

### CITY COMMISSION MEETING AGENDA JANUARY 9, 2017 7:30 PM



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Municipal Building, 151 Martin, Birmingham, MI 48009

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### BIRMINGHAM CITY COMMISSION AGENDA JANUARY 9, 2017 MUNICIPAL BUILDING, 151 MARTIN 7:30 P.M.

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

Mark Nickita, Mayor

#### II. ROLL CALL

Cheryl Arft, Acting City Clerk

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

#### Announcements:

The very popular Birmingham Restaurant Week begins January 30<sup>th</sup> through February 3<sup>rd</sup>, and February 6<sup>th</sup> through February 10<sup>th</sup>, 2017. For more information about participating restaurants and menus, visit <u>www.BirminghamRestaurantWeek.org</u>.

#### 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 November 21, 2016.
- B. Approval of warrant list, including Automated Clearing House payments, of December 14, 2016 in the amount of \$544,489.93.
- C. Approval of warrant list, including Automated Clearing House payments, of December 21, 2016 in the amount of \$1,564,889.66.
- D. Approval of warrant list, including Automated Clearing House payments, of January 4, 2017 in the amount of \$261,311.20.
- E. Resolution accepting the resignation of Harold Gottlieb from the Board of Review, thanking him for his service, and directing the Acting Clerk to begin the process of filling the vacancy.
- F. Resolution accepting the resignation of Scott Bonney from the Architectural Review Committee, thanking him for his service, and directing the Acting Clerk to begin the process of filling the vacancy.
- G. Resolution accepting the resignation of Michael Steinberger from the Board of Review, thanking him for his service, and directing the Acting Clerk to begin the process of filling the vacancy.
- H. Resolution approving a request from the Birmingham Shopping District to hold Birmingham Farmers' Market on Sundays from May through October, 2017 from 9:00 AM to 2:00 PM, in Municipal Parking Lot No. 6 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.

- I. Resolution approving a request from the Birmingham Shopping District to hold the Family Movie Night on June 23, July 15, and August 11 in Booth Park, 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.
- J. Resolution approving the use of two (2) parking spaces in the right-of-way directly abutting the property located at 33263 Woodward to fulfill a portion of the off-street parking requirements per Article 4, section 4.43 (G)(1) of the Zoning Ordinance, and to make any improvements recommended by the Engineering Division.
- K. Resolution setting Monday, February 13, 2017 at 7:30 PM for a public hearing to consider the following amendments to Chapter 126 Zoning:
  - (a) Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district;
  - (b) Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming buildings;

#### AND

Resolution setting Monday, February 13, 2017 at 7:30 PM for a public hearing for to consider the rezoning of the following properties:

- (a) 555 S. Old Woodward (555 Office and Residential Buildings) from D4 in the Downtown Overlay to D5 in the Downtown Overlay;
- (b) 411 S. Old Woodward (Birmingham Place) from D4 in the Downtown Overlay to D5 in the Downtown Overlay; and
- (c) 225 E. Merrill (Merrillwood Building) from D4 in the Downtown Overlay to D5 in the Downtown Overlay.
- L. Resolution setting Monday, February 13, 2017 at 7:30 PM for a public hearing to consider the proposed rezoning of 412 420 E. Frank Street from B1 (Neighborhood Business), R3 (Single-Family Residential), & B2B (General Commercial) to TZ1 (Transitional Zoning).
- M. Resolution setting Monday, February 13, 2017 at 7:30 PM for a public hearing to consider the following amendments to Chapter 126, Zoning:
  - (a) Article 02, section 2.29 (General Business), to allow bistros in the Rail District as a use requiring a Special Land Use Permit;
  - (b) Article 02, section 2.31 (General Business), to allow bistros in the Rail District as a use requiring a Special Land Use Permit; and
  - (c) Article 09, section 9.02 (Definitions), to add a definition for Rail District.

#### AND/OR

Resolution setting Monday, February 13, 2017 at 7:30 PM for a public hearing to consider the following amendments to Chapter 126 Zoning:

- (a) Section 2.29, B2 (General Business) to amend the accessory permitted uses; and
- (b) Appendix C, Exhibit 1, Economic Development Licenses map.

#### V. UNFINISHED BUSINESS

#### VI. NEW BUSINESS

A. Resolution accepting the MKSK design for Old Woodward and Maple and directing City staff to prepare bid specifications for Phase 1 of the Old Woodward and Maple project utilizing the City's existing standards and solicit alternatives for the components of the enhanced plan in order to make any adjustments based on cost considerations at the time actual bids are received.

B. Resolution accepting the final report of the Ad Hoc Rail District Review Committee, and forwarding same to the Multi-Modal Transportation Board for their consideration in finalizing the design of the S. Eton corridor;

AND

Resolution forwarding the final report of the Ad Hoc Rail District Review Committee to the Planning Board, and directing the Planning Board to add Recommendations 4 (Encourage Shared Parking) and 5 (Add Wayfinding Signage) from the final report to their Action List for further study.

#### C. RESOLUTION A (MONTHLY PERMIT RATE INCREASE):

Resolution authorizing monthly permit rate increases effective January 1, 2017, according to the following schedule:

Pierce St.	\$70
Park St.	\$70
Peabody St.	\$70
N. Old Woodward Ave.	\$70
Chester St.	\$50
Parking Lot 6 – Regular	\$70
Parking Lot 6 – Economy	\$50
South Side (Ann St.)	\$60
South Side (S. Old Woodward Ave.)	\$35

**RESOLUTION B**:

Resolution directing staff to increase all parking meters by 50¢ per hour as the new CivicSmart Liberty parking meters are installed, effectively raising the \$1 per hour meters in the central core of the downtown to \$1.50 per hour, and raising the 50¢ per hour meters to \$1 per hour.

#### D. RESOLUTION A:

Resolution accepting the recommendation of the Advisory Parking Committee approving the purchase of 1,277 CivicSmart Liberty parking meters and vehicle sensors in the amount of \$787,270 for capital outlay and an additional \$586,143 for monthly maintenance and connectivity fees; further charging these expenditures to Auto Parking System Fund account number 585-538.001-981.0100.

SUGGESTED RESOLUTION B (CREDIT CARD PROCESSING FEES):

Resolution directing staff to offer a credit card payment option at the new CivicSmart Liberty parking meters, with all said card processing fees charged to the Auto Parking System Fund.

- E. Ordinance amending Part II of the City Code, Chapter 74 Offenses, Article IV. Offenses Against Property, Division 2 – Theft, Section 74-95 Bad Checks to replace "fine not more than \$100.00 and/or imprisonment for up to 90 days" with "fine not more than \$500.00 and/or imprisonment for up to 93 days" and authorizing the Mayor and City Clerk to sign the ordinance on behalf of the city.
- F. Ordinance amending Part II of the City Code, Chapter 74 Offenses, Article VIII Offenses Against Public Morals, Division 1 Generally, Section 74-241 Indecent Exposure and Section 74-242 Indecent or Obscene Conduct to add "including, but not limited to urinating in public" and authorizing the Mayor and City Clerk to sign the ordinance on behalf of the city.
- G. Ordinance adding Section 1-18 to the Birmingham City Code establishing a Storm Water Utility Appeals Board for disputed fees.
- H. Resolution appointing a sub-committee comprised of Commissioners \_\_\_\_\_\_, the City Manager, and the HR Manager to conduct final interviews and recommend a finalist candidate for the position of City Clerk for approval by the City Commission.

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

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

#### X. REPORTS

- A. Commissioner Reports
  - 1. Notice of Intention to appoint members to the Architectural Review Committee, Public Arts Board, Storm Water Utility Appeals Board, and Board of Building Trades Appeals on January 23, 2017, and the Board of Zoning Appeals, Triangle District Corridor Improvement Authority, and the Board of Review on February 13, 2017.
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
  - 1. Elm St. Parking Space, submitted by City Engineer O'Meara

#### 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 <u>(248) 530-1880</u> por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).

### BIRMINGHAM CITY COMMISSION MINUTES NOVEMBER 21, 2016 MUNICIPAL BUILDING, 151 MARTIN 7:30 P.M.

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

Mark Nickita, Mayor, called the meeting to order at 7:40 PM.

#### II. ROLL CALL

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

Administration: City Manager Valentine, City Attorney Currier, City Attorney Studt, Acting Clerk Arft, DPS Director Wood, Police Chief Clemence, Finance Director Gerber, Building Official Johnson, City Planner Ecker, City Engineer O'Meara, Assistant to City Manager Haines

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

Mayor Nickita recognized and congratulated the fall 2016 Citizens Academy class on behalf of the City Commission.

Paul Beshouri	William Lelich
Karen Caserio	Eloise Liddell
Cindy Chiara	Patricia Mason
Patty Edwards	Martha Moyer
Kristy Hansen	Jamie Olivarez
Hannah Hawthorne	Susan Riley
Julie Hollinshead	Sravan Survana
Klaudia Janik	David Underdown
Donna Klein	Cory Zolondek

#### ADDITION TO CONSENT AGENDA

City Manager Valentine noted the addition of Item 4D to the Consent agenda which is to consider the appointment of the Acting City Clerk.

#### 11-345-16 APPOINTMENT TO THE BIRMINGHAM SHOPPING DISTRICT BOARD

City Manager Valentine explained that Ms. Solomon has been a valuable member of the board, and said she has expressed interest in continuing to serve on the board.

