Goals</u>

- Provide cemetery space to City residents within the historic Greenwood Cemetery.

- Establish an endowment trust to sustain Greenwood in perpetuity.

- Implement the plan to place $1,000,000 in such a trust over not more than ten (10) years.

- Maintain the grounds to the same high standards.

- Eliminate the need for taxpayer subsidy of Greenwood.

- Reduce burden of the cemetery on the City Clerk's office and the Department of Public Services.

The Elements of a Possible Agreement

- A qualified company to manage all aspects of the cemetery

- An approved fee schedule

- An approved plan for the addition of in-ground burial spaces, in-ground cremation burial spaces, policy change on second right of interment for cremated remains, columbarium development

- An agreement which rewards the contractor's performance and covers its costs reasonably while directing funds to the Greenwood Cemetery Endowment Fund

- Possibly seed the fund with a contribution from the City General Funds as proposed in the prior section

The Conceptual Agreement

- The contractor has control of all aspects of the cemetery's management and operations with periodic reports to the City.

- The City retains title to the property and controls the Greenwood Cemetery Endowment Trust through a third party trustee.

- The income from the trust, at a rate of 4.0% of principal on the 1st of July in the current year, will be paid quarterly to the contractor, utilizing a total return investment approach.

- The contractor is responsible for all operating expenses.

- The contractor receives and retains 100% of service fees for interments, second right of burial fees, installation and foundation fees.

- The contractor will manage the accounting and physical record keeping and provide all customer services.

- The contractor may offer floral and landscape services as well as offer memorials to the grave and lot holders.

- The contractor sells the burial rights in the new lawn crypt, urn garden, columbarium area. The proceeds from such sales will be divided as follows:

  --50% to the Greenwood Cemetery Endowment Trust
  --30% to contractor
  --20% to City as a capital cost recovery

- Any additional development plans or ideas will be subject to City review and approvals as required.

- The contractor may study the acquisition and use for cemetery purposes of the lot on Oak that is contiguous to the cemetery property.

- Include a mutually agreeable provision on reporting, termination and the like, as are customary to such an agreement.

The responses to the RFP can be factored into the planning decision-making.

GREENWOOD CEMETERY
BIRMINGHAM, MICHIGAN

APPENDIX A

RULES AND REGULATIONS

CITY OF BIRMINGHAM
GREENWOOD CEMETERY OPERATIONAL PROCEDURES, CONDITIONS AND REGULATIONS

DEFINITIONS:

The following words and phrases, when used, the following sections shall, for the purposes of these sections, have the meanings respectively ascribed to them, except in those instances where the context clearly indicates a different meaning.

a. "Cemetery" shall mean Greenwood Cemetery.

b. "Superintendent" shall mean the City Manager or his designee.

C. "Marker" shall mean a stone or object denoting the location of a grave and which does not exceed eighteen (18) inches in height, sixteen (16) inches in width, and twenty-four (24) inches in length.

d. "Monument" shall denote a memorial stone or object of a size in excess of that of a marker.

e. "Permanent outside container" shall be a container which encloses a casket. The following are considered permanent outside containers: concrete boxes, concrete, copper or steel burial vaults.

f. "Department" shall mean the Department of Public Services.

CONDUCT OF PERSONS

Every person entering the cemetery shall be responsible for any damage caused by such person while within the cemetery. No person under eighteen years of age shall enter the cemetery grounds unless accompanied by an adult responsible for his conduct, or unless permission has been granted by the Superintendent.

No person shall:

a. Enter the cemetery except through an established gate, and only during the hours from 8:00 A.M. to sundown.

b. Deposit or leave rubbish and debris on any part of the cemetery grounds.

c. Pick, mutilate, remove, or destroy any living plants or parts thereof, whether wild or domestic, on the cemetery grounds, except in the work of maintenance by City employees.

d. Break, injure, remove, or deface any monument or marker on the cemetery grounds.

e. Bring any dog or animal into the cemetery grounds, except by permission of the Superintendent.

f. Bring or discharge any firearm on the cemetery grounds, except in the conduct of military funerals.

g. Carry any refreshments or intoxicants into the cemetery grounds, or consume such while in the cemetery.

h. Use any form of advertising on cemetery grounds.

i. Conduct her/himself in any other than a quiet and respectful manner while on the cemetery grounds.

TRAFFIC REGULATIONS

All traffic laws of the City of Birmingham that are applicable to the operation of vehicles in cemeteries shall be strictly observed. Every person driving a vehicle into the cemetery shall be responsible for any damage caused by such vehicle.

No person shall:

a. Drive a vehicle within the cemetery at a speed in excess of ten (10) miles per hour.

b. Drive or park a vehicle on other than established driveways except for the purpose of maintenance or construction.

c. Turn a vehicle around within the cemetery except by following established driveways.

d. Use a cemetery driveway as a public thoroughfare.

MAINTENANCE AND PERPETUAL CARE

The City shall be responsible for the maintenance and repair of the driveways, buildings, water system and fences. The City shall also cut and maintain the grass areas, rake the leaves, trim and remove trees and shrubs, apply fertilizer as necessary, and in general maintain the cemetery as a place of natural beauty devoted to the burial of the dead.

The City shall not be responsible for any special care of any particular section, lot or burial space or for the maintenance or repair of any monument, marker or planting placed by the owner. The City shall not contract or agree to give special care to any section, lot or burial space except as above provided.

MONUMENTS, GRAVE MARKERS AND FOUNDATIONS FOR SAME

Monuments will be permitted only on lots having 90 or more square feet of area under one ownership. No more than one monument shall be erected on any lot.

The erection of all monuments and markers shall be subject to the following conditions:

a. Each monument or marker shall be supported on a concrete foundation not smaller than the base of the monument or marker it supports and not less than forty-two (42) inches deep below the ground surface. Such foundation shall be constructed only by the City after payment therefore has been made. Foundations will be poured April to November, weather dependent, as determined by the Superintendent. Requests received after November 1st will be held until conditions allow for installation.

b. Markers shall not exceed 1 ½ feet in height and shall have a minimum horizontal dimension at the base of not less than half of the height. All markers shall be in one piece, and shall be dressed on the bottom at right angles to the vertical axis. These measurements do not apply to government issue markers.

c. Designs for monuments or markers must be submitted to the Superintendent or to a person designated by him to act in his stead, when application is made for construction of foundations.

d. No monument or marker of artificial stone, sandstone, limestone, or soapstone will be permitted.

f. All contractors and workmen engaged in setting monuments shall be under the supervision of the Superintendent or a person designated by him, and they will be held responsible for any damage resulting from their negligence or carelessness. No work of setting monuments or markers shall be started that cannot be completed by the end of the day following the start of such work.

FLUSH MEMORIAL SECTION - F-NORTH ONLY

a. No, structures shall be placed or constructed by anyone other than employees of the Department of Public Services in the area of Greenwood Cemetery designated as the "Flush Memorial Section".

b. Bronze or granite markers only, set flush with the turf, will be permitted in this section. No structures which would extend above the ground level shall be permitted.

FUNERALS AND INTERMENTS

No lot or burial space shall be used for any purpose other than the interment of human remains and the erection of appropriate memorials to the dead.

No interment shall be made in Greenwood Cemetery until a proper burial permit has been issued, and until all other legally required permits have been issued by, and filed with, the proper authorities.

Department personnel will provide opening and closing of grave, initial and periodic maintenance only, and will not be responsible for handling and lowering vault or casket. Tents, lowering devices and other materials shall be furnished by the funeral director or vault company.

No grave shall be dug closer than six (6) inches from the line of any lot.

In all full burial interments, the casket shall be enclosed in a permanent outside container and shall be installed by the funeral director or vault company.

In all interments of cremated remains, the container shall be installed by the funeral director or vault company. The size of the container must be submitted with the request for burial.

All funerals within the cemetery shall be under the supervision of the Department. No burials are to be made on Sunday or legal holidays, except by permission of the Superintendent. Overtime charges will apply.

The Department must be notified through the City Clerk, of the time and exact location of proposed interments in time to allow not less than ten (10) hours of daylight to prepare the grave. If notification occurs less than 10 hours of daylight prior to burial, overtime charges will apply.

Interments that involve preparation or follow-up work during other than regular working hours will be done at an additional charge for the overtime portion of the time required. The maximum charge shall not exceed the normal charges plus the weekend/holiday fee.

When it is necessary to prepare for an interment or disinterment (location, opening and/or closing), an overtime charge will apply. This fee is in addition to the normal interment or disinterment fee charged during regular working hours.

Interments of the remains of any persons other than the owner or an immediate member of his family will be permitted only after the written consent of the owner or the owner's authorized agent has been filed with the City Clerk. In case of a

minor being the owner, the guardian may give consent upon proof of this authority to act.

Only one (1) interment in any one grave space shall be permitted, except in the case of a parent and infant child, two (2) children dying at about the same time, or in such other unusual cases as it shall seem to the Superintendent to be proper under the circumstances. Up to three (3) cremated remains (only) may be placed on a single grave space.

DISINTERMENT

Disinterment of a full burial shall not be made without first obtaining a permit for the removal from the local health officer of Oakland County. Such request for removal is to be made upon such forms as may be provided, and shall include such information as may be required, by the local health officer.

SCHEDULE OF FEES AND CHARGES

Fees and other charges are as set forth in the City Code.

Adopted by the Birmingham City Commission October 18, 1971 Resolution No. 1434-71.

REVISION
Adopted by the Birmingham City Commission February 13, 1984 Resolution No. 02-97-84.

Adopted by the Birmingham City Commission February 23, 2009 Resolution No. 02-52-09.

The obligations of the City as herein set forth may, from time to time, be modified by the Birmingham City Commission.

OPERATIONAL REGULATIONS

The following operational regulations shall apply to all areas within the cemetery:

a. Corners of all lots will be marked by the City with permanent markers set flush with the ground surface, and these shall not be disturbed.

b. The erection of any fence, railing, wall, coping, curbing, trellis, or embankment, or the planting of any hedge, on any lot or grave is prohibited. No cutting of paths shall be permitted.

c. The City shall have the right to remove from any lot any objects, including trees and shrubs and flower pots, that, in the opinion of the Superintendent are injurious to the appearance of the cemetery.

d. Ironwork, seats, vases, and urns shall be allowed on lots, providing that the same shall be kept in good repair and well painted. If not kept in good repair and painted, the Superintendent shall have power and authority to remove same from cemetery, and shall not be liable for any such removal.

e. Urns of iron or granite for the planting of flowers will be removed from lots and put in storage if not filled by July 1st. Urns so removed will be sold for cartage and storage charges, or destroyed, if not claimed within a period of one year.

f. No person shall plant, cut down, remove, or trim any tree, shrub, or plant within the cemetery except by permission of the Superintendent, or a person authorized by him to act in his stead in matters pertaining to the cemetery.

g. The planting of flowers on any lot, or otherwise disturbing the sod, shall release the City from all obligation to resod without extra charge therefore. The planting of spirea, rose bushes, peonies, or shrubs that grow over three feet in height, will not be permitted.

h. As soon as flowers, floral pieces, potted plants, artificial flowers, flags, emblems, etc., used at funerals or placed on grave at other times, become unsightly or faded, they will be removed, and no responsibility for their protection will be assumed.

i. The Superintendent reserves the right to remove from beds, graves, vases, urns, or other containers, all flowers, potted plants, or other decorations, that are set out and then not kept properly watered, trimmed and free from weeds, and to do so as soon as they become objectionable.

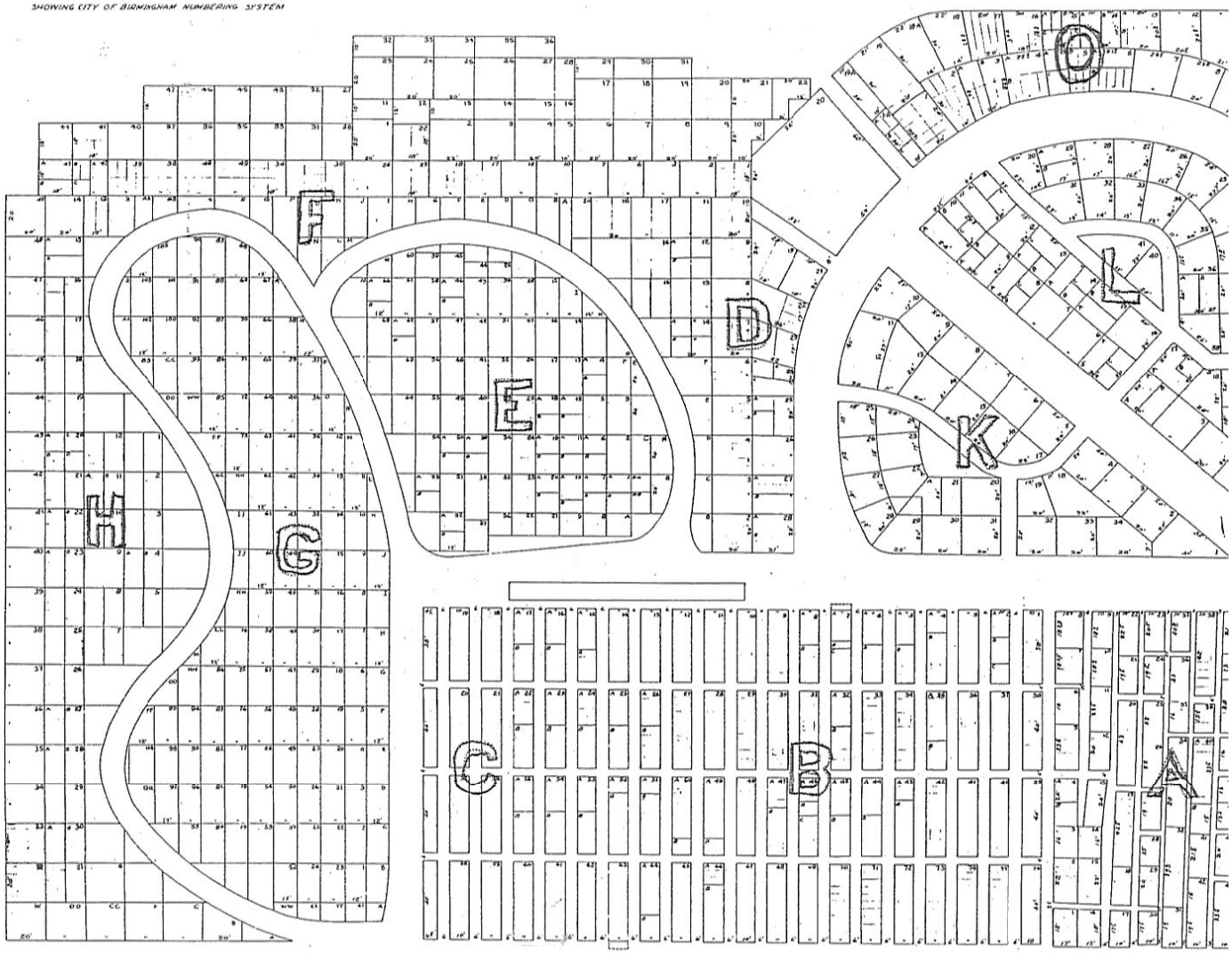
GREENWOOD CEMETERY
BIRMINGHAM, MICHIGAN

APPENDIX B

MAP OF THE CEMETERY, FEE SCHEDULE, REVENUE HISTORY

GREENWOOD CEMETERY

SHOWING CITY OF BIRMINGHAM NUMBERING SYSTEM



Oak St.