**MOTION:** Motion by Sherman, seconded by DeWeese:

To concur in the City Manager's appointment of Judith Solomon to the Birmingham Shopping District Board, as the resident from an adjacent neighborhood member, to serve a four-year term to expire November 16, 2020.

# 11-346-16 APPOINTMENT TO THE DESIGN REVIEW BOARD AND HISTORIC DISTRICT COMMISSION (ALTERNATE MEMBER).

**MOTION:** Motion by DeWeese:

To appoint Adam Charles, as an alternate member, to serve a three-year term on the Design Review Board and Historic District Commission to expire September 25, 2019.

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

The Acting City Clerk administered the oath to the appointed board members.

#### IV. CONSENT AGENDA

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#### 11-347-16

**MOTION:** Motion by Bordman, seconded by Boutros:

To approve the Consent Agenda as follows:

- A. Approval of City Commission minutes of October 27, 2016.
- B. Approval of warrant list, including Automated Clearing House payments, of November 16, 2016 in the amount of \$599,861.56.
- C. Resolution setting a Public Hearing for Monday, December 12, 2016 to consider the proposed lot split of 1286 Willow Ln, Parcel #1926230025.
- D. Resolution appointing Cheryl Arft as Acting Clerk during the selection of a City Clerk for the City of Birmingham.

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

#### V. UNFINISHED BUSINESS

#### VI. NEW BUSINESS

#### 11-348-16 AUDIT PRESENTATION

Finance Director Gerber explained that representatives from Plante Moran will review their presentation and answer any questions.

City Manager Valentine introduced Beth Bailey, who this year replaced Joe Heffernan who retired, and Timothy St. Andrew.

Ms. Bailey explained that this presentation will focus on a few of the key areas. As an overview, she noted that as part of the audit, a transmittal letter is included, and a management's discussion and analysis that includes the financial information with comparisons from last year to this year, and discusses the upcoming budget and economic conditions.

She noted that the city did add to the fund balance in the general fund, and there were also some planned uses of fund balance in the street funds. She said that spending was below budget in several different departments. The city continues to have an AAA bond rating which is a testament to the city's strong financial condition. Another thing that the city does that sets it apart in terms of fiscal responsibility is five-year financial projection. The fact that the fund balance has been maintained at such a good level is tied to the fact that long range planning is undertaken by the city.

Legacy costs are going to continue to be an area of challenge. Pension and retiree health care are based on actuarial estimates and assumptions which Plante Moran looks to for reasonableness. The pension system is older, and the city has more retirees than active employees. She noted that the city is 86% funded which is a good level of funding. Eight or nine years ago, the city was funded at 100%, but because of the recession and downturn in the investments, it has dropped. She said the city has done well on containing the costs on the liability side. Likewise, the retiree health care is funded at 41% currently and is an outstanding funding level. She said the city has been able to put aside the amount that the actuary would like to see plus additional funding.

Mr. St. Andrew explained that city has had four straight years of taxable value growth. He noted that the 2017 levels are now in line with the 2008 levels. The decline of 16% in taxable growth was made up in five years, which is significant. He believes that the redevelopment and construction has helped, and is expected to continue into the near term.

Mr. St. Andrew noted that the reason that expenditures exceeded revenues in the general fund, and the major and local street funds in some years, was due to planned use of fund balance. He said the use of five-year planning allows the city to look at the opportunities and trends ahead for increased spending or reduced spending in order to manage the fund balance to keep it within the target policy. The general fund unassigned fund balance is at 38% at the end of 2016 which is in line with the commission's target policy.

Mr. St. Andrew noted that actual expenditures in the general fund were under budget. He said each function is under budget for the year.

Capital investments-general government include all the city assets, excluding the water and sewer system, parking and golf courses. He noted that the city was above the depreciation line in all but one year. He added it is clear it has been made a focus and priority to invest in the infrastructure and not defer those costs for later when the price tag can climb significantly. He said the same is true of the enterprise funds comprised of water and sewer system, parking system and the golf courses.

Mr. St. Andrew said over the past three to five years the new standard for reporting the city's pension liability has been implemented. The new standard for retiree health care liability is a

two year implementation that mirrors the pension standard. In 2018, the liability will have to be recorded on the full accrual financial statements. He explained that Plante Moran put together a pro forma to show what that statement of net position looks like now compared to what it may look like in two years when implemented. The unrestricted net position on June 30, 2016 was \$27 million. Based upon the latest actuary report which is two years old and will be updated, once the retiree health care obligation is recorded, there will be a \$41 million swing in the unrestricted net position. It will be an unrestricted deficit of \$14 million. He said compared to the other 47 Oakland County communities, Birmingham is in the middle in funding percentages. He continued that if Birmingham compares itself with the more significant communities, Birmingham would fall in the top third to top quarter in terms of retiree health care funding percentage.

City Manager Valentine complimented Plante Moran's efforts in this process.

#### 11-349-16 2017 48<sup>TH</sup> JUDICIAL DISTRICT COURT BUDGET

City Manager Valentine introduced Jim VerPloeg, 48<sup>th</sup> District Court Administrator and Nicole Odell, Director of Finance and Human Resources.

Mr. VerPloeg explained the increases that the court will experience in 2017.

Commissioner Sherman commended Mr. VerPloeg on the court's budget and the use of a sinking fund for capital improvements. Commissioner Sherman asked about the security cost increase and the reasons for it. Mr. VerPloeg noted the camera system is being updated and an additional court officer is being added for a total of two officers. A security assessment was done recently by the Supreme Court with a few recommendations to minimize the dangers that might occur with that type of population.

Commissioner DeWeese explained that this process includes the budget proposal review by the commission, and the city agrees to head-in the court the funds to operate. Through the court fees charged, Birmingham and the three other communities the court serves are then reimbursed. The court basically funds itself, with the communities acting as a reserve for the court.

**MOTION:** Motion by Boutros, seconded by Bordman: To receive the 2017 proposed budget from the 48th Judicial District Court; and further, approving the budget as submitted.

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

D'Angelo Espree, resident, commented on security.

Mr. VerPloeg noted that the court has an arrangement with county to handle head-in door security for screening. That relationship has existed for some time and is a three year agreement. Ms. Dell added that the training that the county provides the court security team is second to none. Mr. VerPloeg noted that the part-time, retired deputies are paid hourly, with no benefits, and said that the addition to the security team would not be a retired deputy, but an individual from the outside.

#### 11-350-16 FUTURE CROSSWALK PAVEMENT MARKINGS STANDARDS

Mayor Nickita explained that the commission is seeing the recommendations from the Multi-Modal Transportation Board. We are looking for a clear standard for crosswalk pavement markings. He continued that we are looking for feedback at this time, since we will not be painting over the winter.

City Engineer O'Meara explained the two areas focused on included the total width of the walking surface which could vary from 6 feet to something much larger, depending upon the conditions. The other focus was the width of the painted bar. As roads are improved, we are changing to the continental style. The typical width would be a 12 inch wide bar with a spacing of 24 to 30 inches in between. A 24 inch bar is also being explored for higher impact.

He explained that there are four categories, with one being broken into two parts. The first category where the biggest crosswalk would be is at Old Woodward and Maple, where we have high traffic and high pedestrian demand. A wide walking path of 12-14 feet is being suggested, as well as the wide 24 inch bar.

The second category would also be in the downtown area, such as at Martin and Bates Streets. Traffic speeds are quite slow typically as drivers are expecting many pedestrians and hazards. A 12 inch bar is suggested, and with a wider crosswalk of 8 to 10 feet because there is a high pedestrian demand. Also in that category, we have local streets in the downtown area where a 24 inch bar is suggested where there may be a safety hazard because the crosswalk is not as visible, such as Bates and Willits. Sight distance issues are present there.

The third category would include areas coming out of the downtown area where we have higher speeds such as Maple and Chesterfield. Pedestrians are not expected in that area, so a 24 inch bar, but a more typical 6 foot width is suggested because we do not typically have a large number of pedestrians.

The fourth category would be anywhere else we have a painted crosswalk, such as a neighborhood intersection like Vinewood and Greenwood. A 6 foot wide crosswalk is sufficient, along with a typical 12 inch bar.

Mayor Nickita said in terms of definition, we are trying to define criteria of where these crosswalks would go. He said there are many different traffic patterns, pedestrian patterns and so on. He asked why the downtown would be the only commercial district designated, and asked if there was discussion about adding the other commercial districts such as the Triangle District and Rail District

Mr. O'Meara said discussions were conducted and that is why the description "or other high pedestrian demand crossings" was included, so that we can move those other districts into that category. Mayor Nickita would like this to become something definitive enough so it is very clear.

Mayor Nickita asked how do we define high pedestrian traffic vs. other lower pedestrian traffic, what is a major street vs. a minor street, how is the spacing of the bars determined. He said this does not seem so clear.

Mr. O'Meara said that for a major vs. local street, he suggested that they were looking at Maple, Adams, Woodward, and Old Woodward. For this purpose, he did not include Pierce

Street, because it generally a 25 mph zone, and traffic is relatively low. He continued that with respect to what is a high vs. low pedestrian demand crossing, data is not collected for those numbers, and therefore, it is more a judgment that the designer needs to make.