Greenwood Cemetery (126-26)

Grave space accommodating one full burial or three cremations	$3,000.00
Grave space accommodating up to two cremations	$2,000.00
Grave space accommodating one cremation	$1,000.00
Administrative fee for transfer of grave ownership	$ 50.00
Interment and disinterment fees:	
Cremation	$ 150.00
Full Burial	$ 600.00
Foundation charges for markers & monuments:	
12" x 24" or less	$ 200.00
Larger than 12" x 24" additional per square inch	$ 0.70
Special Installation	$ 400.00
Marker or monument resets: Foundation installation charge as per above schedule, plus an hourly charge for removal of old foundation	
Weekend, holiday, and overtime interments. This fee in addition to the normal interment fee charged during regular working hours.	$ 200.00

101-000.000-626.0001 – Foundation
101-000.000-626.0002 – Opening
101-000.000-674.0002 – Sale of Lots & Deed Transfer Fee

Foundations

10-11	$3,158
11-12	$2,185
12-13	$0

Openings/Burials

10-11	$7,900
11-12	$4,850
12-13	$750

Sale/Transfer

10-11	$350
11-12	$350
12-13	$0

8/15/12

GREENWOOD CEMETERY
BIRMINGHAM, MICHIGAN

APPENDIX C

GLOSSARY OF TERMS

GLOSSARY OF TERMS

Burial is the disposition of human remains, traditionally, below ground.

Care is the general maintenance of the Cemetery and of the lots, graves, crypts and niches therein within the sole discretion of the Cemetery; including cutting a trimming of lawn, keeping in repair the drains, water lines, roads, building, fences and other structures, in keeping with a well-maintained cemetery; also, overhead expense necessary for such purposes, including maintenance of machinery, tools and equipment for such care; compensation of employees, payment of insurance premiums, reasonable payments for employees' benefit plans and maintaining necessary records of ownership, transfers and burials.

Casket or coffin is a rigid container designed for the encasement of human remains and customarily constructed of wood or metal, ornamented and lined with fabric.

Cemetery is the Cemetery Corporation in its entirety.

Certificate of Ownership (Interment Rights) or Deed for Interment Rights is the document by which the Cemetery conveys a right of interment, entombment or inurnment in an Interment Space.

Columbarium is an arrangement of niches that may include an entire building, a room, a series of special indoor alcoves, a bank along a corridor or part of an outdoor garden setting. (Plural of columbarium --columbaria)

Community Mausoleum is a structure, above ground, containing niches and crypts used or intended for use by members of the general public.

Community Niche is a common area where several cremation containers may be placed.

Companion or Double Lawn Crypts is an Interment Space in the Cemetery that contains a pre-constructed, pre-buried vault capable of holding two or more caskets.

Companion Lawn Niche is a space in an urn garden designed to accommodate two cremated remains.

Companion Lawn Urn is a receptacle into which two cremated remains may be placed made of bronze, bronze plate, durable plastic or a combination thereof.

Companion Mausoleum Crypt is a space in a mausoleum capable of holding two caskets.

` **Companion Columbarium Niche** is a space in a Columbarium designed to accommodate the cremated remains of two persons.

Contractor is any person, firm or corporation or anyone engaged in placing, erecting or repairing any memorial or performing any work in the Cemetery's grounds, other than an employee of the Cemetery.

Cremated Remains is what remains after the cremation process is completed.

Cremation Vault is a container for an urn made of concrete, metal, fiberglass or durable plastic.

Crypt is a casket space in a mausoleum used for or intended to be used for the entombment of human remains.

Endowment Care Fund is a fund that contains a portion of the monies collected from the sale of interment spaces and memorial. The net income from this fund is used to defray expenses and maintain the Cemetery.

Entombment is the placement of human remains into a crypt.

Family Mausoleum is a private, aboveground structure containing crypts purchased by one family.

Family Burial Estate is an area of lots restricted to a group of persons related by blood or marriage.

Foundation is the base (granite or concrete) on which a memorial is installed.

Garden is a section of the Cemetery containing Interment Spaces that may be identified by a particular name or number and/or by the type of memorial authorized.

Given Name is the first name of an individual.

Grave is a space of land in the Cemetery used for or intended to be used for the burial of human remains.

Individual Memorial is a memorial for one person.

Interment is the burial or entombment of human remains or the inurnment of cremated human remains.

Interment Space is a grave, crypt, niche or plot.

Installation and Maintenance is the preparation of the earth to place a memorial, the placement of the memorial and the future maintenance of same.

Lawn Crypt is an Interment Space in the Cemetery that contains a pre-constructed and pre-buried vault capable of holding a casket.

Lawn Niche is an interment space in an urn garden in the Cemetery used for or designated to be used for the burial of cremated remains.

Lawn Space is the grave space in the Cemetery used for or designated to be used for the burial of human remains.

Lawn Urn is a receptacle designated for burial into which the cremated human remains of one person are placed, usually made of bronze, bronze plate, durable plastic or a combination thereof.

Lawn Vase is a receptacle for the placement of flowers on a grave, lawn crypt, lawn niche or memorial.

Liner is a container made of concrete, fiberglass or steel with or without a bottom to be used for the burial of a casket.

Lot is a grave, crypt or niche.

Maintenance is the maintenance of the Cemetery as defined under Care.

Mausoleum is a structure, aboveground, for interment of human remains; it may contain a combination of crypts, niches or columbaria.

Mausoleum Crypt is a space in a mausoleum capable of holding a casket.

Mausoleum Niche is a space in a mausoleum or columbarium used or designated to be used for inurnment of cremated human remains in an urn.

Mausoleum Vase is a receptacle for the placement of flowers on or a crypt or niche.

Memorial is a monument, tombstone, grave marker or headstone identifying a grave or graves or a nameplate with inscription identifying a crypt or niche.

Memorialization (Cremation) is the placement of cremated remains in an Interment Space or scattering in a Scattering Garden within the cemetery with a marker or cenotaph for nameplates.

Monument is an upright memorial made principally of stone.

Niche is a space in a mausoleum or columbarium used or intended to be used for the inurnment of cremated human remains.

Owner/s is the person or persons to whom the Cemetery has conveyed a burial right or rights or a person or persons who have acquired such rights by transfer in accordance with the rules of the Cemetery or a person or persons who hold such burial right or rights by inheritance.

Plot is two or more adjoining graves, crypts or niches.

Pre-Construction Mausoleum is a mausoleum on which construction has not commenced or is not completed.

Pre-Need is purchasing cemetery property in advance of actual need. The property may be developed or undeveloped.

Scattering Garden is an area of the Cemetery or mausoleum for the scattering of cremated remains in a non-recoverable manner in a common area.

Special Care is the care of a lot in accordance with specific instructions on the basis of any annual charge or to the extent of income derived from a special trust fund created by an Owner.

Surname is a person's last name.

Temporary marker is a form of identification placed on an Interment Space at the time of burial but not maintained thereafter.

Urn is a container used for cremated remains.

Urn Garden is an outdoor area in a Cemetery used for or designated to be used for the underground burial of cremated human remains in an urn.

Vault is any container or enclosure made of concrete, fiberglass or steel that encloses the casket and is placed in a grave to prevent the collapse of the grave and to protect the casket.

GREENWOOD CEMETERY
BIRMINGHAM, MICHIGAN

APPENDIX D

CONSULTANT'S CREDENTIALS

L. F. SLOANE CONSULTING GROUP, INC.

MANAGEMENT • MARKETING • ADVERTISING • PUBLIC RELATIONS ◘
APPRAISAL SERVICES

CONSULTANTS

Serving Religious, Not-For-Profit, Private and
Public Companies Primarily Within the
Cemetery/Funeral Service Industry

40 Folmsbee Drive
Albany, NY 12204
Telephone (518) 463-1736
Facsimile (518) 463-1927
Cell (518) 424-7757

lfsloane@aol.com

LAWRENCE F. SLOANE
PRESIDENT

Lawrence F. Sloane, the firm's founder and President, is a fourth generation cemeterian with a unique blend of experience as a practical, everyday cemetery manager, service in the public sector and as a consultant.

A graduate of Syracuse University, Larry served as administrator and sales manager for Oakwood Cemeteries in Syracuse, New York for eleven years. The company included the historic monumented Oakwood, a turn of the century Garden Cemetery, Morningside and a memorial park, White Chapel. The cemeteries also operated nine religious cemeteries for the Jewish Community in Syracuse.

During this same period, Larry worked for the New York State Senate. His role was as Director of Operations for first the Senate Committee on Corporations, Authorities and Commissions and later the Senate Committee on Insurance. His work for the Senate spanned seven legislative sessions.

In 1981, Larry established his firm and has served the industry as a management, marketing and public affairs consultant for over two decades. He is the former president of the New York State Association of Cemeteries (NYSAC). He has addressed the NYSAC and The International Cemetery and Funeral Association's (I.C.F.A.) Spring and Fall conventions on numerous occasions, as well as many state and regional groups.

Larry served as a member of the I.C.F.A. Government and Legal Affairs Committee and as Chairman of the organizations Committee on State Associations and Legislation.

The firm, under Larry's leadership relocated to Albany, New York from Syracuse in 1984. Committed to this service industry, Larry continues to seek improved and innovative ways to assist his clients in achieving excellence. The growth of the public companies and combination funeral home-cemeteries has resulted in the firm's increased work with funeral homes as well as cemeteries over the last decade.

NATIONAL ASSOCIATION MEMBERSHIPS
International Cemetery, Cremation and Funeral Association
National Catholic Cemetery Conference
Cremation Association of North America

As members in good standing of these associations,
we subscribe to and uphold their respective codes of ethics & good cemetery practices

CAPABILITIES

BUSINESS PLANNING

• Inventory analysis and projections • Pricing and product mix analysis • Columbarium and mausoleum planning and financial models • Cash flow analysis • Personnel needs and compensation • Competition and demographic reports • Overall active life projections • Trust fund development planning and investment vehicles • New cemetery and funeral home planning and financing

SALES & MARKETING

• Sales planning and projections • Marketing strategies • Sales programming and terms of sale • Sales management and memorial advisor recruiting/training • Supervision with continuing training • Total sales contracts where appropriate

ADMINISTRATION & OPERATIONS

• Automation and computerization • Office operations and procedure manuals • Personnel needs and job descriptions • New products and services development • Capital budgeting and equipment reviews • Collection systems, consumer relations • Form development and implementation • Rules and regulations and by-law reviews • Section layout and development • Mapping services • Overall administration and operational reviews

PUBLIC RELATIONS SERVICES

• Strategies concept and implementation • News articles concept and copy • Release placements • Event, conference and meeting planning • Newsletter copy /implementation

CEMETERY & FUNERAL HOME EVALUATIONS / APPRAISALS

· Provide evaluations/appraisals of cemeteries and funeral home businesses in conjunction with corporate financing, estate planning and succession planning · Business brokerage of cemetery and funeral service firms

CURRENT & FORMER CLIENTS

Acacia Park Cemetery,
North Tonawanda, NY
AccuRecords LLC, Glenmont, NY
Adat Shalom Memorial Park, Livonia, MI
Albany Rural Cemetery, Albany, NY
American Bronze Craft, Judsonia, AR
Archdiocese of Atlanta, GA
Archdiocese of Boston, MA
Archdiocese of Detroit, MI
Archdiocese of San Francisco, CA
Archdiocese of Los Angeles, CA
Archdiocese of Miami, FL
Arlington Cemetery, Philadelphia, PA
Arlington Memorial Park, Milwaukee, WI
Assumption Cemetery, Syracuse, NY
Austin/Alexander Project, Austin, TX
Ave Maria Catholic Church, Parker, CO

Banc of America, Costa Mesa, CA
BancorpSouth Bank, Lewisville, MS
Bank One, Columbus, OH
Battle Creek Memorial Park,
Battle Creek, MI
Beasley Wilson Allen Main & Crow,
Montgomery, AL
Bellefontaine Cemetery, St. Louis, MO
Beth El Memorial Park, Livonia, MI
Beth Israel Cemetery, Woodbridge, NJ
Bethel Memorial Park, Pennsauken, NJ
Bogner, David Family Mortuary,
North Ridgeville, OH
Boyd-Veigel, McKinney, TX
Bradshaw Group, St. Paul, MN
Brandenberg Properties, San Jose, CA
Brookside Cemetery, Watertown, NY
Buchanan Group, Inc., Indianapolis, IN
Bur Valuation Group,
Farmington Hills, MI

Canajoharie Falls Cemetery,
Canajoharie, NY
Catholic Management Services,
Pleasanton, CA
Cedar Hill Cemetery, Newburgh, NY
Cedar Hill Cemetery, Suitland, MD
Cedar Lawn Cemetery, Paterson, NJ
Celebris, Montreal, Quebec, Canada
Cemetery Development Company,
South Amboy, NJ
Chapel Hill Associates, Grand Rapids, MI
Chapel Hill Cemetery, Freeland, MI
Chapel Hill Funeral Home, Osceola, IN
Chapel Hill Memorial Gardens,
Lansing, MI
Chapel Hill Memorial Gardens,
Osceola, IN
Chapman University, Orange, CA
Chestnut Grove Cemetery, Herndon, VA
Cheviot Cemetery, Cheviot, OH
Christian Memorial Gardens,
Rochester Hills, MI
Christian Memorial Gardens, East
Peck, MI
Church at Rocky Peak, Chatsworth, CA
City of Billings, MT
City of Bowie, MD
City of Boca Raton, FL
City of Burleson, TX
City of Coppell, TX
City of Elgin, IL
City of Elmira, NY
City of Grand Prairie, TX
City of Grand Rapids, MI
City of Grand Haven, MI
City of Herdan, VA
City of Jackson, MI
City of Lansing, MI
City of Longview, TX
City of Muskegon, MI
City of New Britain, CT
City of New York, NY
City of Norfolk VA
City of Ocoee, FL
City of Pleasanton, CA
City of Santa Monica, CA
Clinton Grove Cemetery
Mount Clemens, MI
Cloverdale Memorial Park, Boise, ID
Clover Hill Park Cemetery
Royal Oak, MI
Cloverleaf Memorial Park,
Woodbridge, New Jersey
Collins Funeral Home, Scottsburg, IN
Community Church of Joy, Glendale, AZ
Covington Memorial Funeral Home,
Fort Wayne, IN
Covington Memorial Gardens,
Fort Wayne, IN
Crown Hill Memorial Park, Utica, NY

Dale Cemetery, Ossinging, NY
Dann Pecar Newman & Kleiman, P.C.