Mr. O'Meara said he reviewed what MDOT recommends, and the issue is that there should be some room for the person laying out the spacing of the bars. It is suggested that the bar should not be placed right where the wheels are always crossing because it will be worn away more quickly. This allows the designer to determine the spacing to alleviate that issue.

Commissioner DeWeese expressed concern that the spacing allows consistency all the way across the street. Mr. O'Meara confirmed that it does.

Commissioner Bordman noted that there could be a cost difference in using all 24 inch wide bars and varying the bar from 24 inches to 12 inches. Mr. O'Meara said that more paint will be required. Her concern is the cost difference, and Mr. O'Meara said he would research that question.

Commissioner Bordman noted the difference of opinion on the MMTB and asked how many votes it took to reach this recommendation. Mr. O'Meara said there had been previous discussions of the Board to refine the guidelines to something all could agree with, but it was a 5-0 vote. He said there was some debate by members about using the 24 inch bar more frequently which was cautioned against because it tends to lose its impact if that width is used everywhere.

Commissioner Bordman is concerned with the use of 12 inch wide bars as opposed to 24 inch. It appears that the suggestion is to use the 12 inch in the less travelled or lower pedestrian demand streets, and she thinks that is where the biggest impact is needed from the driver's point of view.

Mayor Nickita noted there is an example in our region to illustrate that point. Livernois in Ferndale, between 8 and 9 Mile, was recently narrowed and he recalls that all of the crosswalks in that stretch are 24 inch bars with 24 inch gaps. He considers this a low pedestrian, neighborhood area. He added the impact is that it is clearly recognized as a pedestrian crossing. He also questions the fact in areas that are not active we would not do that. Another location in Royal Oak used the same crosswalk markings as Ferndale. He thinks this would make sense on Eton, Lincoln and Harmon. His feeling is that we have the time to revisit some of the inconsistencies that are up for interpretation and fine tune them. He would like to see some refinements and clarity.

Commissioner DeWeese expressed concern with the width of the walk and not the spacing. In general, he thinks it should be consistent in terms of the spacing and 24 inches should be common. He thinks the protection of the pedestrian is important.

Commissioner Sherman concurs with Mayor Nickita that utilizing one size bar and spacing, but having a variance of up to 12 inches seems excessive. We should be able to adjust slightly without that range. The other issue is the width of the crosswalk which will depend somewhat on the street size, visual range and sidewalks. He would also like to see the cost difference between painting a 12 inch bar vs. 24 inch bar.

Commissioner Boutros expressed concern with narrow streets and the difference between each bar. It would not be recognized as a crosswalk. Mayor Nickita said the smallest street is 22 feet, so if we had by 24 by 24, there should 5-7 markings.

Commissioner Harris referred to MDOT standards as it relates to measuring high pedestrian activity and asked if there are no standards, will staff have to take those measurements to determine the activity. Mr. O'Meara said MDOT leaves that up to the designer to make that decision because each situation is different.

Based upon the comments this evening, this will be referred back to the Multi-Modal Transportation Board to basically further refine the plan.

#### 11-351-16 ROAD DESIGN

Mayor Nickita noted that his firm Archive DS has teamed with MKSK to submit a proposal to the City of Detroit for a potential project. To date, the project has not been awarded, so there is no contract, but he wished to disclose the relationship with MKSK.

City Engineer O'Meara provided some historical background for the reasons this project is being undertaken, which includes the aging water and sewer system, and ADA accessibility issues.

Planning Director Ecker explained that this is not a new concept and was included in the 2016 plan from 1996. The conditions include the overly wide street which does not work well for pedestrians, pedestrians having difficulty crossing some intersections, sidewalks too narrow for cafes', general sidewalk conditions, outdated lighting, and street trees not thriving. This is something the city has been working on for 20 years with many having been addressed already. The last big area is Maple and Woodward. It is a difficult project to deal with, but should be done for many reasons, including the design elements.

In September 2016, a RFP was issued to review the preliminary plans for the reconstruction of segments of Old Woodward and Maple that are scheduled for construction in 2017. MKSK was awarded the contract by the City Commission in October 2016 after a selection panel met to review and discuss the proposals submitted by MKSK and McKenna Associates.

Ms. Ecker introduced Brad Strader of MKSK, Brian Kinzelman, MKSK, and Joe Marsden, Traffic Engineer from Parsons Transportation who are representing MKSK. It has been a very tight schedule. She suggested that since this a great deal of information to be presented and digested tonight, that the City Commission may want to focus on the cross section width and type of parking, since they are fundamental decisions that have to be made before the concepts can be refined for the whole area. The goal was to get this to go to bid over this winter and start construction in the spring.

Mr. Strader emphasized the main focus tonight includes the street section studies, type of parking, street character and materials. He said the goals are to create a more vibrant, walkable downtown, retain as much of the parking as possible, create a safe and efficient traffic flow, make the street safe for pedestrians, bikes and cars, accommodate trucks, and consider past plans. The idea is that Old Woodward and Maple are the signature streets in Birmingham. The focus is on the first phase now.

The original plan that the city Engineering department came up with was 70 foot section which would keep the angled parking as it is and have a 9 foot wide center turn lane and 16.5 foot

travel lanes in each direction, which is similar to N. Old Woodward but without the median. The Multi-Modal Transportation Board felt that it was too intense an area and activity for medians for this segment. It provided about the same number of parking spaces but did not do much to add pedestrian area or sidewalk space. The alternatives were to look at a 61 foot section so the sidewalks could be widened, but ended up with a sub-standard travel lane. A 12 foot travel lane is tight when you have head-in angled parking. They also considered the alternative of parallel parking, or a combination of both, retaining the same number of parking spaces. Parallel parking eliminated too many spaces, so that is not an alternative.

They considered a 65 foot wide street, trying to strike a balance with a little wider sidewalk and more passable area. Currently there are places with pedestrian walking area of about 6.5 - 7 feet width. The goal is to have at least 10 feet for pedestrians so this gets us closer to that goal. The recommendation is for 66 feet.

They also looked at Maple, which is tighter, with 11 feet of sidewalk area with some of that taken up with lights. Parallel parking lane of 8 feet and a 14 foot lane exists. At the public open house, many said the sidewalk on Maple should be wider. They could potentially widen the sidewalk 2 feet on either side, then end up with a 12 foot travel lane. It becomes tight with parallel parking, and vehicles stopping in head-in of buildings to unload. So their recommendation is to move forward on Maple with 12 foot lanes and get a couple more feet of sidewalk.

Mr. Kinzelman added that as the street is being rebuilt, the double curb condition would be eliminated, planters which are tripping hazards replaced, which will capture more sidewalk space.

Mr. Strader summarized that MKSK's recommendations include a 66 foot section on Woodward, with back-in angled parking which gains a wider sidewalk area, a 13 foot travel lane and 9 foot center turn lane. One of the reasons for recommending back-in angled parking is the city plans call for this to be a bike-way with sharrows encouraging people to bike on it. Head-in angled parking is not a safe design when biking is trying to be promoted. They tried to decrease the width for pedestrians to cross by moving curb extensions or bump-outs which protects the parking area, extends the pedestrian out with flush curbs among other things to make it a shorter distance for pedestrians and also more aesthetic.

He said they also looked at turning dimensions for trucks, which led to some details on the intersection design and the radii. Mr. Kinzelman added there is an inherent conflict of trying to accommodate larger vehicles and the desire to have a shorter cross walk dimension. Mr. Kinzelman referred to a detail to illustrate that calls for a drop curb condition at these intersections with the pedestrians protected with a series of low bollards. The periodic large vehicle can drive over a flush curb condition, yet the pedestrian has the shorter walking distance with the change of pavement texture and marked crosswalks.

Mr. Strader explained the reason for recommending back-in angled parking. He noted that there are about 20 accidents a year with about half of those directly related to the maneuver of backing out of the space. So, it is safer for vehicles, because the oncoming vehicles can be seen. It is less disruptive to traffic flow. The backing in maneuver is similar to parallel parking with drivers waiting while you back-in. The other reason is safety for bikers. Many communities that encourage bikes have gone to the back-in angled parking. MKSK has

provided case study information and reviewed the numbers of accidents after changing to backin angled parking.

The big downside is that people are not accustomed to it, so promotion would be important to emphasize the safety advantages. Their recommendation is for 9.5 foot space. He noted the MDOT has issued their standard, and it opposed head-in angled parking because of the safety concerns.

Mr. Strader explained that the MMTB met prior to this meeting, and voted 4-3 in favor of backin angled parking with a 66 foot wide cross section. He felt the real debate was on the design of the street. The dissenting opinions questioned the need for a center turn lane and felt there should be wider sidewalks. He explained that MKSK looked at some of those alternatives, but they were all at the expense of parking, which was about a third to half of on-street parking.

Ms. Ecker added that the board felt it was not progressive enough for our main street. They felt we should take more from the vehicle traffic and give it to the pedestrians on the sidewalks. There were no negative comments about the back-in angled parking by the board.

Mayor Nickita confirmed with Mr. Strader that the 66 feet curb to curb can be done with head-in angled parking, using 40 degree angled and 9 foot wide spaces. There is a little bit of a loss of parking with head-in method.