Indianapolis, IN
Daniels Chapel of Roses, Santa Rosa, CA
Dansville Cemetery, Kilgore, TX
Deepdale Memorial Gardens,
Lansing, MI
Dennison Cemetery, Kingston, PA
DePree Bickford, Chicago, IL
Detroit Water and Sewer Authority, MI
Diocese of Albany, NY
Diocese of Cleveland, OH
Diocese of Erie, PA
Diocese of Joliet, IL
Diocese of Memphis, TN
Diocese of Norwich, CT
Diocese of Oakland, CA
Diocese of Rockford, IL
Diocese of Sacramento, CA
Diocese of Saginaw, MI
Diocese of San Jose, CA
Diocese of Spokane, Spokane, WA
Diocese of Stockton, Stockton, CA
Donelson, Sewell & Matthews Mortuary,
Hillsboro, OR
Dulaney Valley Memorial Gardens
Timonium, MD

Eastlawn Memory Gardens,
Okemos, MI
EDAW Design Group, Seattle, WA
Elkins Funeral Home, Florence, AL
Elmlawn Cemetery, Kenmore, NY
Elmwood Cemetery, Detroit, MI
Episcopal Diocese of Long Island,
Garden City, NY
Evergreen Cemetery, Evergreen, IL
Evergreen Cemetery,
Kewanee, IL
Evergreen Services, LLC
Cleveland, TN

Fair Lawn Memorial Cemetery,
Fair Lawn, NY
Fairview Cemetery, Lincoln, NE
Fairmont Cemetery, Newark, NJ
Faith Community Church,
Orange County, CA
Fenton Corporation, Fenton, MI
Ferncliff Cemetery, Hartsdale, NY
First Presbyterian Church, Plymouth, MI
Flanner & Buchanan Funeral Homes
Indianapolis, IN
Flint Memorial Park, Mount Morris, MI
Floral Park Cemetery Association,
Indianapolis, IN
Fluehr Funeral Home, Philadelphia, PA
Flushing Cemetery, Flushing, NY
Forest Home Cemetery, Chicago, IL
Forest Home Cemetery, Milwaukee, WI
Forest Lawn Cemetery, Gresham, OR
Forest Lawn Cemetery, Buffalo, NY
Forest Lawn Cemetery, Macomb, IL
Forest Lawn Memorial Chapel,
Greenwood, IN
Forest Lawn Memory Gardens
Greenwood, IN
Fort Hill Cemetery, East Hampton, NY
Frederick Memorial Gardens,
Gaffney, SC

Garden View Funeral Home, Muncie, IN
Gardens of Gethsemane,
West Roxbury, MA
Gardens of Memory, Muncie, IN
Georgia Marble Company, Kennasaw, GA
Gill Funeral Home, Washington, IN
Ginghamsberg United Methodist
Church, Tipp City, OH
Glen Eden Memorial Park, Livonia, MI
Goolsby Olson & Proctor, P.C.,
Norman, OK
Graceland Cemetery, Albany, NY
Graceland Cemetery, Chicago, IL
Graceland East Memorial Park,
Simpsonville, SC
Graceland/Fairlawn Cemetery,
Decatur, IL
Grandstaff-Hentgen Funeral Home,
Wabash, IN
Green Cemetery, Glastonbury, CT
Green Lawn Abbey, Columbus, OH
Green Lawn Cemetery,
Columbus, OH
Green-Wood Cemetery, The
Brooklyn, NY
Greenmount Cemetery, York, PA
Greenwood Cemetery, Petoskey, MI
Greenwood Union, Rye, NY

Haley, Purchio, Sakai & Smith,
Hayward, CA
Harleigh Cemetery, Tinton Falls, NJ
Heritage Hills, Springboro, OH
Highland Cemetery, South Bend, IN
Highland Memorial Park, Johnston, RI
Highland Memorial Park, Beloit, OH
Hillside Memorial Park, Akron, OH
Hollywood Memorial Park, Union, NJ
Hollywood Cemetery, Union, NJ
Holy Cross Cemetery, Detroit, MI
Holy Sepulchre Cemetery

Southfield, MI
HMIS Software, Nashua, NH

Iles Funeral Homes, Des Moines, IA

Jackson Group, Boca Raton, FL
Jones, Day, Reavis & Pogue,
New York, NY
J. Stuart Todd Architects, Dallas, TX

Kensico Cemetery, Valhalla, NY
Kenwood Convent of the Sacred Heart
Albany, NY
Kingwood Memorial Park,
Columbus, OH
Kitchen, Judkins, Simpson & High,
Tallahassee, FL

La Casa de Cristo Lutheran Church,
Phoenix, AZ
Lake View Cemetery,
Canadaqua, NY
Lake View Cemetery, Cleveland, OH
Lake View Cemetery, Lavon, TX
Lakeside Cemetery, Hamburg, NY
Lakewood Park Cemetery,
Rocky River, OH
Lee Memorial Park, Tupelo, MS
Lee, Robert E. Memorial Association
Stratford, VA
Lincoln Memorial Park, Suitland, MD
Lincoln Memory Gardens,
Whitestown, IN
Linden Grove Cemetery, Covington, KY
Linwood Cemetery, Haverhill, MA
Locustwood Cemetery, Camden, NJ
Lodi Memorial Park & Cemetery,
Lodi, CA
Loewen Group, Inc.
Lord of Life Lutheran Church,
Ramsey, MN
Lorraine Park Cemetery, Baltimore, MD
Lutheran Church of the Redeemer
Birmingham, MI

Macomb County Road Commission,
Mount Clemens, MI
Magner Management Company,
Danbury, CT
Malkoff and Associates
Villa Park, CA
Matt Funeral Services, Utica, NY
Mayfield Cemetery, Cleveland Hgts, OH
McCarthy & Smith Construction,
Farmington Hills, MI
Meierhoffer Family Funeral Homes,
St. Joseph, MO
Meisner & Associates, Cincinnati, OH
Memorial Lawn Cemetery, Wabash, IN
Memorial Park Cemetery, Sioux City, IA
Memory's Garden, Albany, NY
Mission Hills Memorial Chapel,
Niles, MI
Mound Grove Cemetery, Kankakee, IL
Mount Calvary Association, Buffalo, NY
Mount Carmel Cemetery, Wyandotte, MI
Mount Hope Cemetery, Rochester, NY
Mt. Eden Cemetery, Mt. Pleasant, NY
Mt. Ever-Rest Memorial Park,
Kalamazoo, MI
Mt. Ever-Rest Memorial Park North,
Kalamazoo, MI
Mt. Lebanon Cemetery, Iselin, NJ

National Memorial Park, Suitland, MD
Navarre Funeral Home, Baytown, TX
New Hope Funeral Home and Cemetery
Sunnyvale, TX
New Jersey Association of Cemeteries
New York Times, New York, NY
Niagara Falls Memorial Park,
Niagara Falls, NY
North Shore Memory Gardens,
Benton Harbor, MI
Nowell Funeral Home, Louisville, MS

Oak Woods Cemetery, Chicago, IL
Oak Ridge/Glen Oak Cemeteries,
Hillside, IL
Oakdale Cemetery, Davenport, Iowa
Oaklawn Memorial Gardens,
Galesburg, IL
Oakwood Cemetery, Troy, NY
Oakwood Cemeteries, Syracuse, NY
O'Connor Laguna Hills Mortuary,
Laguna Hills, CA
Onadaga Valley Cemetery, Syracuse, NY
Our Lady of Hope Cemetery,
Brownstown Township, MI

Palatine Bridge Cemetery,
Palatine Bridge, NY
Parker Evangelical Presbyterian Church,
Parker, CO
Pawtucket Memorial Park, Warwick, RI
Pinelawn Memorial Park,
Farmingdale, NY
Pleasanton Memorial Cemetery
Pleasanton, CA

Poughkeepsie Rural Cemetery, Poughkeepsie, NY
Princeton Memorial Park, Allentown, NJ
Progressive Construction Management, Armada, MI
Prospect Hill Cemetery, York, PA

Quality Marble Imports, Judsonia, AR

RMR Enterprises, Inc., Memphis, TN
Rader Funeral Home, Kilgore, TX
Redwood Micro Fund, Carefree, AZ
Resthaven Memory Gardens, Avon, OH
Rest Haven Memorial Park, Cincinnati, OH
Reynolds Plantation, Greensboro, GA
Resurrection Cemetery, Danville, IL
Right Star Group, Honolulu, HI
Ridout Brown Services, Birmingham, AL
Ridgewood United Methodist Church, Ridgewood, NJ
Riverhurst Memorial Assn., Endicott, NY
Riverside Cemetery, Rochester, NY
Riverside Cemetery, Macon, GA
Roberts, Ralph R. Real Estate
Rocha's Mortuary, Lodi, CA
Rolling Oaks Cemetery Port St. Lucie, FL
Rosehill Cemetery, Chicago, IL
Rose Hill Memorial Park, Putnam Valley, NY
Rose, Sundstrom & Bentley, Tallahassee, FL
Roth Funeral Chapel, Paducah, KY
Rowan Memorial Park Salisbury, NC
Royal Oak Memorial Gardens, Brookville, OH

Sacramento Memorial Lawn, Sacramento, CA
Saddleback Valley Community Church, Mission Viejo, CA
Salem Field & Beth El Cemeteries, Brooklyn, NY
Santa Fe Trust, Santa Fe, NM
Service Corporation International, Houston, TX
Sheppard Mullin Richter & Hampton, LLC Costa Mesa, CA
Shuford-Hatcher Funeral Home, Gaffney, SC
Sierra View Memorial Park, Mortuary & Crematory, Olivehurst, CA
Signature Properties, Pleasanton, CA
Skyline Wesleyan Church, San Diego, CA
Smith Family, Bellville, TX
Smith, Vondel & Son Funeral Home, Oklahoma City, OK
Somerset Hills Memorial Park, Basking Ridge, NJ
Stich Associates, Hartford, CT
St. Bernard's Cemetery, Bernardsville, NJ
St. David's Episcopal Church Cemetery, Radnor, PA
St. Hugo of the Hills, Bloomfield Hills, MI
St. James Cemetery, Glastonbury, CT
St. John's Church, Cornwall, NY
St. Joseph Valley Memorial Park, Granger, IN
St. Joseph's Church and Cemetery, Yonkers, NY
St. Joseph's Cemetery, Monroe, MI
St. Marcus Cemetery, St. Louis, MO
St. Mary's Cemetery, Oneonta, NY
St. Mary's Cemetery, Randolph, MA
St. Mary's Cemetery, North Tewksbury, MA
St. Michael's Cemetery, Passaic, NJ
St. Michael's Cemetery, East Elmhurst, NY
St. Patrick's Cemetery, Lowell, MA
St. Patrick's Parish, White Lake, MI
St. Thomas of Canterbury Episcopal Church, Temecula, CA
Stewart Enterprises, Inc., New Orleans, LA
StoneMor Partners LP, Bristol, PA
Stout Risius Ross, Farmington Hills, MI
Sunrise Memorial Gardens, Muskegon, MI
Sunset Hills Memorial Park, Jamestown, NY
Swan Point Cemetery, Providence, RI

Temple Israel Cemetery, Hasting-on-Hudson, NY

Tri-Cities Memorial Gardens, Florence, AL
Trinity Church and Cemetery, New York, NY
Trinity Church, Monroe, MI
Trinity Memorial Gardens, Tarpon Springs, FL
Tulocay Cemetery, Napa, CA

Utica Cemetery Association, Utica, NY

Vail, CO, Town of
Vale Cemetery, Schenectady, NY
Valhalla Memorial Park, Godfrey, IL
Valhalla Garden of Memory, Belleville, IL
Vestal Hills Memorial Park, Vestal, NY

Wachovia Bank, Charlotte, NC
Wade-Trim, Detroit, MI
Walnut Grove/Flint Cemetery, Worthington, OH
Washington Park Cemetery East, Indianapolis, IN
Washington Cemetery, Brooklyn, NY
Washington Memorial Park, Coram, NY
Washington Cemetery, Washington, NJ
Washington National Memorial Park, Suitland, MD
Washington State Division of Veterans Affairs, Olympia, WA
West Hartford, CT, Town of
West Laurel Hill Cemetery, Bala Cynwyd, PA
Western Roses Memorial Park, Midland, TX
Westlawn Cemetery, Chicago, IL
Westlawn Cemetery Association, Westland, MI

White Chapel Memorial Cemetery, Troy, MI
White Chapel Memorial Park, Dewitt, NY
White Sulphur Springs Cemetery, White Sulphur Springs, NY
Wiltwyck, Cemetery, Kingston, New York
Windridge Funeral Home, Cary, IL
Windridge Memorial Park & Nature Sanctuary, Cary, IL
Wisconsin Department of Veterans Affairs, Madison, WI
Wisconsin Memorial Park, Milwaukee, WI
Woodbury Memorial Park, Woodbridge, NJ
Woodlands Cemetery, The Philadelphia, PA
Woodlawn Cemetery, The, Bronx, NY
Woodlawn Cemetery, Everett, MA
Woodlawn Cemetery, Milwaukee, WI
Woodlawn Cemetery, Syracuse, NY
Woodlawn Cemetery, Toledo, OH
Wyuka Cemetery, Lincoln, NE