Mayor Nickita asked about the MMTB suggestion to eliminate the center turn lane in order to gain sidewalk area. Mr. Strader explained that the board suggested eliminating the center turn in some area of the street and extend the sidewalk by 4.5 feet on either side. He added that the spaces that are currently angled would then have to be parallel. The positive to that design is that mid-block areas would gain more parking width, the downside is that about 20-25 % of the parking would be lost at the corners when going to parallel.

Commissioner Boutros asked if we remove the center lane, would the travel lane be 12 feet. Mr. Strader said they could still maintain 13 feet of travel lane, and the gain of 4 feet of sidewalk.

Mr. Strader explained that the reason for center turn lanes is to accommodate left turns at an intersection. Continuing it through the mid-block is for consistency so the travel lane is straight instead of weaving in and out. In addition, it gives a bit of forgiveness zone where angled parking is present, and it is a place to store the snow until it can be removed later.

Mr. O'Meara clarified that today we have a 40 foot wide travel way which is enough room for 4 lanes, so when a vehicle is waiting to make a left turn, others have enough room to go around. Without a left turn lane, backups will be much greater. Also, the left turn lanes line up to each other which is safest and best for visibility.

Mayor Nickita added that if the left lane is removed, that changes the traffic pattern. He said there are long stretches of Woodward that never function as a left turn lane. For example, just in head-in of the Birmingham Theater, southbound the entire center lane is unused for left turns. Similarly, heading north at Hamilton is the same situation. It is quite a significant amount of area where the center turn lane has actually no use, other than the spillover uses we have discussed. He said that is why the discussion earlier was whether part of that could

become a median or not. He wondered if the amount of center turn lane that is required to create a proper queuing was studied.

Commissioner DeWeese said the center turn lane has a purpose other than turning. That is the place the city puts the snow when we have a heavy snow. When vehicles are pulling out, it provides a safety zone. It may not be heavily used by cars or trucks, but emergency vehicles use it to access the scene. If it is considered in a more complete sense, rather than strictly the immediacy of travel, he thinks there is purpose to the center lane that goes above and beyond normal turning. It may not have to be as wide as regular lanes, and 9 feet is probably fine, but it does have value. It effectively provides an additional emergency type lane.

Mayor Nickita expressed concern about designing our streetscape based on the few times we have snow.

Mayor Pro Tem Harris questioned the MDOT standard for back-in parking and whether that is a standard which suggests that this type of project should use back-in parking,

Mr. Strader clarified that MDOT will not allow head-in angled parking on a state road which has been their position for some time. Where it exists now, it is grandfathered in.

Commissioner Bordman understands the city had back-in parking at one time and asked about that trial. City Manager Valentine said the trial occurred on North Old Woodward.

City Attorney Studt clarified that this took place on North Old Woodward, north of Harmon on the east side of the street and took place in 2002. He said signs were put up, the road restriped, and parking ambassadors were on hand to explain the change. The thought was it was safer for children emptying out of a vehicle towards the sidewalk. Also, loading is done from the sidewalk, and it is easier to see when exiting the space. Survey cards were passed out and 52% in favor, and 45% against. At the time, the road was not being redone. It was much safer to back-in and pull straight in. It did not go forward at that time, basically because it too much of a change and too much work. He added that it involved only five spaces.

Mayor Nickita clarified that the change City Attorney Studt referred to was the change throughout the city. The commission did not feel that based on the survey results, there was a mandate to make such a wholesale change in the city.

City Attorney Studt added that the survey was quite extensive. He said that one of the complaints received was that it was easy to back into a meter or tree. He added there was no instance when a car backing in hit a car parked next to it.

Commissioner DeWeese clarified that the spacing then was 9 feet.

Commissioner Boutros noted that it appears the backing up or backing in is the problem. He said it is not a safety issue. City Attorney Studt said the safety issue is the backing up into the oncoming traffic.

Mayor Nickita asked about the idea of testing the back-in angled parking. Mr. Strader said that could be done, but the angle would have to be changed. The location of the meters may have to be changed also. Mr. Marsden added there is a possibility of using tape instead of paint to avoid the grinding off of paint. He estimated the tape could last a month or two.

Mr. Kinzelman addressed the fact that a 2 foot clear zone has been kept behind the curb, so that a meter could be hit in a very few situations.

Mayor Pro Tem Harris clarified that spaces would be lost if we maintain head-in angled parking with the 66 foot road. Mr. Strader confirmed they think the same number of spots will remain. He added that either one may reduce the number of spaces that are available now because some of the parking now interferes with cross walks. He said they also want to meet the standards for on-street barrier-free parking, which means some spaces will be wider for handicapped, so some spaces would be lost.

Commissioner Bordman said the commissioners received a letter from businesses and retailers that oppose back-in parking. She is concerned that if we go with back-in parking and because our retailers are opposed to it, it will negatively affect our retail environment both from empty stores, and attitude from shoppers. There is nowhere else in the metropolitan area that has back-in parking and she is very reluctant to experiment here which she thinks would be at the expense of the retailers.

Mr. Strader asked that the commission keep in mind that options considered were where some or all of the angled parking was converted to parallel. The MMTB wanted wider sidewalks, by converting to parallel parking which results in a loss of parking spaces.

Commissioner Sherman said he is not sure it is an either/or situation. He recalls the discussion on Maple Road and there was a clear advantage to going from 4 lanes to 3 lanes. It could be easily seen and demonstrated. With this situation, there is no comparable community in the area, and he is reluctant to do this in our downtown. He thinks it will scare people. It may be safer, or may not be. People who cannot back out of the spots cannot back-into the spots. If he was going to consider this, he would designate a small area on one end of Woodward and try for four to five months to see if people would adapt to it. He considers it a toss-up, and on a toss-up, he would stay with what we have.

Mayor Pro Tem Harris referenced the letter from retailers opposing back-in angled parking, and asked if BSD has weighed in on this. He was advised it has not.

Commissioner DeWeese said he is uneasy proceeding with this with no comparable community. He has heard from other people who are concerned. He is in agreement with Commissioner Bordman and Sherman. It may be potentially better, but it is not clearly better. He added that considering the issue of assessments, it is not a good situation that we are assessing the people who oppose this to help pay for what we are doing. Without more public support, clarity and definition, he thinks we are better with traditional head-in parking.

Commissioner Boutros understands the eagerness to move ahead with this. He thanked MKSK for their efforts thus far. He questioned the congestion a person might cause while trying to back-in to an angled space on Woodward.

Mr. Strader said that the impact on through traffic is a valid one, and there could be a delay similar to what is experienced in a parallel parking scenario when a driver is not comfortable with that maneuver. However, the driver has an option here in Birmingham of parking in a structure, or using the valet option if that is retained.

Mr. Strader said if the consensus is to go with head-in angled parking and keep generally the parking count, then he would recommend the city needs to remove the idea in the Multi-Modal Plan to have sharrows, because bikes should not be promoted on Old Woodward. If the option is to keep Old Woodward bike-able with head-in angled parking, then parallel parking should replace head-in parking. The sidewalks could be widened, and it would still be bike-able.

Craig Menuck, resident, was concerned about experimenting with parking. He is in favor of improving the sidewalks.

Gary Wachler, business owner, expressed concern about the back-in angled parking and thinks it may hinder the businesses.

Richard Greenstein, business owner, was concerned about experimenting with parking, and suggested the city wait to see the effect it has on other cities that decide to change to back-in parking.

Mr. Strader noted that Findlay, Ohio has started experimenting with side streets to gauge the effectiveness of back-in angled parking.

Mike Ceresnie, business owner, has received a negative reaction to the proposal from customers and business owners.

Mr. Strader clarified that the reported crash data is much higher with head-in angled parking than with back-in angled parking.

Mr. Ceresnie commented that he received notification only two weeks ago and understands the time constraints.

City Manager Valentine clarified that public notice of the public hearing was provided to all the members of the Birmingham Shopping District.

**MOTION:** Motion by DeWeese, seconded by Bordman:

To accept the recommended road design by MKSK and continue to refine the plan with head-in angled parking, preferably in such a way to be flexible in the future.

City Manager Valentine noted that the recommended road design refers to the 66 feet road width that is being proposed. Mayor Nickita added this proposal adds two feet to each side and a nine foot center lane to be utilized in some capacity to be determined.

Commissioner Boutros commented about the flexibility to change the parking in the future, and Commissioner DeWeese noted that his motion indicates a preference for flexibility to allow that in the future.

Bordman commented that the proposed motion excludes the possibility of further widening the sidewalks.

Mayor Nickita said the motion does solidify that and if there is a question on whether or not there is some variation then we have to adjust the motion to remove that dimension.

Commissioner Sherman asked if the commissioners want to propose a motion strictly on the back-in angled parking

**MOTION:** Motion by DeWeese, seconded by Bordman:

To amend the motion on the table to refine the plan for head-in angled parking, preferably in such a way to be flexible in the future.

City Manager Valentine clarified that the motion amendment includes the caveat for the flexibility to allow for a change in the future.

Mayor Nickita commented he does not question the studies that show that back-in angled parking is a safer option. He said the commission has to balance the effect of the change on the public, retailers, and offices with the gain by doing the alternative. He said he is comfortable with moving forward with maintaining the consistency of what we have had, but allowing the flexibility to move forward with an alternative situation in the future as we may see fit.