MEETING DATE	SUMMARY
3/19/12	City Commission requests staff explore the feasibility of expanding the cemetery due to two lots for sale adjacent to cemetery and provide financial analysis of the current price of land.
5/21/12	City Commission received a report with the financial analysis. City Manager suggested a professional consultant get involved.
8/13/12	City Commission approved an agreement with L.F. Sloane Consulting Group Inc to provide professional management consulting services. Scope of work to include a review of the cemetery policy and procedures, possible expansion and reclamation. (amount not to exceed $4,800)
10/29/12	City Commission received & accepted the cemetery evaluation prepared by L.F. Sloane Consulting Group, Inc. Summary of the evaluation includes to adjust the fee schedule to reflect market rates, remove the road between Sections K & L for additional burial space (in ground and above ground), develop an endowment fund and issue an RFP to run the cemetery. Recommended against purchasing the adjacent lot for expansion as it would be costly.
12/17/12	City Commission approved the amendment to the cemetery procedures to allow for additional rights of burial and approved an amendment to the fee schedule for additional rights of burial and cost for services to reflect current market rates. City Commission approved an amendment to the agreement with L.F. Sloane Consulting Group, Inc . Scope of work to include developing an RFP in order to outsource the management and maintenance of the cemetery. (amount not to exceed $1,000)
3/2013	The City issued an RFP for Cemetery Management Services. No proposal were received by the deadline on 3/27/13.
4/2013	The City reissued the RFP for Cemetery Management Services. One proposal was received on 5/2/13 from Historic Elmwood Cemetery.
6/24/13	City Commission approved the agreement for Cemetery Management Services with the Historic Elmwood Cemetery. The daily maintenance and burial services to be performed by the subcontractor the Catholic Cemeteries of the Archdiocese of Detroit, specifically Holy Sepulchre Cemetery.
8/12/13	Staff provided an update to the City Commission on the transition of the copies of the records to Holy Sepulchre Cemetery.
9/10/13	Community meeting held at the Library regarding the agreement for Cemetery Management Services
9/23/13	Staff provided a summary of the community meeting to the City Commission. The City Commission discussed appointing a board or ad hoc committee to oversee the operations of the cemetery.
10/21/13	City Commission approved a resolution implementing a Greenwood Cemetery Advisory Committee. The duties of the Advisory Committee include to provide recommendations as to whether or not to proceed with: reclamation, development of new burial space, establishment an endowment fund,

	establishment of a standing committee and if so their charge.
11/25/13	City Commission interviewed applicants for the Greenwood Cemetery Advisory Committee.
12/9/13	City Commission appointed members to the Greenwood Cemetery Advisory Committee (GCAC).
5/19/14	City Commission accepted the GCAC final report and directed the City Manager to complete the necessary preparations and advance the recommendations contained in the report. At that meeting "Larry Sloane, Elmwood Cemetery, commented that Elmwood has been managing the cemetery for eleven months. He explained that total revenues were $15,000 and direct expenses, not including personnel cost was $14,200."
6/2014	The cemetery files were transferred to Historic Elmwood Cemetery as Holy Sepulchre Cemetery was no longer the subcontractor.
10/13/14	City Commission adopted ordinance amendments to establish a Perpetual Care Fund and the Greenwood Cemetery Advisory Board (GCAB).
11/24/14	City Commission interviewed & appointed members to the GCAB.
6/19/15	City Commission discussed amendments to the cemetery procedures and fee schedule and selling graves in the newly identified green space. Continued discussion to the next meeting.
7/13/15	City Commission discussed amendments to the cemetery procedures and fee schedule and selling graves in the newly identified green space. Continued discussion to the next meeting.
7/27/15	City Commission met at Greenwood Cemetery to view a mock layout of the green space proposed to be used for new graves. City Commission discussed amendments to the cemetery procedures and fee schedule and selling graves in the newly identified green space. Continued discussion to the next meeting and asked the GCAB to explore the resident v non-resident fee schedule and whether to limit the number of graves sold per inquiry.
8/10/15	City Commission discussed amendments to the cemetery procedures and fee schedule and selling graves in the newly identified green space and the recommendations by the GCAB. City Commission discussed the recommendation from the GCAB that the number of graves sold per inquiry not be limited and that there not be a set stagger pattern. The GCAB was split as to whether or not recommend a resident/non-resident rates. City Commission approved the amendments to the cemetery procedures and fee schedule; to follow the proposed schedule to sell the new graves; and that the new graves in Sections B & C be limited to 240 initially and to revisit the discussion when 200 are sold in that section.

2012 CITY COMMISSION MINUTES

MARCH 19, 2012

03-75-12 COMMISSIONER COMMENTS

Commissioner Hoff noted that there are two lots for sale adjacent to Greenwood Cemetery. She questioned if there was any interest from the Commission to further explore the possibility of expanding the cemetery.

Commissioner Moore suggested the City Manager review the property to determine whether it is suitable and return to the Commission. Mayor Nickita suggested exploring the option of a columbarium in the cemetery. Commissioner Rinschler suggested a financial analysis of the current price of land be done.

MAY 21, 2012

05-150-12 GREENWOOD CEMETERY

The Commission received the report regarding Greenwood Cemetery, submitted by City Manager Bruner.

Mr. Bruner explained that the cemetery is taxpayer supported. He stated that staff is considering ways to alleviate some costs.

Commissioner Hoff commented that a decision must be made before the property next to the cemetery is sold as it is an ideal location for possible expansion.

Mr. Bruner noted that this is something that should be considered cautiously and would like to get a professional consultant involved.

Mayor Nickita noted that there are many variables to consider and noted that the goal is to make the cemetery more of an asset for the community in general.

Mary Anschuetz, 452 Bonnie Brier, expressed support of expanding the cemetery.

AUGUST 13, 2012

08-225-12 CEMETERY MANAGEMENT CONSULTING SERVICES

Mr. Bruner explained the consultant will review the cemetery policy and procedures. He noted the consultant has done work in Michigan.

MOTION: Motion by McDaniel, seconded by Dilgard:

To approve the agreement dated August 6, 2012 with L.F. Sloane Consulting Group, Inc. to provide professional cemetery management consulting services, in an amount not to exceed $4,800.00. Funding for this agreement is available in account #101-441.003-811.0000 (Property Maintenance - Other Contractual Service).

The Commission discussed the scope of work, taking into consideration a possible expansion and the reclamation process.

In response to a question from Commissioner Hoff, Mr. Bruner noted that staff has contacted the local references and all have been positive.

VOTE: Yeas, 7
Nays, None
Absent, None

OCTOBER 29, 2012

10-311-12 GREENWOOD CEMETERY EVALUATION

Larry Sloane, L.F. Sloane Consulting Group, Inc, explained the significant demand for burial plots in Greenwood Cemetery. He explained the results of the evaluation include removing the road between Sections K and L to add burial spaces, developing an endowment fund, and issuing a Request for Proposal to run the cemetery.

Mr. Sloane confirmed for Commissioner Hoff that the recommendation does not include purchasing the adjacent lot for expansion as it would be costly.

Commissioner Hoff suggested more public input is needed.

MOTION: Motion by Sherman, seconded by Hoff:
To receive the cemetery evaluation prepared by L.F. Sloane Consulting Group, Inc. and ~~except~~ accept its findings.

VOTE: Yeas, 7
Nays, None
Absent, None

DECEMBER 17, 2012

12-356-12 GREENWOOD CEMETERY PROCEDURES AND FEES

Mr. Wuerth explained the proposed amendments include allowing for additional rights of burial for cremations and updating the fees to bring them up to industry standards.

Mr. Bruner clarified that the additional rights of burial is on a plot that is already owned. Mr. Currier explained that a will or trust would be required.

Ms. Conrad questioned the $750.00 fee for the additional rights of burial. Mr. Wuerth explained the fee is to fund a trust for the maintenance of the cemetery.

MOTION: Motion by Rinschler, seconded by Sherman:
To amend the Greenwood Cemetery Operational Procedures, Conditions and Regulations to permit the placement of no more than two (2) cremated remains in the same space as an internment of casketed remains if the owner of the grave space or the owner's heirs purchase the rights to such inurnments.

-and-

To amend the Schedule of Fees, Charges, Bonds and Insurance, Greenwood Cemetery to provide for the sale of additional Rights of Burial for cremated remains.

-and-

To amend the Schedule of Fees, Charges, Bonds and Insurance, Greenwood Cemetery to cover the current costs associated with services provided and to reflect current market rates.

VOTE: Yeas, 7
Nays, None
Absent, None

12-357-12 CEMETERY MANAGEMENT CONSULTANT AGREEMENT

MOTION: Motion by Sherman, seconded by Rinschler:
To approve Amendment #1 to the August 6, 2012 Cemetery Management Consultant Agreement between the City of Birmingham and L.F. Sloane Consulting Group, Inc. in an amount not to exceed one-thousand dollars ($1,000.00). Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.

Mr. Wuerth explained that the consultant would manage the day-to-day cemetery operations as well as the long term projects such as eliminating the roadway and completing the reclamation. He confirmed for Commissioner Hoff that lawn care and labor will be reviewed as part of the Request for Proposal.

In response to a question from Commissioner Hoff regarding revenue, Mr. Wuerth explained that a portion of the revenue will go to the management company and a portion will go back to the City. He stated the goal is to create a long term trust for the maintenance of the cemetery.

Mr. Bruner noted that any revenue generated would go back into the cemetery.

VOTE: Yeas, 7
Nays, None
Absent, None

2013 CITY COMMISSION MINUTES

JUNE 24, 2013

06-185-13 GREENWOOD CEMETERY
CEMETERY MANAGEMENT SERVICES

Assistant to the Manager Wuerth explained that the agreement with the Historic Elmwood Cemetery (Elmwood) includes managing the day to day operations, maintenance of the burials and interaction with the customers. He stated that Elmwood will be able to provide enhanced levels of service. He noted that capital projects previously discussed by the Commission are not included in the motion, but would be presented to the Commission at a later date.

Commissioner Hoff expressed concern with a potential conflict of interest with the consultant being a part of this contract and the Archdiocese of Detroit being involved in a public cemetery.

Larry Sloane, L.F. Sloane Consulting Group, explained that Elmwood is a not for profit organization with a voluntary board of directors. He explained that he is held on retainer by Elmwood, not Birmingham. He noted that the archdiocese would be a subcontractor of Elmwood, not the City.

Dorothy Conrad expressed concern with the City entering into the agreement.

Commissioner McDaniel expressed concern with the return on investment if the income goes to the management company. Mr. Wuerth explained that the fees for services provided will be collected by the management company. Sales of new plots will be split between the management company, City, and endowment fund.

Commissioner Rinschler expressed support as the City is losing money on the cemetery and this would save money.

Commissioner Nickita pointed out that either party can terminate the agreement at any point with 90 days notice and staff will be monitoring the situation.

MOTION: Motion by Rinschler, seconded by Moore:
To approve the service agreement with the Historic Elmwood Cemetery for cemetery management services at the Greenwood Cemetery, contingent upon the approvals required by Sec. 2-289 of the Birmingham City Code. Further, to direct the Mayor and City Clerk to sign the agreement on behalf of the City.

Mr. Sloane confirmed for the Commission that the original records will remain with the Clerk.

VOTE: Yeas, 4
Nays, 3 (Hoff, McDaniel, Sherman)
Absent, None

AUGUST 12, 2013

08-241-13 CITY STAFF REPORTS

The Commission received the update regarding Greenwood Cemetery submitted by City Clerk Broski.

SEPTEMBER 23, 2013

09-276-13 CITY STAFF REPORTS

The Commission received the Greenwood Cemetery Community Meeting report submitted by City Manager Bruner.

Commissioner Sherman and Commissioner Hoff agreed that a cemetery board should be appointed to oversee the operations of the cemetery.

Commissioner Rinschler and Mayor Pro Tem Moore suggested staff return with a specific recommendation as to the pros and cons of a board versus an ad hoc committee.

Commissioner McDaniel suggested the committee have Commission representation. Mr. Currier confirmed that is possible on an ad hoc committee only.

Dorothy Conrad and Pam DeWeese spoke in favor of appointing a cemetery board.

Dorothy Conrad stated her understanding that nothing further will be done regarding the cemetery until a meeting is held and the contract is reviewed. She stated that she does not want to see the current management company moving forward with any plans.

Mayor Pro Tem Moore confirmed that the management company would have to go through the historic board and City Commission prior to moving forward with any plans.

Mr. Currier confirmed for Ron Buchanan that Elmwood took over the contract for lawn care.

OCTOBER 21, 2013

10-297-13 GREENWOOD CEMETERY ADVISORY COMMITTEE

City Manager Bruner explained the composition, duties, and term of the proposed Greenwood Cemetery Advisory Committee. He stated that the Committee will have six months to perform the duties and provide recommendations, however the term is one year. He noted that the resolution implies that the Committee will review the contract with Elmwood as the duties include reviewing specific aspects in the contract. He noted that the Committee will be subject to the Open Meetings Act.

The Commission discussed the make up of the committee and criteria/qualifications for the members. The Commission agreed that four members of the committee should be general members of the public and as best as possible meet the qualifications listed. These members

would be appointed by the Commission. The Commission also agreed that the committee should include a member of the Historic District Commission, Museum Board, and Friends of the Birmingham Historical Museum and Park.

The following individuals commented on the criteria to serve on the Committee:
Dorothy Conrad
Russ Dixon
Darlene Gehringer

Mr. Bruner confirmed for Commissioner Hoff that the contract with Elmwood will remain in place until the City or Elmwood terminates it in accordance with the termination clause.

MOTION: Motion by McDaniel, seconded by Hoff:
Whereas, Greenwood Cemetery was established in 1825 on land donated by Dr. Ziba Swan; and

Whereas, Martha Baldwin organized the Greenwood Cemetery Association in 1885 after the cemetery had fallen into disrepair; and

Whereas, Martha Baldwin left $1,000 for the Cemetery Perpetual Care Fund upon her death in 1913, and

Whereas, the City of Birmingham took over the operation of Greenwood Cemetery in 1946 after the cemetery had fallen into disrepair once again; and

Whereas, Section 34-26 of the City Code places the care, maintenance and operation of Greenwood Cemetery under the supervision and control of the city manager; and

Whereas, Section 34-27 of the City Code places the sale of the lots in Greenwood Cemetery, and the issuance of burial and other permits pertaining to the use of lots in the cemetery under the control and supervision of the city clerk; and

Whereas, Section 34-28 of the City Code gives the city manager the power and authority to adopt such rules and regulations for the control of Greenwood Cemetery, for the conduct of persons therein, and governing the charges for lots, burial spaces and services, as he may deem necessary; and

Whereas, the City Commission wishes to establish a committee to advise the City Commission, City Manager, and City Clerk regarding the administration, maintenance, operation, preservation, and strategic planning for future development of Greenwood Cemetery; and

Therefore, be it resolved that the City of Birmingham establishes an advisory committee to be known as the "Greenwood Cemetery Advisory Committee" to balance the interest of those interred in Greenwood Cemetery and their surviving family members, those who wish to be interred in Greenwood Cemetery, those who will pay for the regular care and maintenance of the cemetery in perpetuity, and those who wish to preserve Greenwood as a historic site.

Duties: Considering the past, present and future operations of the Cemetery, the Committee shall be charged with the following duties:

1. Prepare recommendations regarding whether or not to proceed with the reclamation of abandoned burial spaces within the existing cemetery and, if so, the best method for doing so.

2. Prepare recommendations regarding whether or not to plan for the development of new burial spaces within the existing cemetery and, if so, the best method for doing so.

3. Prepare recommendations regarding whether or not to plan for the expansion of the existing cemetery and, if so, the best method for doing so.

4. Prepare recommendations regarding whether or not to establish an endowment care fund to provide regular care and maintenance of the cemetery in perpetuity and, if so, the best method for doing so.

5. Prepare recommendations regarding the need for a standing cemetery advisory committee and, if so, the duties the committee shall be charged with.

6. Solicit and receive public input on those recommendations.

7. Finalize and present recommendations to the City Commission by June 30, 2014.

Composition: The Committee shall be composed of the following:

1. Four members of the general public
2. One Historic District Commission member appointed by the Historic District Commission
3. One Museum Board member appointed by the Museum Board
4. One member of the Friends of the Birmingham Historical Museum & Park appointed by the Board of Directors of the Friends

At least one member shall be a surviving family member of an individual interred in Greenwood Cemetery. At least one member shall own a grave and intend to be interred in Greenwood Cemetery (this member may also be a surviving family member of an individual interred in the cemetery). At least one member shall not own a grave in Greenwood Cemetery (this member may be on the interest list). At least one member may be a licensed funeral director.

The City Manager, City Clerk, Director of Public Services, cemetery contractors and subcontractors may be present at all Committee meetings, take part in all discussions but shall have no vote.

Terms of office: The Committee's term and the term of each member shall run until December 31, 2014 at which time this Resolution shall sunset and be of no further force or effect unless the City Commission resolves to continue the Committee's term.

Compensation: The Committee shall serve without compensation.

Meetings: The Committee shall not be a "public body" as defined by the Open Meetings Act (Act 267 of 1976). However, all Committee meetings shall be open to the public and held in accordance with the Open Meetings Act.

Minutes: The Committee shall not be a "public body" as defined by the Open Meetings Act (Act 267 of 1976). However, the Committee shall keep minutes of each meeting in accordance with the Open Meetings Act.

Records: The Committee shall not be a "public body" as defined by the Freedom of Information Act (Public Act 442 of 1976). However, all Committee records shall be accessible to the public in accordance with the Freedom of Information Act.

Quorum: A majority of the Committee shall constitute a quorum. The Committee shall adopt all recommendations by resolution.

Organization: The Committee shall elect one of its members as chairperson and any other officers that it shall deem necessary.

Rules of procedure: The Committee shall adopt rules of order and procedure consistent with the provisions of this resolution.

Removal of members from office and filling vacancies: Members of the Committee may be removed from office by the appointing authority for inefficiency, neglect of duty or misfeasance or malfeasance after public hearing. Vacancies on the Committee shall be filled for the unexpired term by appointment from the appointing authority.

Relation to administrative branch: The Committee shall deal with the administrative branch of the City government solely through the City Manager and neither the Committee nor any member thereof shall give any order or direction either publicly or privately to any of the subordinates of the City Commission or City Manager. The City Manager is authorized to provide assistance to the Committee without further City Commission approval.

Expenses/Contract: The Committee shall not have any authority to authorize expenditures or otherwise obligate the City or incur expenses and/or approve contracts. Any expenditure shall be requested by resolution to the City Commission for consideration.

VOTE: Yeas, 7
Nays, None
Absent, None

NOVEMBER 25, 2103

11-325-13 INTERVIEWS FOR APPOINTMENT TO THE GREENWOOD CEMETERY ADVISORY COMMITTEE

The Commission agreed to interview the applicants tonight and make the appointment at the next Commission meeting.

The Commission interviewed the following for appointment to the Greenwood Cemetery Advisory Committee:

1. Patrick Lynch, 4525 Charing Cross, Bloomfield Hills
2. Jay Shell, 1121 Northlawn
3. Dave Randall, 642 Fairfax
4. Bill Wozniak, 119 S. Adams
5. Daniel Share, 1040 Gordon Lane
6. Philip Stenger, 970 Pilgrim
7. Barbara Thurber, 663 Vinewood
8. Marjory Basile, 670 Fairfax (not in attendance)
9. Dorothy Conrad, 2252 Yorkshire (withdrew application)

10. Thomas Goad, 1840 Redding
11. Linda Peterson, 1532 Melton
12. Thomas Booth, 430 Aspen
13. Kevin Desmond, 962 Humphrey
14. Vicki Walsh, 729 Vinewood
15. J.W. (Jack) Burns, 898 Putney
16. Patricia Bordman, 1091 Lake Park Drive
17. Ron Berndt, 2182 Lost Tree Way, Bloomfield Hills
18. Joseph Mercurio, 1060 Lake Park Drive
19. Laura Ann Schreiner, 591 Bird
20. Patricia Andrews, 235 Chesterfield

DECEMBER 9, 2013

12-341-13 APPOINTMENT TO THE GREENWOOD CEMETERY ADVISORY COMMITTEE

Mayor Moore noted that the interviews for this committee were held at the November 25th Commission meeting.

Appointment of the general public member who does not currently own a grave at Greenwood Cemetery:

MOTION: Motion by Dilgard:
To appoint Laura Ann Schreiner, 591 Bird, to the Greenwood Cemetery Advisory Committee, as the member of the general public who does not currently own a grave at Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

MOTION: Motion by Hoff:
To appoint Patricia Bordman, 1091 Lake Park Drive, to the Greenwood Cemetery Advisory Committee, as the member of the general public who does not currently own a grave at Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

VOTE ON NOMINATION OF SCHREINER:
Yeas, 5 (Dilgard, McDaniel, Moore, Nickita, Sherman)
Absent, 1 (Rinschler)

Laura Schreiner was appointed as the member of the general public who does not currently own a grave at Greenwood Cemetery.

Appointment of the general public member who owns a grave and intends to be interred in Greenwood Cemetery:

MOTION: Motion by Nickita:
To appoint Daniel Share, 1040 Gordon Lane to the Greenwood Cemetery Advisory Committee, as the member of the general public who owns a grave and intends to be interred in Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

MOTION: Motion by McDaniel:

To appoint Linda Peterson, 1532 Melton to the Greenwood Cemetery Advisory Committee, as the member of the general public who owns a grave and intends to be interred in Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

MOTION: Motion by Hoff:
To appoint Patrick Lynch, 4525 Charing Cross, Bloomfield Hills, to the Greenwood Cemetery Advisory Committee, as the member of the general public who owns a grave and intends to be interred in Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

MOTION: Motion by Dilgard:
To appoint Philip Stenger, 970 Pilgrim, to the Greenwood Cemetery Advisory Committee, as the member of the general public who owns a grave and intends to be interred in Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

VOTE ON NOMINATION OF SHARE:
Yeas, 2 (Nickita, Moore)
Absent, 1 (Rinschler)

VOTE ON NOMINATION OF PETERSON:
Yeas, 1 (McDaniel)
Absent, 1 (Rinschler)

VOTE ON NOMINATION OF LYNCH:
Yeas, 1 (Hoff)
Absent, 1 (Rinschler)

VOTE ON NOMINATION OF STENGER:
Yeas, 2 (Sherman, Dilgard)
Absent, 1 (Rinschler)

No applicants received the required number of votes for appointment. The Mayor called for a second vote on the nominees.

VOTE ON NOMINATION OF SHARE:
Yeas, 4 (Nickita, Moore, Hoff, McDaniel)
Absent, 1 (Rinschler)

Daniel Share was appointed as the member of the general public who owns a grave and intends to be interred in Greenwood Cemetery.

Appointment of the general public member who is a family member of an individual currently interred in Greenwood Cemetery:
MOTION: Motion by Hoff:
To appoint Ron Berndt, 2182 Lost Tree Way, Bloomfield Hills to the Greenwood Cemetery Advisory Committee, as the member of the general public who is a family member of an individual currently interred in Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

MOTION: Motion by Dilgard:
To appoint Barbara Thurber, 663 Vinewood to the Greenwood Cemetery Advisory Committee, as the member of the general public who is a family member of an individual currently interred in Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

MOTION: Motion by Sherman:
To appoint Thomas Goad, 1840 Redding to the Greenwood Cemetery Advisory Committee, as the member of the general public who is a family member of an individual currently interred in Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

MOTION: Motion by Nickita:
To appoint Linda Peterson, 1532 Melton to the Greenwood Cemetery Advisory Committee, as the member of the general public who is a family member of an individual currently interred in Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

VOTE ON NOMINATION OF BERNDT:
Yeas, 1 (Hoff)
Absent, 1 (Rinschler)

VOTE ON NOMINATION OF THURBER:
Yeas, 1 (Dilgard)
Absent, 1 (Rinschler)

VOTE ON NOMINATION OF GOAD:
Yeas, 1 (Sherman)
Absent, 1 (Rinschler)

VOTE ON NOMINATION OF PETERSON:
Yeas, 3 (McDaniel, Moore, Nickita)
Absent, 1 (Rinschler)

No applicants received the required number of votes for appointment.

MOTION: Motion by McDaniel:
To appoint Linda Peterson, 1532 Melton to the Greenwood Cemetery Advisory Committee, as the member of the general public who is a family member of an individual currently interred in Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

MOTION: Motion by Hoff:
To appoint Ron Berndt, 2182 Lost Tree Way, Bloomfield Hills to the Greenwood Cemetery Advisory Committee, as the member of the general public who is a family member of an individual currently interred in Greenwood Cemetery, to serve a one-year term to expire December 31, 2014.

VOTE ON NOMINATION OF PETERSON:
Yeas, 3 (McDaniel, Moore, Nickita)
Absent, 1 (Rinschler)

VOTE ON NOMINATION OF BERNDT:
Yeas, 3 (Hoff, Dilgard, Sherman)
Absent, 1 (Rinschler)

No applicants received the required number of votes for appointment. The Mayor called for a second vote on the nominees.

VOTE ON NOMINATION OF PETERSON:
Yeas, 4 (McDaniel, Moore, Nickita, Dilgard)
Absent, 1 (Rinschler)

Linda Peterson was appointed as the member of the general public who is a family member of an individual currently interred in Greenwood Cemetery.

Appointment of the general public member who is a funeral director:
MOTION: Motion by Nickita:
To appoint Kevin Desmond, 962 Humphrey to the Greenwood Cemetery Advisory Committee, as the member of the general public or who is a licensed funeral director to serve a one-year term to expire December 31, 2014.

MOTION: Motion by Dilgard:
To appoint Patrick Lynch, 4525 Charing Cross, Bloomfield Hills to the Greenwood Cemetery Advisory Committee, as the member of the general public or who is a licensed funeral director to serve a one-year term to expire December 31, 2014.

VOTE ON NOMINATION OF DESMOND:
Yeas, 3 (Nickita, Moore, McDaniel)
Absent, 1 (Rinschler)

VOTE ON NOMINATION OF LYNCH:
Yeas, 3 (Hoff, Dilgard, Sherman)
Absent, 1 (Rinschler)

No applicants received the required number of votes for appointment. The Mayor called for a second vote on the nominees.

VOTE ON NOMINATION OF DESMOND:
Yeas, 4 (Nickita, Moore, McDaniel, Sherman)
Absent, 1 (Rinschler)

Kevin Desmond was appointed as the general public member who is a funeral director.

City Manager Bruner confirmed for Commissioner Hoff that staff will distribute information to the committee members and will coordinate the meeting schedule.

2014 CITY COMMISSION MINUTES

MAY 19, 2014

05-119-14 GREENWOOD CEMETERY ADVISORY COMMITTEE FINAL REPORT

Mr. Valentine and George Stern, chairperson of the Greenwood Cemetery Advisory Committee presented the final report of the Greenwood Cemetery Advisory Committee.

Commissioner Rinschler expressed concern with using the Grave Interest List for the first point of sales for any new grave spaces as it is not a waiting list.

In response to a question from Commissioner McDaniel, Mr. Stern clarified that the Committee recommendation for any new grave space is to restrict sale of the grave space back to the City to curtail flippers.

Commissioner Hoff noted that the reclamation and formation of a committee should be priority. Mr. Valentine agreed and noted the City Commission would review each item individually.

The Commission discussed the contract with Elmwood Cemetery. Commissioner Rinschler suggested deferring discussion on the contract until there is a process in place.

The Commission agreed to request staff return with the priorities and suggested action to move forward.

MOTION: Motion by Rinschler, seconded by Sherman:
To accept the Greenwood Cemetery Advisory Committee Final Report and directing the Interim City Manager to begin the process to complete the necessary preparations and advance the recommendations contained in the report.

Dorothy Conrad thanked the members of the Committee.

Ron Berndt expressed concern with the reclamation process and how families would receive notification.

Larry Sloane, Elmwood Cemetery, commented that Elmwood has been managing the cemetery for eleven months. He explained that total revenues were $15,000 and direct expenses, not including personnel cost was $14,200. He stated that Elmwood wants to work with the City to maintain the history of this cemetery.

Patricia Andrews expressed support of the final report.

VOTE: Yeas, 7
Nays, None
Absent, None

OCTOBER 13, 2014

10-240-14 GREENWOOD CEMETERY ORDINANCE AMENDMENTS

City Manager Valentine presented the ordinance amendments for the creation of the perpetual care fund for the cemetery and to establish a standing cemetery board to assist with the long term needs of the cemetery.

Commissioner McDaniel expressed concern with the amount of interest earned on the perpetual care fund. Mr. Currier explained the restrictions the Municipalities have on the investment of funds.

Commissioner Hoff questioned whether the ordinance should state the source of the funds. Mr. Valentine stated that the intent of the ordinance is that the revenues generated from the cemetery would go back to the cemetery. Commissioner Hoff suggested the ordinance should include where the funds are coming from.

In response to a question from Commissioner Hoff, Mr. Valentine confirmed that Elmwood Cemetery would do the administrative work for the reclamation under the City's direction and control. He confirmed that Elmwood Cemetery would receive a percentage of the proceeds from the sale of the burial sites under the agreement.

Dorothy Conrad suggested changing the heading of Section 34-30 to clarify the establishment of a cemetery board. The Commission agreed to change the heading of Section 34-30 to Establishment <u>of Greenwood Cemetery Advisory Board.</u>

Pam DeWeese expressed support of the Cemetery Board.

George Stern suggested the cemetery board work with staff regarding exempting cemeteries from Public Act 20.