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

Commissioner Bordman expressed interest in the concept of widening the sidewalk further. If we have doubts about the utility of the turn lane, then it would make sense to eliminate it or narrow it for some other purpose

City Manager Valentine said there has been discussion in terms of the 9 foot width and what that provides. He noted that when going from a 20 foot drive lane which we have currently to a 13 foot lane which is being proposed, the ability is lost for the vehicles to have anywhere to park and unload. The 9 foot drive lane provides a safe section of road that these vehicles can utilize on the street. We can see this used this way on the North Old Woodward side currently. That ability would not exist with a 13 foot drive lane. That was one of the key drivers for maintaining the turn lane throughout the area and not just at the intersections.

City Manager Valentine confirmed for Commissioner Bordman that the engineers said that is the minimum width for a lane of that nature.

City Engineer O'Meara explained for Commissioner DeWeese that 66 feet is the bare minimum according to the engineering team. He said that space is needed to back out of a parking space.

Mayor Nickita said the commission needs to identify if we have a comfort level with 66 feet or if there is an alternative that the commission would like them to move toward.

City Manager Valentine noted that if the commission wanted to go narrower, the commission would then have to consider a parallel parking situation.

City Manager Valentine added that part of the 12 foot drive lane excluding the gutter, allowed for the flexibility for turns into a space to occur.

Commissioner Bordman suggested that another benefit for the 9 foot lane is it can be used by pedestrians waiting for traffic to clear.

Commission Sherman commented that it makes sense to allow room for deliveries, and he is comfortable with it for that reason.

**MOTION:** Motion by Boutros, seconded by DeWeese: To accept the recommended road design by MKSK for 66 feet curb to curb.

Vote: Yeas, 6 Nays 0 Absent 1 (Hoff)

Mayor Nickita said the recommendation for Maple is to be narrowed a couple feet and having a 12 foot dimension which would allow for more sidewalk area.

Commissioner Sherman commented that the proposal looked at minimal parking loss where the bump-outs are proposed on Maple west of Old Woodward, and Mr. Strader confirmed. Commissioner Sherman's concern is that on the east side we would lose parking on both sides of Maple with the bump-outs. Mr. Kinzelman said exactly where the taper starts is going to be subject to final engineering.

Mayor Nickita said the general dimension of the road is the question and the team will come back with the tapers and bump-outs. He added that the commission must decide if 12 foot travel lanes and 8 foot parallel parking as it exists currently is acceptable.

Commissioner Sherman asked Mr. O'Meara for the width of lanes on Maple that were recently restriped. Mr. O'Meara said they are 12 feet.

Commissioner Sherman asked what the standard is for cars parked on the side and cars travelling next to them. Mr. Strader said 12 feet is normal and 13-14 feet is preferred. That is the trade-off for wider sidewalks. Mr. Strader noted that the MMTB recommended that engineering work with the 12 feet lane.

Mayor Pro Tem Harris asked about the MMTB vote on Maple. Mr. Strader said there was no vote, and it was the consensus for 12 feet in order to have wider sidewalks.

Commissioner Boutros asked if any problems are foreseen with large trucks using Maple. Mr. Strader said trucks and SMART prefer a wider lane because of the mirrors, and the MDOT standard is if there is a truck route, a 12 lane is needed.

Mr. Kinzelman noted that he has designed a number of streets that move trucks and buses with 11 foot lanes.

**MOTION:** Motion by Sherman, seconded by DeWeese:

To accept the recommended road design by MKSK for Maple Road for a 40 foot width curb to curb in a design to be determined.

Vote: Yeas, 6 Nays, 0

#### Absent, 1 (Hoff)

Mr. Kinzelman described Old Woodward as the city's main street. Maple and Old Woodward is a very important intersection. He feels that it has a special character and should have an upgrade in materials and quality. There will be capital costs associated with the enhanced materials.

Mr. Kinzelman said currently the curbs, street and sidewalks are cast-in-place concrete. He presented some suggestions for the improvements, using pavers in the intersection, left turn lane, crosswalks and sidewalks. Granite curb tree wells are also recommended, as well as new, energy efficient lighting and fixtures.

Mayor Nickita noted that what the consultants are looking for tonight are comments and direction to help them refine plans in accordance with what the commission comments are.

Commissioner Bordman understands the desirability of having different materials to delineate different areas of the street, and apparently, we are already over the budget by double for just concrete. Adding the brick would be more costly. She is interested to know what else we could do to keep the cost down, but still accomplish the goal of differentiating the areas. She suggested perhaps different color concrete, or a narrow, darker strip to separate the drive lane from the parking area.

Mr. Kinzelman recommended that the commission not use stamped or colored concrete, because it fades, is not as durable as normal cast-in-place concrete, and when needing patching, the color and texture will never match. He suggested using good quality concrete and use finishes and scoring. He said the stiffest concrete cast in place is 4000-4500 psi. Some of the brick materials are 12000-14000 psi material. He suggested the commission look for good value for the city to add a special character to portions of Old Woodward without turning this into something that is outside the value proposition.

Mayor Pro Tem Harris questioned the budget figures, since it was unclear that the figures Commissioner Bordman referenced represent the entire cost. City Engineer O'Meara stated that the budget of \$1.55 million is the entire cost. Parts of that could be assessed, but not a large part of it.

Commissioner DeWeese believes the reason the city used brushed concrete was to reduce slipping or tripping. Mayor Nickita stated that part of the 2016 plan stated specifically that the team recommended clean white concrete, scored finely in small increments. The goal was to not detract from what we wanted everyone to look at which was the storefronts. That was the concept behind the materials that we use, and for the differentiation of the functional vs. the walkable zone, we have the brown/tan aggregate.

One of the concerns Mayor Nickita has is whether or not we accommodate something different along Woodward and Maple, or if we deviate from what we have throughout the rest of the downtown. The question is do we want these to be different, or do we want them to be consistent with Pierce, Hamilton and with the other streets.

Mr. Kinzelman explained that they are proposing that only Old Woodward would become this special street. They suggest that maybe only the intersection of Old Woodward and Maple would have some special detail.

Commissioner DeWeese commented that everyone can agree on such things as bigger trees, bigger spaces, plantings, but when it comes to the detailing of the streets, we question what the value is for the money.

Mr. Kinzelman suggested that the commission give the team the opportunity to come back with their recommendations and options.

Mayor Nickita said cost and durability are concerns. He said this is an opportunity for the commission to provide insight for the team to bring back a refined series of recommendations. He added that there is a lot of interest in breaking down the 66 feet, but without a significant cost. There is a reluctance to brick paving, and to a deviation from the existing conditions which are working well for us. Focus on the retail, and less focus on the street, was a concern in the 2016 plan.

Commissioner Boutros added that we need to be clear on our directions to the team due to the timelines. Cost is very important but we need to be clear on whether we want standard options or enhanced options. He suggested that we are only doing this once and Birmingham needs to stand out. He is very aware of spending the tax dollars, but he is hearing mixed messages. He believes that we should go with enhanced options, but to get good value.

Mayor Nickita said we all would like the Rolls Royce of streetscapes, but it comes down to comparative analysis of costs vs. what we gain for that. We need to know more about the comparisons and what it will cost us.

Mr. Kinzelman stated that the direction given tonight is exactly what they wanted to generate. They want to make sure it is the right value-oriented clean-up of the corridor. The proof is in the bid documents which provide opportunity to look at bid alternates.

Mayor Nickita would like to add the following for further study and incorporation into the plan. We have a system of passageways, and within the scope of work, we asked to see where the passageway system can we be incorporated. He would like to see serious consideration of crosswalk mid-block to add more pedestrian access and emphasize the pedestrian via. Also, a similar situation exists on Maple, and taking out a few parking spaces can enhance the pedestrian network by utilizing the passageways. Regarding the taper issue on Maple that Commissioner Sherman talked about, Mayor Nickita suggested studying diminishing the taper and allowing additional parking there. He would also like to see the radius tightened a bit and he would like them to look at that situation. Mayor Nickita would like the team to err on the side of the pedestrians.

#### VII. REMOVED FROM CONSENT AGENDA

#### VIII. COMMUNICATIONS

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

#### X. REPORTS

#### 11-352-16 CITY STAFF REPORTS

City Manager Valentine noted the First Quarter Financial report and First Quarter Investment

report submitted by Finance Director Gerber are required to be provided to the commission on a quarterly basis. He said there is nothing of concern in the reports.

### XI. ADJOURN

The meeting adjourned at 11:12 PM.

/ca

Check Number	Early Release	Vendor #	Vendor	Amount
246977		005430	21ST CENTURY MEDIA- MICHIGAN	1,733.33
246978	*	000855	48TH DISTRICT COURT	100.00
246979	*	000855	48TH DISTRICT COURT	100.00
246980	*	000855	48TH DISTRICT COURT	100.00
246981	*	000855	48TH DISTRICT COURT	100.00
246982		002284	ABEL ELECTRONICS INC	425.00
246983	*	008226	KATHI ABELA	216.00
246984		000143	AM-DYN-IC FLUID POWER INC	391.52
246985	*	007696	AMERICAN CLEANING COMPANY LLC	1,350.00
246986		001206	AMERICAN MIDWEST PAINTING INC	1,675.00
246987	*	007510	GRANT ANKNEY	425.00
246988	*	006759	AT&T	101.04
246989	*	006759	AT&T	164.73
246990		MISC	BACKERS CONSTRUCTION INC	200.00
246991	*	008009	TREVOR BAKER	425.00
246992		MISC	BALDWIN, BEVERLY J	500.00
246993	*	003839	MATTHEW J. BARTALINO	425.00
246994		007345	BEVERLY HILLS ACE	84.49
246996	*	000524	BIRMINGHAM LOCKSMITH	45.00
246998		003526	BOUND TREE MEDICAL, LLC	127.08
246999		000431	BRESSER'S INFORMATION SERVICE	810.00
247000		MISC	C & L WARD BROS CO	100.00
247002		007875	CANFIELD EQUIPMENT SERVICE INC.	8,649.11
247003		008035	CAPITAL ONE COMMERCIAL	157.94
247004	*	003947	TIMOTHY CARPENTER	109.00
247005	*	000598	CHRISTOPHER CATON	425.00
247006	*	000444	CDW GOVERNMENT INC	5,262.23
247007	*	007744	MOHAMED F. CHAMMAA	73.98
247008	*	008306	CHARTER TOWNSHIP OF BLOOMFIELD	8.00
247009	*	000605	CINTAS CORPORATION	72.78
247010	*	001054	CITY OF TROY	2,744.66
247011	*	007625	COMCAST	147.70
247012	*	000979	COMERICA BANK	2,447.09
247013		MISC	COUNTRYSIDE CONSTRUCTION	2,800.00
247014	*	007638	MARSHALL CRAWFORD	425.00
247015		008303	DATA PARTNER, INC.	70,009.30
247016	*	003204	MARK DELAUDER	425.00
247017	*	006999	CHRISTOPHER DEMAN	425.00
247018		007359	DETROIT CHEMICAL & PAPER SUPPLY	38.05
247019		008191	DETROIT JEWISH NEWS	158.00
247020	*	000179	DTE ENERGY	1,453.33
247021	*	007538	EGANIX, INC.	720.00
247023	*	004367	ENSEICOM, INC.	30,225.00

eck Number	Early Release	Vendor #	Vendor	Amount
247024		001495	ETNA SUPPLY	2,340.00
247025		004313	FBINAA MICHIGAN CHAPTER	995.00
247026		007314	FLEIS AND VANDENBRINK ENG. INC	44.45
247027		MISC	FOUR SEASONS GARDEN CENTER	100.00
247028	*	007289	BRIAN FREELS	425.00
247029		007172	GARY KNUREK INC	1,297.57
247030		004604	GORDON FOOD	116.83
247031	*	006868	GOVERNMENT FINANCE OFFICERS ASSN.	505.00
247032		000243	GRAINGER	18.44
247033	*	008105	JASON GRANROTH	425.00
247034	*	000247	DAVID GREENWOOD	425.00
247035	*	007473	DONALD GRIER	41.58
247036		MISC	GRUBB, DAVID V	500.00
247037		000249	GUARDIAN ALARM	2,436.96
247038		001672	HAYES GRINDING	61.00
247039		MISC	HM HOMES LLC	6,400.00
247040	*	003824	THOMAS I. HUGHES	425.00
247041		000948	HYDROCORP	1,315.00
247042		000340	INDUSTRIAL BROOM SERVICE, LLC	612.25
247043		002407	J & B MEDICAL SUPPLY	554.00
247044		000261	J.H. HART URBAN FORESTRY	12,130.67
247046	*	007244	CHRISTOPHER JUDKINS	425.00
247047		MISC	JUDY MILLER	50.00
247048		000891	KELLER THOMA	950.35
247049		004088	KGM DISTRIBUTORS INC	69.00
247050		000353	KNAPHEIDE TRUCK EQUIPMENT	69.99
247051	*	007511	ADAM KNOWLES	425.00
247052		004085	KONE INC	1,953.95
247053	*	004904	KONICA MINOLTA-ALBIN	107.50
247054	*	000362	KROGER COMPANY	53.65
247056		005550	LEE & ASSOCIATES CO., INC.	375.45
247057		MISC	LIVIDINI & WATSON BUILDING LLC	2,000.00
247058	*	007910	MACALLISTER RENTALS	2,286.00
247059		004484	MACOMB COMMUNITY COLLEGE	350.00
247060		001417	MAJIK GRAPHICS INC	1,195.00
247061	*	000337	JIM MCCULLOCH	425.00
247062		005252	MECHANICAL INSPECTORS ASSOC. OF MI	75.00
247063		001660	MICHIGAN CAT	1,032.82
247064		MISC	MIKE ANDERSON BUILDER	100.00
247065	*	000230	MIKE SAVOIE CHEVROLET INC	183.59
247066		MISC	MILLCREEK CONSTRUCTION MANAGEMENT C	300.00
247067	*	007306	MARK MISCHLE	425.00
247068		008313	MMIA	70.00

Check Number	Early Release	Vendor #	Vendor	Amount
247069	*	008160	MPARKS	385.00
247070		MISC	NICHOLAS JOHN FREUND	500.00
247071		001864	NOWAK & FRAUS ENGINEERS	792.00
247072		006359	NYE UNIFORM COMPANY	20.50
247073		003461	OBSERVER & ECCENTRIC	673.32
247074		004370	OCCUPATIONAL HEALTH CENTERS	449.75
247075		MISC	OFFICE DEVELOPMENT GROUP LLC	500.00
247077		006625	PACIFIC TELEMANAGEMENT SERVICES	78.00
247078	*	003963	DAVID PAPANDREA	425.00
247079		006027	PENCHURA, LLC	199.30
247080	*	001753	PEPSI COLA	363.84
247082	*	003352	JAMIE CATHERINE PILLOW	846.00
247083	*	003629	PREMIUM AIR SYSTEMS INC	184.50
247085	*	007897	JEFFREY SCAIFE	425.00
247086	*	007898	JEFFREY SCHEMANSKY	425.00
247087		MISC	SEEK FIRST INTERNATION LLC	200.00
247088		007142	SHERWIN-WILLIAMS COMPANY	20.68
247089	*	006591	MICHAEL SLACK	425.00
247090	*	007899	NICHOLAS SLANDA	425.00
247091	*	003466	ALAN SOAVE	425.00
247092		000254	SOCRRA	69,616.00
247093	*	001097	SOCWA	120,460.52
247094		000256	SOMERSET BUICK GMC INC	75.86
247095	*	007245	NICK SOPER	425.00
247096		005787	SOUTHEASTERN EQUIPMENT CO. INC	174.50
247097		MISC	STANLEY WICHA TRUST	100.00
247098		MISC	STEPHEN LORD BUIDLING AND DESI	200.00
247099		MISC	STEVE LAURAIN	100.00
247100	*	008194	TOM STILES	294.55
247101		006376	SUBURBAN CHRYSLER DODGE JEEP - TROY	13.13
247102	*	004355	SYMETRA LIFE INSURANCE COMPANY	28,101.46
247103		001076	TAYLOR FREEZER OF MICH INC	325.00
247104		MISC	TEMPLETON BUILDING COMPANY	900.00
247105		MISC	THE PALLADIUM OF BIRMINGHAM LLC	1,000.00
247106		MISC	THE ROOF COMPANY	200.00
247107		MISC	TOWER CONSTRUCTION LLC	50,000.00
247108		MISC	TRESNAK CONSTRUCTION INC	100.00
247109	*	005481	TRI-COUNTY INTL TRUCKS, INC.	1,082.57
247111		000293	VAN DYKE GAS CO.	455.40
247112		MISC	VAN SYCKLE, MICHAEL	850.00
247114	*	000158	VERIZON WIRELESS	712.24
247115	*	000158	VERIZON WIRELESS	151.63
247116	*	000158	VERIZON WIRELESS	854.77

Check Number	Early Release	Vendor #	Vendor	Amount
247119		MISC	WALLSIDE INC	500.00
247120	*	000301	PAUL WELLS	525.95
247121		007278	WHITLOCK BUSINESS SYSTEMS, INC.	1,865.67
247122	*	006897	WILKINSON CORPORATION	1,360.00
247123	*	007894	BRENDA WILLHITE	320.00
247125	*	007900	RYAN WISEMAN	425.00
247126	*	007620	WJE-WISS, JANNEY, ELSTNER ASSOC.INC	777.24
247127	*	007083	XEROX CORPORATION	1,308.42
247128		007083	XEROX CORPORATION	116.31
			Sub Total Checks:	\$471,619.52
			Sub Total ACH:	\$72,870.41
			Grand Total:	\$544,489.93

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

lack Gertu.