Mr. Valentine confirmed for Ron Buchanan that Elmwood Cemetery would take direction from the City Manager through the advisory recommendations of the board for any actions administrative in nature.

MOTION: Motion by Rinschler, seconded by Nickita:
To adopt an ordinance amending Part II of the City Code Chapter 34 Cemeteries, Article II., Greenwood Cemetery to add section 34-29 Perpetual Care Fund.

- AND -

To adopt an ordinance amending Part II of the City Code Chapter 34 Cemeteries, Article II., Greenwood Cemetery to add section 34-30 Establishment <u>of the Greenwood Cemetery Advisory Board</u> as amended.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Moore)

NOVEMBER 24, 2014

11-272-14 APPOINTMENT TO THE GREENWOOD CEMETERY ADVISORY BOARD

The Commission interviewed applicants for appointment to the Greenwood Cemetery Advisory Board. Applicants George Stern, 1090 Westwood, Pamela DeWeese, 932 Purdy, and Linda Peterson, 1532 Melton, were unable to attend to be interviewed.

MOTION: Motion by Nickita:
To appoint Darlene Gehringer, 1108 W. Maple, to the Greenwood Cemetery Advisory Board to serve a three-year term to expire July 6, 2017.

MOTION: Motion by Hoff:
To appoint Kevin Desmond, 962 Humphrey, to the Greenwood Cemetery Advisory Board to serve a three-year term to expire July 6, 2017.

MOTION: Motion by Rinschler:
To appoint Pamela DeWeese, 932 Purdy, to the Greenwood Cemetery Advisory Board to serve a two-year term to expire July 6, 2016.

MOTION: Motion by Dilgard:
To appoint Barbara Thurber, 463 Vinewood, to the Greenwood Cemetery Advisory Board to serve a two-year term to expire July 6, 2016.

MOTION: Motion by Moore:
To appoint Laura Schreiner, 591 Bird, to the Greenwood Cemetery Advisory Board to serve a one-year term to expire July 6, 2015.

MOTION: Motion by Hoff:
To appoint George Stern, 1090 Westwood, to the Greenwood Cemetery Advisory Board to serve a one-year term to expire July 6, 2015.

MOTION: Motion by Nickita:
To appoint Linda Peterson, 1532 Melton, to the Greenwood Cemetery Advisory Board to serve a one-year term to expire July 6, 2015.

VOTE ON NOMINATION OF GEHRINGER:
Yeas, 7
Absent, None

VOTE ON NOMINATION OF DESMOND:
Yeas, 7
Absent, None

VOTE ON NOMINATION OF DEWEESE:
Yeas, 7

Absent, None

VOTE ON NOMINATION OF THURBER:
Yeas, 7
Absent, None
VOTE ON NOMINATION OF SCHREINER:
Yeas, 7
Absent, None

VOTE ON NOMINATION OF STERN:
Yeas, 7
Absent, None

VOTE ON NOMINATION OF PETERSON:
Yeas, 7
Absent, None

The Clerk administered the oath to the appointed board members.

2015 CITY COMMISSION MINUTES

JUNE 29, 2015

06-137-15 GREENWOOD CEMETERY
RULES AND REGULATIONS AND FEE SCHEDULE AMENDMENT

Commissioner Rinschler suggested removing the cut-off date in the process to sell graves and require anyone who wants to purchase the graves to add their name to the Interest List.

MOTION: Motion by Rinschler, seconded by Dilgard:
To amend the Greenwood Cemetery Operational Procedures, Conditions and Regulations as recommended.

AND

To amend the Schedule of Fees, Charges, Bonds and Insurance, Greenwood Cemetery to add a fee for the sale of grave spaces accommodating one or two cremated remains.

AND

To remove the cut-off date from the proposed schedule and then following the schedule to sell the new grave spaces in Sections B, C, D, K, L, O and newly identified grave spaces in Sections E, G, H, and O.

Commissioner Hoff expressed concern with this item and suggested it be moved to July 13th.

MOTION WITHDRAWN

MOTION: Motion by Rinschler, seconded by Dilgard:
To move this item to July 13th.

VOTE: Yeas, 5
Nays, None
Absent, 2 (Moore, Nickita)

JULY 13, 2015

07-149-15 GREENWOOD CEMETERY
RULES AND REGULATIONS AND FEE SCHEDULE AMENDMENT

Ms. Pierce presented the proposed revisions to the Greenwood Cemetery Rules and Regulations and fee schedule. She explained that the Greenwood Cemetery Advisory Board (GCAB) discussed the potential to use the green space in the cemetery for additional burials. After review by the Historic District Commission, the GCAB recommended that the City offer the graves in the green space in Sections B, C, D, K, L and O for sale, limiting to flush markers only to maintain the visual landscape, set a lot resale policy and pending the results of ground penetrating radar. She explained that the contractor agreed to do the ground penetrating on the green space at no cost to the City. Ms. Pierce explained that the lot resale policy would require individuals who purchase the new graves and later wish to sell them, to sell them back to the City for 50% of the purchase price. However, the new graves could be transferred to family with supporting genealogical documentation. Ms. Pierce explained the process to be used to sell the new graves would be based off the Interest List. Individuals interested in

purchasing graves would have to add their name to the Interest List through the City or the contractor.

City Manager Valentine confirmed for Mayor Pro Tem Hoff that he authorized the contractor to move forward with the ground penetrating radar as there was no cost to the City. In addition the timeframe for its completion coincides with the recommendations coming before the Commission to move this process forward. He noted that there are over 100 individuals on the Interest List and others in the community interested in obtaining a grave at Greenwood.

In response to a question from Mayor Pro Tem Hoff, Mr. Valentine explained that the recommendation would use existing unsold, unidentified spaces that have not been utilized where the reclamation process would affect previously sold graves.

Commissioner McDaniel questioned if the layout is unusual. George Stern, chairperson of the GCAB, explained that the more modern era designed cemeteries were designed without natural features such as walking paths and nature features.

Ron Buchanan, 1280 Suffield, expressed concern with the visual impact in Sections B and C when fully implemented. He also expressed concern with the orientation of the graves. He suggested eight graves per row be left vacant to enhance the green space.

Pam DeWeese, 932 Purdy, agreed with Mr. Buchanan. She noted that the GCAB has two goals which include finding graves for people and preserving the aesthetics and historic integrity of the cemetery.

Darlene Gehringer, 1108 West Maple, stated that the reference to the designated contractor in the Rules and Regulations is not needed. She stated that she still wants ground penetrating radar done on the entire cemetery. She agreed with Mr. Buchanan.

In response to a question from Commissioner Dilgard regarding ground penetrating radar on the entire cemetery, Mr. Valentine explained that the recommendation from the GCAB was to do ground penetrating radar for these sites and the entire cemetery and remains the same.

Commissioner Rinschler expressed support of the additional space. He stated that the phase in idea is not a bad idea until we see how fast the graves are being sold.

Mayor Pro Tem Hoff expressed concern and stated that Sections B and C should be left as it because it is historic. The other sections would get us started. She stated that the City is not in dire need of money. We could always go back and add some in B and C.

Commissioner Nickita pointed out the balance between an aesthetic issue with accommodating all the people waiting on the Interest List. He noted that the drawings do not show the actual aesthetic impact.

Commissioner Rinschler noted that there would not be 500 markers immediately. He stated that if there was a phase in plan, it could be modified. He stated that he would not want to move forward with less than a couple hundred graves.

MOTION: Motion by Hoff, seconded by Moore:
That the Commission set a time to meet at the cemetery to visualize the proposed changes.

The following individuals expressed support of the motion:
Darlene Gehringer
Pam DeWeese
George Stern

The Commission agreed to meet at the cemetery before the next City Commission meeting at 6:30 PM.

VOTE: Yeas, 7
Nays, None
Absent, None

JULY 27, 2015

The City Commission met at Greenwood Cemetery to view a mock layout of the green space proposed to be used for new graves in order to gain an understanding of the visual impact of using the space. Members of the Greenwood Cemetery Advisory Board were in attendance as well.

07-161-15 GREENWOOD CEMETERY RULES AND REGULATIONS AND FEE SCHEDULE AMENDMENT

Mayor Pro Tem Hoff commented that the Historic Cemeteries Preservation Guide focused on the preservation and conservation of historic cemeteries, not the expansion. She pointed out that the standards in the guide refer to minimal change to materials, features, spaces, and spatial relationships. She expressed concern that the proposal will change the spatial relationship. She noted that there is no reference to new burials in the Greenwood Cemetery Advisory Committee recommendations. She stated that it is her understanding that the reclamation process has changed from what the Commission was initially told. She suggested that the graves identified be used when there is need for a burial and to begin the reclamation process under the clerk's supervision and that the Historic District Study Committee could be utilized to assist in the process.

Commissioner Rinschler found that the visual impact of the proposed graves did not change the character of the cemetery as the markers will be flush with the road. He stated that the City has a historic cemetery that it wants to preserve the character of and this proposal does not alter the character. He commented that the reclamation would not be an overnight availability of the graves as there would still be a legal process to go through and it is not a task that would be given to volunteers. He expressed support of the original proposal to sell the 82 graves plus the 530 graves, but phasing in the sale of the graves.

The Commission questioned the reclamation process. George Stern, chairperson of the Greenwood Cemetery Advisory Board (GCAB), explained that HB 4890 was enacted effective January 1, 2015 and is a process of 120 days plus 60, and then the graves are yours. It is about a six month process by the time it is done.

Commissioner Nickita commented on the visual impact and how it would affect the green space. He suggested in the initial implementation, to recommend a more staggered orientation in a less dense condition and slowly it will be more integrated over time.

Commissioner McDaniel agreed with phasing in the sale of graves in Sections B & C and agreed that the visual impact is minimal. He pointed out that the object is to develop a perpetual care fund over time.

Pam DeWeese, 932 Purdy, expressed support of staggering the graves. She noted that funds from the perpetual care fund could be used for a columbarium as well as maintenance. She expressed support of starting with the sale of half of the graves.

Ron Buchanan, 1280 Suffield, suggested a proviso be set up for Sections B & C that 12 or 20 graves in each green space row remain vacant so that green space is infused into each one of those rows. Random patterns would be established based on what the sales were.

George Stern, 1090 Westwood and chair of the GCAB, asked to coordinate with the City Commission on procedure. He stated that his impression is that there is a great deal of demand for graves in the cemetery. He noted that there is no limit to the number of graves an individual can purchase. He expressed concern with the restriction of sales according to the lot resale policy.

Commissioner Rinschler questioned Mr. Stern's comment on restricting the number of graves that could be purchased. He suggested the GCAB be tasked with determining this number.

MOTION: Motion by Rinschler, seconded by McDaniel:
To amend the Greenwood Cemetery Operational Procedures, Conditions and Regulations as recommended.

-and-

To amend the Schedule of Fees, Charges, Bonds and Insurance, Greenwood Cemetery to add a fee for the sale of grave spaces accommodating one or two cremated remains.

- and –

To follow the proposed schedule to sell the new grave spaces in Sections B, C, D, K, L, O and newly identified grave spaces in Sections E, G, H, and O.

- and -

That the new grave spaces in Section B & C be initially limited to 240 and that the GCAB be chartered with figuring out the correct arrangement of those and that it be revisited after all 240 are sold.

- and -

To charge the GCAB to recommend a number of grave sites per inquiry for the Clerk to use as a guideline for the initial selling.

Commissioner McDaniel commented on reserving graves for current and former residents with some flexibility as appropriate. City Attorney Currier stated that the sale of graves cannot be limited to residents only.

Mr. Stern noted that other cemeteries have separate rate schedules for residents and non-residents. He requested direction on whether the GCAB should study a separate rate schedule for residents and non-residents. The Commission suggested the GCAB explore this option.

Mayor Sherman commented on the reclamation process. City Attorney Currier explained that the Cemetery Regulation Act is the Act that was amended by HB4890. He noted that there was no modification to the public cemetery section of the statue. He noted that Section 456.530 of the Cemetery Regulation Act states that this Act does not apply to municipal corporations. He stated that he would like to do more research on this item. The Commission agreed to request a legal opinion for this item.

MOTION: Motion by Rinschler, seconded by McDaniel:
To postpone the motion.

VOTE: Yeas, 7
Nays, None
Absent, None

AUGUST 10, 2015

08-174-15 GREENWOOD CEMETERY RULES AND REGULATIONS FEE SCHEDULE AND SALE OF GRAVE SPACES

Mayor Sherman noted that the Commission received information from the City Attorney explaining that the statute in question on the reclamation does not apply to municipal cemeteries.

City Clerk Pierce explained that the Greenwood Cemetery Advisory Board (GCAB) held a meeting in August to discuss the requests from the City Commission. She explained that the Board recommended that the number of graves allowed to be sold per inquiry not be limited. Members of the Board felt that by limiting the number of graves allowed to be purchased would unintentionally penalize large families. In addition, the Board did not want to limit the number of graves allowed to be purchased to the number originally requested when added to the Interest List as circumstances may have changed for that individual.

Ms. Pierce explained that the GCAB also recommended that there not be a staggering pattern. There are many graves in the cemetery that were sold many years ago and still do not have markers on them. It was noted that the staggering pattern of the markers would naturally happen as burials occur over time.

Ms. Pierce explained that the GCAB was split as to whether a flat rate or tiered fee schedule should be implemented. Some members did not want to penalize non-residents and some were concerned with adding an additional fee on top of the high cost for a grave. Other members thought the fee should be doubled for non-residents. She noted that staff has found that there would be a procedural difficulty in determining who is actually a resident as there are many variables to consider.

The Commission discussed the recommendations from the GCAB. Commissioner Rinschler expressed support of the recommendation to not limit to the number of graves allowed to be purchased. Commissioner Nickita stated that his concern is the potential for speculation and noted that it is problematic to restrict a large family.

Mayor Pro Tem Hoff stated that she does not object to not limiting the number of graves to be sold. As far as the stagger pattern in Sections B & C, she maintained her position that she is not in favor of selling graves in Sections B & C.

Commissioner Nickita commented on the organic nature of the cemetery and noted that once the cemetery is completely filled, there would be no stagger pattern to the markers, it would be rigidly laid out.

Commissioner Rinschler agreed with the GCAB recommendation to not do the stagger pattern. He suggested the sale should be limited to 240 to have some break and a review point. Commissioner Dilgard concurred.

Commissioner Moore commented on resident versus non-resident fees. He stated that the question is whether there are costs incurred by taxpayers that are not incurred by non-resident who either own or will own plots in the cemetery. Once the perpetual care fund is established, everyone pays into that fund and there should not be discrimination or difference. If there are no costs or if they are diminimus, then there should not be a two-tiered system. Commissioner Moore stated that it is a minor issue because the contractor is taking care of the day to day maintenance of the cemetery.