#### 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.

1/9/2017

# City of Birmingham 12/14/2016

Vendor Name	Transfer Date	Transfer Amount
Automated Benefit Services, Inc.	12/12/2016	72,870.41
	TOTAL	72,870.41

Check Number	Early Release	Vendor #	Vendor	Amount
247129	*	000855	48TH DISTRICT COURT	100.00
247130	*	000855	48TH DISTRICT COURT	100.00
247131	*	000855	48TH DISTRICT COURT	100.00
247132	*	005358	AARON'S EXCAVATING INC	2,000.00
247133		008274	ACCURATE PARKING LOT SERVICES, INC.	590.00
247135		007266	AETNA BEHAVIORAL HEALTH LLC	346.84
247137	*	003708	AIRGAS USA, LLC	162.52
247139		005795	ALLIE BROTHERS, INC	489.93
247140	*	007787	ALLIED PLUMBING & SEWER	493.77
247141	*	008325	ALMAS	2,652.50
247143		006924	ANGELOS SUPPLIES INC.	84.72
247144		008269	ARGUS-HAZCO	41.28
247145		000500	ARTECH PRINTING INC	156.00
247146	*	006759	AT&T	50.21
247147	*	006759	AT&T	56.20
247148	*	006759	AT&T	82.54
247149	*	006759	AT&T	884.91
247150	*	006759	AT&T	118.62
247151	*	006759	AT&T	196.13
247152	*	007216	AT&T	154.00
247153		004027	AUTOMATED BENEFIT SVCS INC	7,102.50
247157		001122	BOB BARKER CO INC	1,468.50
247158		003012	BATTERIES PLUS	100.94
247160	*	000517	BEIER HOWLETT P.C.	12,500.00
247161	*	000517	BEIER HOWLETT P.C.	22,257.00
247162		007345	BEVERLY HILLS ACE	42.77
247164	*	001086	CITY OF BIRMINGHAM	599.11
247166		000542	BLUE WATER INDUSTRIAL	148.25
247167		000157	BOB ADAMS TOWING INC.	230.00
247168	*	003282	LISA MARIE BRADLEY	186.00
247169	*	006953	JACQUELYN BRITO	26.00
247172	*	000444	CDW GOVERNMENT INC	23,171.33
247174	*	006911	CHARTER TWP OF WEST BLOOMFIELD	6,171.27
247175	*	007835	SARAH CHUNG	93.75
247176		007710	CINTAS CORP	123.91
247177		000605	CINTAS CORPORATION	180.56
247178	*	008006	CLEAR RATE COMMUNICATIONS, INC	1,283.10
247179	*	000912	MARK CLEMENCE	1,375.90
247180		004188	COFFEE BREAK SERVICE, INC.	240.00
247181		004026	COFINITY	1,260.00
247182	*	007625	COMCAST	234.35
247183	*	000627	CONSUMERS ENERGY	5,847.88
247184	*	008329	CONSUMERS ENERGY	723.11



Check Number	Early Release	Vendor #	Vendor	Amount
247185		004386	CYNERGY PRODUCTS	142.95
247187	*	MISC	DAVID & SARAH FRENCH	1,367.91
247188		008005	DE LAGE LANDEN FINANCIAL SERVICES	173.75
247190		003825	DEERE ELECTRIC INC	153.00
247192		006907	DENTEMAX, LLC	138.60
247194		005115	DETROIT NEWSPAPER PARTNERSHIP	3,889.05
247195	*	007980	CURTIS DAVID DICHO	48.00
247196	*	000565	DORNBOS SIGN & SAFETY INC	418.45
247197		001454	DOUGLAS CLEANERS INC.	18.85
247198	*	000179	DTE ENERGY	20,939.14
247199		007505	EAGLE LANDSCAPING & SUPPLY	200.00
247201		000493	ED RINKE CHEVROLET BUICK GMC	312.71
247202		004671	ELDER FORD	37.86
247203		000207	EZELL SUPPLY CORPORATION	196.94
247204	*	006689	F.D.M. CONTRACTING INC.	262,581.47
247206		007314	FLEIS AND VANDENBRINK ENG. INC	5,761.27
247207	*	007212	FOSTER BLUE WATER OIL	285.64
247208		007807	G2 CONSULTING GROUP LLC	1,159.00
247209		001023	GABRIEL, ROEDER, SMITH & CO.	13,750.00
247211	*	008326	JOHN GALIK	200.00
247212		004604	GORDON FOOD	697.37
247213	*	MISC	GORDON H DAVIES	1,267.53
247214		007099	GRANICUS, INC.	1,737.00
247215	*	MISC	GREAT LAKES CUSTOM BUILDER LLC	5,474.94
247217		000249	GUARDIAN ALARM	224.03
247218	*	006799	NATALIA HAASE	756.00
247219		001672	HAYES GRINDING	51.00
247221		001126	HOTSY MIDWEST CLEANING	142.50
247222		000331	HUBBELL ROTH & CLARK INC	935.70
247223		007021	THE IDENTITY SOURCE INC.	55.60
247225		000261	J.H. HART URBAN FORESTRY	10,753.08
247226	*	000344	J.T. EXPRESS, LTD.	4,181.92
247227	*	MISC	JAMES M BROWN &	745.95
247228	*	002576	JAX KAR WASH	93.88
247229	*	MISC	JEREMY FALENDYSZ	1,867.04
247230		003458	JOE'S AUTO PARTS, INC.	139.60
247231	*	MISC	JOHN & JANE RUNYON REV LIVING TRUST	1,698.40
247232	*	003746	JOHNSTON LEWIS ASSO INC	11,148.00
247233	*	007837	LARYSSA KAPITANEC	252.00
247234	*	007827	HAILEY KASPER	204.00
247236	*	000352	JILL KOLAITIS	2,112.00
247237		000362	KROGER COMPANY	22.78
247238	*	005327	L-3 GCS	54.50

Check Number	Early Release	Vendor #	Vendor	Amount
247239		002767	OSCAR W. LARSON CO.	1,000.00
247241	*	007977	KAREN LINGENFELTER	288.00
247242	*	008158	LOGICALIS	10,000.00
247245	*	003945	SANDRA LYONS	132.00
247246		004644	M.C. SMITH ASSOCIATES	502.50
247247	*	008248	MALWAREBYTES	2,198.00
247248		008000	MARXMODA	3,651.36
247250		000888	MCKENNA ASSOCIATES INC	35,861.25
247251		005224	MDFIS	20.00
247252		005224	MDFIS	20.00
247253		005224	MDFIS	20.00
247254		005224	MDFIS	20.00
247255	*	MISC	MICHAEL BULGARELLI	7,096.76
247256		000377	MICHIGAN MUNICIPAL LEAGUE	147.70
247258	*	001677	STATE OF MICHIGAN-ELEVATOR	1,560.00
247261	*	007402	MIDWESTERN AUDIT SERVICES, INC.	338.47
247262		000230	MIKE SAVOIE CHEVROLET INC	364.31
247263	*	008319	MKSK	57,345.29
247264		007163	MOBILE HEALTH RESOURCES	2,471.15
247265		007703	MIKE MORIN	159.00
247267	*	006723	NEWMIND GROUP, INC	99.99
247268	*	007856	NEXT	1,260.00
247269		001864	NOWAK & FRAUS ENGINEERS	1,937.25
247270		006359	NYE UNIFORM COMPANY	3,236.50
247271		002853	OAKLAND COMMUNITY COLLEGE	390.00
247272	*	000477	OAKLAND COUNTY	674,297.73
247273	*	008214	OAKLAND COUNTY WATER DEPARTMENT	8,377.14
247274		004370	OCCUPATIONAL HEALTH CENTERS	172.50
247278		008197	PARKMOBILE LLC	43.11
247279		006853	PAUL C SCOTT PLUMBING INC	2,725.00
247281	*	008328	PEPSI BEVERAGES COMPANY	5.46
247282	*	001753	PEPSI COLA	191.14
247283	*	008225	DIANA PERAINO	241.50
247284	*	003352	JAMIE CATHERINE PILLOW	576.00
247286	*	000801	POSTMASTER	2,375.01
247287		007979	PRESIDIO INFRASTRUCTURE SOL. LLC	138.75
247288	*	006697	PROGRESSIVE IRRIGATION, INC	1,835.00
247289	*	004137	R & R FIRE TRUCK REPAIR INC	1,081.25
247291	*	MISC	RAYMOND SCOTT	7,581.82
247293	*	007920	MAYA ROSEN	54.00
247295		002395	RPS BOLLINGER	500.00
247296	*	002806	SAM'S CLUB/SYNCHRONY BANK	1,038.38
247297		007901	RICK SCHEICH	162.29

Check Number	Early Release	Vendor #	Vendor		Amount
247298	*	MISC	SCOTT M LEIBOVITZ		5,725.03
247299		007142	SHERWIN-WILLIAMS COMPA	ANY	63.27
247300	*	004202	SHRED-IT USA		341.10
247301		007881	SIDOCK GROUP INC		7,730.00
247303	*	007899	NICHOLAS SLANDA		36.00
247304		005787	SOUTHEASTERN EQUIPMENT	CO. INC	794.23
247307		007907	SP+ CORPORATION		1,040.00
247308		000260	SPARTAN DISTRIBUTORS I	INC	344.89
247309	*	MISC	SREEKANT KASIBHATTA		1,214.49
247310		004544	STRYKER SALES CORPORAT	TION	277.27
247313	*	MISC	TODD EMERSON		1,711.64
247314		000278	TROY AUTO GLASS CO INC		1,030.45
247315		000155	TYCO INTEGRATED SECURITY LLC		372.75
247316		006319	ULI-URBAN LAND INSTITU	JTE	220.00
247320	*	000158	VERIZON WIRELESS		90.12
247321	*	000158	VERIZON WIRELESS		341.45
247322	*	007893	JENNA WADE		216.00
247323		000828	WALL STREET JOURNAL, 1	THE	455.00
247324	*	008170	WEST SAFETY SOLUTIONS	INC	4,668.75
247325	*	007355	LINDSAY WILLEN		396.00
247326	*	007894	BRENDA WILLHITE		643.85
247327	*	003890	LAUREN WOOD		525.00
247329		000926	WRIGHT TOOL COMPANY		334.06
247332		000309	ZEP SALES AND SERVICE		312.20
247333	*	007999	ZEROFRICTION, LLC		174.18
	*	003785	SIGNS-N-DESIGNS INC		660.00
				Sub Total Checks:	\$1,311,849.15
				Sub Total ACH:	\$253,040.51
				Grand Total:	\$1,564,889.66

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

Mark Gulu

Mark Gerber Finance Director/ Treasurer

 $\star\text{-Indicates}$  checks released in advance and prior to commission approval in order to avoid penalty or to meet contractual agreement/obligation.