George Stern, 1090 Westwood and chair of the GCAB, commented that this is a classic business problem of allocation of demand under conditions of limited supply. He expressed concern with an allocation formula. He suggested that the law on reclamation exempts both religious institutions and municipalities. He stated that he is a member of an association of religious institutions who voluntarily waived the exemption in order to reclaim plots in the timeframe in the bill and suggested the Commission may want to look at this in the future.

Ron Buchanan, 1280 Suffield, suggested a stagger pattern of selling only 12 of the 24 graves per row to minimize the visual effect of this.

Mayor Sherman suggested not waiting until all 240 graves are sold to revisit this. It should come back for review after selling 200 graves, with 40 left to sell.

AMENDMENT TO MAIN MOTION: Motion by Rinschler, seconded by Dilgard:
To amend the original motion to change 240 to 200 "revisited when 200 are sold" and to eliminate the final "and" which is the resolution relative to a number of grave sites per inquiry.

Mayor Pro Tem Hoff stated that there are 132 other spaces that have been identified and she would like to see those sold before Section B & C. She expressed opposition to selling graves in Sections B & C. She expressed concern that money is a big factor in this decision. She expressed concern that the final report of the GCAB does not include a recommendation to find new spaces. The Committee had recommended that the City identify the unsold unused burial spaces and to commence with reclamation.

In response to a question from Mayor Pro Tem Hoff, City Manager Valentine confirmed that the perpetual care fund has been established. The money resulting from the sale of graves to date is in the perpetual care fund. He confirmed for Mayor Pro Tem Hoff that the City has received a legal opinion that the Cemetery could not be classified as a park.

Mayor Sherman noted that in the GCAC report, one of the directives to the Committee was to prepare recommendations regarding whether or not to plan for the development of new burial spaces within the existing cemetery and if so the best method for doing so. The GCAB recommendations included the closing of the roadway and the installation of columbaria. The green space in Sections B & C was not identified until after the Committee had met. It would have been contemplated in the original report if the space had been identified at that point.

VOTE AMENDMENT TO THE MAIN MOTION:
Yeas, 5
Nays, 1 (Hoff)
Absent, 1 (McDaniel)

MAIN MOTION:
To amend the Greenwood Cemetery Operational Procedures, Conditions and Regulations as recommended.

-and-

To amend the Schedule of Fees, Charges, Bonds and Insurance, Greenwood Cemetery to add a fee for the sale of grave spaces accommodating one or two cremated remains.

- and –

To follow the proposed schedule to sell the new grave spaces in Sections B, C, D, K, L, O and newly identified grave spaces in Sections E, G, H, and O.

- and -

That the new grave spaces in Section B & C be initially limited to 240 and that the GCAB be chartered with figuring out the correct arrangement of those and that it be revisited when 200 are sold.

VOTE ON THE MAIN MOTION:
Yeas, 5
Nays, 1 (Hoff)
Absent, 1 (McDaniel)

Commissioner Rinschler noted that he is comfortable that there could still be an open discussion on whether there is a need for a limit based on what the Clerk sees in terms of demand. The Commission directed staff to continue studying the number of graves.

Commissioner Dilgard and Commissioner Rinschler expressed their comfort in leaving the fees the same for residents and non-residents. Mayor Sherman agreed. Commissioner Nickita expressed that he wants to be sensitive to residents, but the circumstance of residents changes quite a bit. He suggested it be monitored and if it starts to omit residents or becomes a problem, then it should be reviewed. City Manager Valentine stated that this information will be included with the annual report of the GCAB.

Mayor Sherman stated that emails have been received regarding reclamation. He noted that this is not reclamation. The City looking to provide burial spaces for people who would like to be buried in Greenwood while protecting the rights of the current owners. The overriding concern is preserving the rights of the owners.

CITY OF BIRMINGHAM
GREENWOOD CEMETERY OPERATIONAL PROCEDURES, CONDITIONS AND REGULATIONS

I. DEFINITIONS:

The following words and phrases, for the purposes of these sections, have the meanings respectively ascribed to them, except in those instances where the context clearly indicates a different meaning.

a. "Cemetery" shall mean Greenwood Cemetery.

b. "Superintendent" shall mean the City Manager or his/her designee.

c. "Marker" shall mean a stone or object denoting the location of a grave and which does not exceed eighteen (18) inches in height, sixteen (16) inches in width, and twenty-four (24) inches in length.

d. "Monument" shall denote a memorial stone or object of a size in excess of that of a marker.

e. "Permanent outside container" shall be a container which encloses a casket. The following are considered permanent outside containers: concrete boxes, concrete, copper or steel burial vaults.

f. "Department" shall mean the Department of Public Services.

g. "Memorial" shall mean monuments or markers.

II. CONDUCT OF PERSONS

Every person entering the cemetery shall be responsible for any damage caused by such person while within the cemetery. No person under eighteen years of age shall enter the cemetery grounds unless accompanied by an adult responsible for his/her conduct, or unless permission has been granted by the Superintendent.

No person shall:

a. Enter the cemetery except through an established gate, and only during the hours from 8:00 A.M. to sundown.

b. Deposit or leave rubbish and debris on any part of the cemetery grounds.

c. Pick, mutilate, remove, or destroy any living plants or parts thereof, whether wild or domestic, on the cemetery grounds, except in the work of maintenance by City employees or its designated contractor.

d. Break, injure, remove, or deface any monument or marker on the cemetery grounds.

e. Bring any dog or animal into the cemetery grounds, unless in compliance with applicable leash law.

f. Bring or discharge any firearm on the cemetery grounds, except in the conduct of military funerals.

g. Carry intoxicants into the cemetery grounds, or consume such while in the cemetery.

h. Advertise on cemetery grounds unless permitted by the City.

i. Conduct her/himself in any other than a quiet and respectful manner while on the cemetery grounds.

III. TRAFFIC REGULATIONS

All traffic laws of the City of Birmingham that are applicable to the operation of vehicles in cemeteries shall be strictly observed. Every person driving a vehicle into the cemetery shall be responsible for any damage caused by such vehicle.

No person shall:

a. Drive a vehicle within the cemetery at a speed in excess of ten (10) miles per hour.

b. Drive or park a vehicle on other than established driveways except for the purpose of maintenance or construction.

c. Turn a vehicle around within the cemetery except by following established driveways.

d. Use a cemetery driveway as a public thoroughfare.

IV. MAINTENANCE AND PERPETUAL CARE

The City and/or its designated Contractor shall be responsible for the maintenance and repair of the driveways, buildings, water system, drainage and fences. The City and/or its designated Contractor shall also cut and maintain the grass areas, remove the leaves, trim and remove trees and shrubs, apply fertilizer as necessary, and in general maintain the cemetery as a place of natural beauty devoted to the burial of the dead.

The City and/or its designated Contractor shall not be responsible for any special care of any particular section, lot or burial space or for the maintenance or repair of any monument, marker or planting placed by the owner. Further, the City and/or its

designated Contractor shall not contract or agree to give special care to any section, lot or burial space except as above provided. The City shall maintain the integrity of damaged historical markers, prior to January 1, 1875, through the perpetual care fund.

V. OPERATIONAL REGULATIONS

The following operational regulations shall apply to all areas within the cemetery:

a. Corners of all lots will be marked by the City, or its designated contractor, with permanent markers set flush with the ground surface, and these shall not be disturbed.

b. The erection of any fence, railing, wall, coping, curbing, trellis, or embankment, or the planting of any hedge, on any lot or grave is prohibited. No cutting of paths shall be permitted.

c. The City, or its designated contractor, shall have the right to remove from any lot any objects, including trees and shrubs and flower pots that are not in keeping with the appearance of the cemetery.

d. Ironwork, seats, vases, and planters shall be allowed on lots, providing that the same shall be kept in good repair and well painted. If not kept in good repair and painted, the Superintendent shall have power and authority to remove same from cemetery, and shall not be liable for any such removal.

e. Planters of iron or granite for the planting of flowers will be removed from lots and put in storage if not filled by July 1st. Planters so removed will be sold for cartage and storage charges, or destroyed, if not claimed within a period of one year.

f. No person shall plant, cut down, remove, or trim any tree, shrub, or plant within the cemetery except by permission of the Superintendent, or a person authorized by him/her to act in his/her stead in matters pertaining to the cemetery.

g. The planting of flowers on any lot, or otherwise disturbing the sod, shall release the City or its designated contractor from all obligation to resod without extra charge therefore. The planting of spirea, rose bushes, peonies, or shrubs that grow over three feet in height, will not be permitted.

h. As soon as flowers, floral pieces, potted plants, flags, emblems, etc., used at funerals or placed on grave at other times, become unsightly or faded, they will be removed, and no responsibility for their protection will be assumed, except for special groups upon notification to the City or its designated contractor.

i. The Superintendent reserves the right to remove from beds, graves, vases, planters, or other containers, all flowers, potted plants, or other decorations, that are set out and then not kept properly watered, trimmed and free from weeds, and to do so as soon as they become objectionable.

VI. MONUMENTS, GRAVE MARKERS AND FOUNDATIONS

MONUMENTS

Monuments will be permitted only on two adjoining side by side graves under one ownership. No more than one monument shall be erected on any lot.

The erection of all monuments shall be subject to the following conditions:

a. Each monument shall be supported on a concrete foundation not smaller than the base of the monument it supports. Such foundation shall be constructed only by the City or its designated contractor after payment therefore has been made. Foundations will be installed April to November, weather dependent, as determined by the Superintendent. Requests received after November 1st will be held until conditions allow for installation.

b. Designs for monuments must be submitted to the Superintendent or to a person designated by him/her to act in his/her stead, when application is made for construction of foundations. A form with the size, material and design must be submitted to the City or its designated contractor for approval and all installation fees must be paid in full prior to delivery of the memorial.

c. No monument of artificial stone, sandstone, limestone, or soapstone will be permitted.

d. All contractors and workers engaged in setting monuments shall be under the supervision of the Superintendent or a person designated by him/her, and they will be held responsible for any damage resulting from their negligence or carelessness. No work of setting monuments shall be started that cannot be completed by the end of the day following the start of such work.

e. No monuments shall be allowed in the flush sections.

MARKERS

a. Markers shall not exceed 1 ½ feet in height and shall have a minimum horizontal dimension at the base of not less than half of the height. All markers shall be in one piece, and shall be dressed on the bottom at right angles to the vertical axis. These measurements do not apply to government issue markers.

b. Individual markers can be sod set without a concrete foundation.

c. A form with the size, material and design must be submitted to the City or its designated contractor for approval and all installation fees must be paid in full prior to delivery of the memorial. Installation will not occur between November 1st and March 31st unless weather permits.

FLUSH MEMORIAL SECTION - F-NORTH ONLY

a. No structures shall be placed or constructed by anyone other than employees of the City or its designated contractor in the area of Greenwood Cemetery designated as the "Flush Memorial Section".

b. Bronze or granite markers only, set flush with the turf, will be permitted in this section. No structures which would extend above the ground level shall be permitted.

c. A form with the size, material and design must be submitted to the City or its designated contractor for approval and all installation fees must be paid in full prior to delivery of the memorial. Installation will not occur between November 1st and March 31st unless weather permits.

FLUSH MEMORIAL SECTION – AREAS PLOTTED AFTER JANUARY 1, 2015

a. On grave spaces in Sections B, C, D, K, L, and O, all memorials on new lots plotted after January 1, 2015, must be installed at lawn level. Memorials can be individual markers measuring 24" x 12" x 4" or 16" x 24" x 4" or companion memorials over two (2) graves measuring 48" x 12" x 4".

b. The memorials must be made of acceptable bronze or granite material and set at lawn level.

c. A form with the size, material and design must be submitted to the City or its designated contractor for approval and all installation fees must be paid in full prior to delivery of the memorial. Installation will not occur between November 1st and March 31st unless weather permits.

VII. FUNERALS, INTERMENTS AND DISINTERMENTS

INTERMENTS

No lot or burial space shall be used for any purpose other than the interment of human remains and the erection of appropriate memorials to the dead.

No interment shall be made in Greenwood Cemetery until a proper burial permit has been issued, and until all other legally required permits have been issued by, and filed with, the proper authorities.

City personnel, or its designated contractor, will provide opening and closing of grave, initial and periodic maintenance only, and will not be responsible for handling and lowering vaults or caskets. Tents, lowering devices and other materials shall be furnished by the funeral director or vault company.

No grave shall be dug closer than six (6) inches from the line of any lot.

In all full burial interments, the casket shall be enclosed in a permanent outside container. Such outside container shall be installed by the funeral director, vault company, or the City's designated contractor.

In all interments of cremated remains, the container shall be installed by the City, its designated contractor, funeral director or vault company. The size of the container must be submitted with the request for burial.

All funerals within the cemetery shall be under the supervision of the City or its designated contractor. No burials are to be made on Sunday or legal holidays, except by permission of the Superintendent. Overtime charges will apply.

The City must be notified through the City Clerk or its designated contractor, of the time and exact location of proposed interments in time to allow not less than ten (10) hours of daylight to prepare the grave. If notification occurs less than 10 hours of daylight prior to burial, overtime charges will apply.

Interments that involve preparation or follow-up work during other than regular working hours will be done at an additional charge for the overtime portion of the time required. The maximum charge shall not exceed the normal charges plus the weekend/holiday fee. This fee is in addition to the normal interment or disinterment fee charged during regular working hours.

Interments of the remains of any persons other than the owner or an immediate member of his/her family will be permitted only after the written consent of the owner or the owner's authorized agent has been filed with the City Clerk or the City's designated contractor. In case of a minor being the owner, the guardian may give consent upon proof of this authority to act.

Only one (1) interment in any one grave space shall be permitted, except in the case of a parent and infant child, two (2) children dying at about the same time, or in such other unusual cases as it shall seem to the Superintendent to be proper under the circumstances. Such interments shall adhere to Section VIII Burial Rights Policy.

Up to two cremated remains may be placed in the same space if the owner of the grave space or his/her heirs purchase the right to such inurnments. Should the owner permit the burial of such cremated remains, only one additional memorial shall be permitted on the grave space and such memorial shall not be larger than 24 x 12 x 4 inches and installed at lawn level. Up to three (3) cremated remains (only) may be placed on a single grave space.

DISINTERMENTS

Disinterment of a burial shall be facilitated by a Michigan licensed funeral director. Said funeral director shall obtain a permit for such removal from the local health officer of Oakland County. Said funeral director shall complete the removal form as required by the City or its designated contractor. Disinterment shall not commence until after issuance of the Oakland County permit is presented to the City or its designated contractor, approval for removal is granted by the City or its designated contractor, and

all applicable fees are paid. Such disinterments shall only be scheduled between June 15th and October 15th each year unless approved by the City. The grave space where the disinterment occurred shall immediately be returned to a safe condition.

VIII. BURIAL RIGHTS POLICY

Lots purchased from the City after October 1, 2014:

Full grave

One casketed remains and two cremated remains

- or -

Up to three cremated remains

Cremation grave

3 x 2 feet one cremated remains

3 x 4 feet two cremated remains

Lots purchased prior to October 1, 2014:

Full grave

One burial right per grave (To add a burial right for cremated remains, must purchase each additional right of burial in the grave. Up to two cremated remains.)

- or -

One cremated remains (To add a burial right for cremated remains, must purchase each additional right of burial in the grave. Up to two cremated remains.)

IX. LOT RESALE POLICY

All graves sold by the City after October 1, 2014 can only be returned to the City. Such graves cannot be transferred from the original purchaser to an unrelated third party. Graves can only be transferred to family according to the Rules of Consanguinity with supporting genealogical documentation.

All graves returned to the City shall receive 50% of the original purchase price from the Greenwood Cemetery Perpetual Care Fund. Upon return of the graves, the City may resell the graves.

(For the purpose this policy, immediate family shall mean the immediate family of the purchaser(s) – spouse, children, grandchildren, parents, siblings, nieces/nephews, grandparents, aunts/uncles, step-children.)

X. SCHEDULE OF FEES AND CHARGES

Fees and other charges are as set forth in the Schedule of Fees, Charges, Bonds and Insurance.

XI. REVISIONS

The obligations of the City as herein set forth may, from time to time, be modified by the Birmingham City Commission.

- October 18, 1971 Resolution No. 1434-71
- February 13, 1984 Resolution No. 02-97-84
- February 23, 2009 Resolution No. 02-52-09
- December 17, 2012 Resolution No. 12-356-12
- August 10, 2015 Resolution No. 08-174-15

Chapter 34 - CEMETERIES

FOOTNOTE(S):

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Cross reference— Administration, ch. 2.

State Law reference— Municipal control and perpetual maintenance of cemetery lots, MCL 128.1 et seq.

ARTICLE I. - IN GENERAL

Secs. 34-1—34-25. - Reserved.

ARTICLE II. - GREENWOOD CEMETERY

Sec. 34-26. - Supervision.

The care, maintenance and operation of Greenwood Cemetery in the city shall be under the supervision and control of the city manager.

(Code 1963, § 3.41)

Sec. 34-27. - Sale of lots.

The sale of the lots in Greenwood Cemetery, and the issuance of burial and other permits pertaining to the use of lots in the cemetery shall be under the control and supervision of the city clerk. Upon payment of an administrative fee in the amount set forth in the schedule of fees, charges, bonds and insurance, such clerk shall record all sales and transfers of lots in the cemetery. The clerk shall keep an accurate record of all interments in the cemetery.

(Code 1963, § 3.42; Ord. No. 1507, § 3.42, 11-25-91; Ord. No. 2010, 2-8-10)

Sec. 34-28. - Rules and regulations.

The city manager may adopt such rules and regulations for the control of Greenwood Cemetery, for the conduct of persons therein, and governing the charges for lots, burial spaces and services, as he may deem necessary. Such regulations shall, when approved by resolution of the city commission, have the full force and effect of law, and shall be binding upon all persons in and about the cemetery. All such regulations shall be available to the public at the office of the city clerk, and elsewhere as the manager may direct.

(Code 1963, § 3.43)

Sec. 34-29. - Perpetual care fund.

(a) *Establishment of fund; name.* The city hereby establishes, subject to the control of the city commission, a fund separate and apart from all other funds, property or securities belonging to the city, or belonging to any other entity, for the perpetual care and maintenance of Greenwood Cemetery property owned by the city, together with its buildings and appurtenances, any extension or enlargements thereof, and any mausoleum or burial crypts thereon. All deposits hereafter deposited with the city pursuant to this section and earnings thereon (such deposits and earnings being

hereinafter referred to collectively as "Care Funds"), shall be administered in accordance with Act 215 of 1937 (MCL § 128.1 et seq.) and the terms of this section. The perpetual care fund hereby established shall be known as the Greenwood Cemetery Perpetual Care Fund.

(b) *Deposits.*

(1) *General.* The city shall set aside and deposit within the perpetual care fund, within the time period required by law, the amount of funds required by the Act. The city agrees to accept care funds paid in accordance with this section and to maintain such amounts and records as are necessary to carry out its obligations.

(2) *Multiple care funds.* The city may establish more than one care fund as specified by the city commission, provided that the procedures and requirements for establishing a care fund, under this section are complied with separately for each separate care fund. Each separate care fund shall be handled by the city in like manner as if each such care fund were governed by its own separate and distinct agreement with terms identical to those contained herein.

(3) *Rejection of donation.* The city reserves the right to reject any donation.

(c) *Investments.* The city is hereby expressly authorized and empowered to manage the care fund in accordance with Act 20 of 1943 (MCL § 129.91), as amended and within the parameters of the city's investment policy as adopted by the city commission and conforming to all statutes governing the investment of public funds.

(d) *Distribution of income.* The ordinance of the care fund shall be held intact by the city pursuant to the terms herein, and any interest and dividends (i.e. income, generated from the principal of the care fund) shall be paid for the care and maintenance of the cemetery. For purposes of this section, net capital gains shall be treated as principal. To the extent that income so generated is not immediately paid, such income shall be retained and shall be characterized as undistributed income.

(e) *Records.* The city shall maintain such records for each care fund and will evidence the amounts received for deposit, the amounts disbursed and withdrawn, the total amount of care funds held and the location, description, and character of the investments of the care fund.

(f) *Reports.*

(1) *Annual.* The city shall provide an annual (fiscal year, July 1 through June 30) accounting as of June 30 of each year.

(2) *Other.* The city will furnish such additional reports or information related to the care fund as may be required by ordinance and as may be required by the city or the state.

(Ord. No. 2145, 10-13-14)

Sec. 34-30. - Establishment of the Greenwood Cemetery advisory board.

(a) *Composition.* There is hereby established the Greenwood Cemetery advisory board for the city which shall consist of seven members who shall serve without compensation. Members must be chosen from among the citizens of Birmingham and, insofar as possible, represent diverse interests, such as persons with family members interred in Greenwood Cemetery; owners of burial sites within Greenwood Cemetery intending to be interred in Greenwood Cemetery; persons familiar with and interested in the history of Birmingham; persons with familiarity and experience in landscape architecture, horticulture, law or cemetery or funeral professionals. The city manager or his/her designee shall serve as ex officio, non-voting members of the board.

(b)

Terms of members. Each member shall be appointed for a term of three years ending on the first Monday of July of the third year after appointment, or upon the appointment of his successor, whichever is later, except that in the first instance three of the members shall be appointed for a one-year term and two shall be appointed for two-year terms. Vacancies occurring other than through the expiration of term shall be filled for the unexpired term by the city commission.

(c) *Removal of members.* Members of the Greenwood Cemetery advisory board shall hold office at the pleasure of the city commission and can be removed at any time with or without cause.

(d) *Organization.* The Greenwood Cemetery Advisory Board shall elect a chairperson and vice-chairperson from its membership annually at its first meeting after the first Monday of July.

(e) *Meetings.* The Greenwood Cemetery Advisory Board shall hold at least one regular public meeting in each quarter on such date and at such time and place as may be established by resolution of the Greenwood Cemetery advisory board. The Greenwood Cemetery advisory board shall keep a written or printed record of its proceedings which shall be a public record and property of the city.

(f) *Expenditures and assistance.* The Greenwood Cemetery advisory board may call upon the city manager for such services and data from the various departments as it may require. The Greenwood Cemetery advisory board may recommend to the city commission the securing of such professional and consulting services as it may require, however, the Greenwood Cemetery advisory board shall not have any authority to authorize or otherwise obligate the city to incur expenses and/or approve contracts. Requests for expenditures shall be routed through the ex-officio member(s) of the board to the city commission for consideration.

(g) *Powers and duties.* In general, it shall be the duty of the Greenwood Cemetery advisory board to provide recommendations to the city commission:

(1) *Modifications.* As to modifications of the rules and regulations governing Greenwood Cemetery;

(2) *Capital improvements.* As to what capital improvements should be made to the cemetery;

(3) *Future demands.* As to how to respond to future demands for cemetery services; and

(4) *Day to day administration.* The day to day administration of the cemetery shall be under the direction and control of the city, through the city manager or his/her designee.

(h) *Reports.* The Greenwood Cemetery advisory board shall make and submit to the city commission annually a report of the general activities, operation, and condition of the Greenwood Cemetery for the preceding 12 months. The Greenwood Cemetery advisory board shall, from time to time, as occasion requires, either in the annual report, or at any time deemed necessary by the Greenwood Cemetery advisory board, advise the city commission in writing on all matters necessary and proper for and pertaining to the proper operation of Greenwood Cemetery and any of its activities or properties.

(i) *Protection of property.* No person shall take, use, or occupy the Greenwood Cemetery except in accordance with such rules and regulations governing such as may from time to time be authorized by the city commission.

(Ord. No. 2146, 10-13-14)

Greenwood Cemetery (126-26)

Grave space accommodating one full burial or three cremations	$ 3,000.00
Additional Rights of Burial for cremated remains, each	$ 750.00
Grave space accommodating two cremated remains	2,000.00
Grave space accommodating one cremated remains	1,000.00
Administrative fee for transfer of grave ownership	$ 150.00
Interment and disinterment fees:	
Cremation	$ 750.00
Full Burial	$ 1,200.00
Foundation charges for markers & monuments:	
Foundation Installment - per linear foot	$ 125.00
Marker or monument resets:	
Foundation installation charge as per above schedule, plus an hourly charge for removal of old foundation	
Weekend, holiday, and overtime interments. This fee in addition to the normal interment fee charged during regular working hours.	$ 400.00

City of Birmingham
A Walkable Community

GREENWOOD CEMETERY CONTRACTOR UPDATE

RESPONSIBILITIES
CITY CLERK'S OFFICE

- BEFORE CONTRACT
  - Schedule burials
  - Schedule foundations
  - Respond to ancestry inquiries
  - Process deeds for private sales
  - Determine next of kin for burial and sale inquiries (with City Attorney)
  - Update cemetery records with burial info, sales & transfers
  - Maintain Grave Interest List

- WITH CONTRACT
  - Update cemetery records with burial info, foundations, sales & transfers

RESPONSIBILITIES
DEPARTMENT OF PUBLIC SERVICES

- BEFORE CONTRACT
  - Prep graves for burials
    (measuring to determine specific location of grave, dig hole, fill in hole)
  - Attended burials
  - Pour foundations
  - Locate specific graves for owners and individuals interested in purchasing a grave
  - Maintain cemetery grounds
    (lawn care, clear debris, forestry services, road repair, emptied trash cans)

- WITH CONTRACT
  - Forestry Services
  - Road maintenance

CITY'S CURRENT TOTAL RESPONSIBILITIES

- Update cemetery records with burial info, foundations, sales & transfers
- Forestry Services
- Road maintenance

RESPONSIBILITIES OF THE CONTRACTOR

- Financial record keeping
- Meet with families to identify space
- Schedule burials
- Prep grave for burials
- Set up/clean up tents and chairs
- Attend burial
- Lawn care
  (pay for lawn service & weed care, seeding grass if necessary, clear debris)
- Snow removal
- Raise & level markers/monuments
- Repair grave if needed
- Schedule foundations
- Install foundations
- Determine next of kin for burial and sale inquiries
- Respond to ancestry inquires
- Process deeds for sales
- Maintain Grave Interest List
- Update records
- Send records to City Clerk's Office

COMPARISON OF RESPONSIBILITIES

- CITY
  - Forestry Services
  - Road maintenance
  - Update cemetery records with burial info, foundations, sales & transfers

- CONTRACTOR
  - Financial record keeping
  - Meet with families to identify space
  - Schedule burials
  - Prep grave for burials
  - Set up/clean up tents and chairs
  - Attend burial
  - Lawn care
    (pay for lawn service & weed care, seeding grass if necessary, clear debris)
  - Snow removal
  - Raise & level markers/monuments
  - Repair grave if needed
  - Schedule foundations
  - Install foundations
  - Determine next of kin for burial and sale inquiries
  - Respond to ancestry inquires
  - Process deeds for sales
  - Maintain Grave Interest List
  - Update records
  - Send records to City Clerk's Office

STATISTICAL INFORMATION

Work performed by the contractor:

PERIOD	BURIALS	FOUNDATIONS	GRAVE SALES
2013 (July-Dec)	4	0	0
2014	20	12	7
2015	25	11	103
2016 (Jan-Mar)	7	0	26

FINANCIAL INFORMATION

July, 2013 – March, 2016

2013-2016	CITY	CONTRACTOR
Income from Sale of Graves	$261,375.00	$81,250.00
Interest earned from Perpetual Care Fund	$890.49	$0
Fees paid for Perpetual Care Fund	($227.24)	($0)
Service Fees, Installations, Second Rights of Burial	$0	$55,736.67 (2014 -2015)
Lawn Care	$0	($45,823.32)
Labor Costs	Not Tracked Separately (update cemetery records, forestry services, road work)	Not Tracked Separately (lawn care, snow removal, labor for services & installations, administrative staff for sales, arrangements, record keeping, and meeting attendance)
GROSS INCOME (Not including labor costs)	$262,038.25	$91,163.35

QUESTIONS?

COMCAST

RECEIVED BY
JUN - 6 2016
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

June 1, 2016

Ms. Laura Pierce, Clerk
City of Birmingham
151 Martin St.
Birmingham, MI 48012-3001

Dear Ms. Pierce:

As part of Comcast's commitment to keep you informed about important developments that affect our customers in your community, I am writing to notify you some changes to the channel lineup. Customers are being notified of these changes via bill messages.

Effective June 21, 2016, the following channels will move from Digital Preferred service to Digital Starter service: NFL Network, NFL Network HD, TV One and TV One HD.

Also, effective July 28, 2016, Centric (channel 174) will no longer be available in the Sports and Entertainment Package. Centric will continue to be available on the Digital Preferred service.

As always, feel free to contact me directly at 734-254-1557 with any questions you may have

Sincerely,

Kyle V. Mazurek
Manager of External Affairs
Comcast, Heartland Region
41112 Concept Drive
Plymouth, MI 48170

INFO ONLY