1/9/2017

### City of Birmingham ACH Warrant List Dated 12/21/2016

Vendor Name	Transfer Date	Transfer Amount
Birmingham Schools	12/15/2016	73,027.88
Oakland County Treasurer	12/15/2016	117,094.29
Automated Benefit Services, Inc.	12/19/2016	62,918.34
	TOTAL	253,040.51

Check Number	Early Release	Vendor #	Vendor	Amount
247334		005430	21ST CENTURY MEDIA- MICHIGAN	424.45
247335	*	000819	44TH DISTRICT COURT	350.00
247336	*	000855	48TH DISTRICT COURT	100.00
247337	*	000855	48TH DISTRICT COURT	100.00
247338	*	000855	48TH DISTRICT COURT	100.00
247339		002284	ABEL ELECTRONICS INC	364.97
247340		MISC	ACHO, MICHAEL J	3,950.00
247341	*	000394	AERO FILTER INC	165.00
247342		008304	AMERINET	5,000.00
247343		006924	ANGELOS SUPPLIES INC.	193.41
247344		001252	APWA - MICHIGAN CHAPTER	695.00
247345		000500	ARTECH PRINTING INC	188.00
247346		001843	ASCE MEMBERSHIP	268.00
247347	*	006759	AT&T	178.10
247348	*	006759	AT&T	97.40
247349	*	006759	AT&T	96.55
247350	*	006759	AT&T	103.41
247352	*	006759	AT&T	125.05
247353	*	007216	AT&T	114.00
247354	*	003839	MATTHEW J. BARTALINO	1,000.00
247355		003012	BATTERIES PLUS	143.95
247356	*	000518	BELL EQUIPMENT COMPANY	228.96
247357		007345	BEVERLY HILLS ACE	13.93
247358		006683	BIRMINGHAM LAWN MAINTENANCE	14,313.62
247359		007624	BIRMINGHAM OIL CHANGE CENTER, LLC	105.18
247360	*	006177	BULLSEYE TELECOM	35.76
247361		007875	CANFIELD EQUIPMENT SERVICE INC.	2,474.95
247362		004125	CANNON EQUIPMENT	1,423.29
247363	*	000444	CDW GOVERNMENT INC	129.99
247364		002067	CENTRAL PARKING SYSTEM	372.00
247365		000605	CINTAS CORPORATION	119.48
247367	*	008006	CLEAR RATE COMMUNICATIONS, INC	1,302.34
247368	*	000912	MARK CLEMENCE	150.00
247369	*	001318	CLOVERDALE EQUIPMENT CO	760.00
247370		002234	CMP DISTRIBUTORS INC	2,825.00
247371	*	007625	COMCAST	520.24
247372	*	000627	CONSUMERS ENERGY	4,994.71
247373		002668	CONTRACTORS CLOTHING CO	538.60
247374		005742	CRAIN'S DETROIT BUSINESS	49.00
247375		002088	WM. CROOK FIRE PROTECTION CO.	2,441.72
247376		004386	CYNERGY PRODUCTS	177.00
247377	*	000177	DELWOOD SUPPLY	18.55
247378	*	000179	DTE ENERGY	425.51

### **4D**

Check Number	Early Release	Vendor #	Vendor	Amount
247379	*	000180	DTE ENERGY	57,314.11
247380	*	003806	DTS FLUID POWER LLC	752.70
247381		001077	DUNCAN PARKING TECH INC	624.03
247382		001326	DYNATECH	310.30
247383		008308	ERADICO PEST SERVICES	38.00
247384		003253	ESRI, INC	8,950.00
247385	*	004765	RAYMOND FAES	199.96
247386	*	000936	FEDEX	243.19
247387		007314	FLEIS AND VANDENBRINK ENG. INC	7,460.97
247388		007807	G2 CONSULTING GROUP LLC	8,891.75
247389		007908	HANAN GOLDMAN	89.53
247390	*	004604	GORDON FOOD	91.90
247391		000243	GRAINGER	253.89
247392		001531	GUNNERS METER & PARTS INC	50.00
247393		008335	CHASE ANDREW HALL	45.00
247394		001447	HALT FIRE INC	410.09
247395		006153	HARRY'S ARMY SURPLUS	109.99
247396		007458	HERITAGE - CRYSTAL CLEAN, LLC	543.25
247397		000331	HUBBELL ROTH & CLARK INC	14,367.41
247398		005990	ICC INC	135.00
247399		001204	ICMA	1,054.20
247400		003458	JOE'S AUTO PARTS, INC.	93.11
247401		007423	K/E ELECTRIC SUPPLY	105.00
247402		006370	KLM SCAPE & SNOW LLC	5,950.00
247403		002767	OSCAR W. LARSON CO.	500.00
247404		005550	LEE & ASSOCIATES CO., INC.	3,226.65
247405		005058	LERMA, INC.	50.00
247406		004484	MACOMB COMMUNITY COLLEGE	1,000.00
247407		008318	RHYS WILLIAMS MAHER	45.00
247408	*	002169	MAYO WELDING & FAB. CO INC	2,180.00
247409		007765	MICHIGAN INDEPENDENT DOOR CO.	277.50
247410		008279	MICHIGAN MUNICIPAL EXECUTIVES	110.00
247411	*	007659	MICHIGAN.COM #1008	65.00
247412		000230	MIKE SAVOIE CHEVROLET INC	119.13
247413		001089	MUNICIPAL CODE CORP.	220.00
247414		005662	MWEA	105.00
247415		001194	NELSON BROTHERS SEWER	180.00
247416		007755	NETWORK SERVICES COMPANY	1,048.31
247417		006359	NYE UNIFORM COMPANY	1,934.50
247418		004110	OAKLAND COMMUNITY COLLEGE	725.00
247419		000481	OFFICE DEPOT INC	1,349.85
247420		000481	OFFICE DEPOT INC	470.48
247421	*	005794	PAETEC	685.46

Check Number	Early Release	Vendor #	Vendor	Amount
247422		008197	PARKMOBILE LLC	1,948.25
247423		002518	PITNEY BOWES INC	195.00
247424		006729	QUENCH USA INC	120.00
247425	*	003554	RKA PETROLEUM	13,124.30
247426		000478	ROAD COMM FOR OAKLAND CO	4,883.93
247427		000218	ROYAL OAK P.D.Q.	212.59
247428	*	000254	SOCRRA	125.00
247429	*	007907	SP+ CORPORATION	4,930.00
247430		000260	SPARTAN DISTRIBUTORS INC	9.99
247431		001369	SPEEDWAY LLC	191.11
247432		001065	SUNSHINE MEDICAL SUPPLY, INC.	106.95
247433		000273	TERMINAL SUPPLY CO.	819.57
247434		000155	TYCO INTEGRATED SECURITY LLC	225.00
247435	*	000158	VERIZON WIRELESS	839.97
247436	*	000158	VERIZON WIRELESS	50.42
247438	*	000158	VERIZON WIRELESS	134.95
247439	*	000158	VERIZON WIRELESS	200.12
247440	*	000158	VERIZON WIRELESS	76.02
247441	*	000158	VERIZON WIRELESS	1,015.71
247442		000306	WOLVERINE CONTRACTORS INC	1,269.10
247443	*	001084	WOODWARD AVE ACTION ASSOC INC	3,750.00
			Sub Total Checks:	\$203,780.36
			Sub Total ACH:	\$57,530.84
			Grand Total:	\$261,311.20

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

Mark Sulu

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.

1/9/2017

# City of Birmingham 1/4/2017

Vendor Name	Transfer Date	Transfer Amount
Automated Benefit Services, Inc.	1/3/2017	57,530.84
	TOTAL	57,530.84

December 13, 2016

City of Birmingham Clerk's Office 151 Martin St. Birmingham, MI 48009

Dear Clerk:

Please accept my resignation from the Board of Review (alternate position) effective immediately, due to personal obligations.

A a titt

Harold Gottlieb

#### SUGGESTED RESOLUTION:

To accept the resignation of Harold Gottlieb from the Board of Review (alternate position), thank him for his service, and direct the Acting Clerk to begin the process of filling the vacancy.

------ Forwarded message ------From: Scott Bonney <<u>zootpix@mac.com</u>> Date: Tue, Nov 29, 2016 at 8:40 PM Subject: Re: Question about the ARC To: Joellen Haines <<u>ihaines@bhamgov.org</u>>

Sorry, I thought I did send you my resignation. If not, please accept my apology, and by means of this email, I resign from the ARC.

Scott R. Bonney

Sent from my iPad

SUGGESTED RESOLUTION:

To accept the resignation of Scott Bonney from the Architectural Review Committee, thank him for his service, and direct the Acting Clerk to begin the process of filling the vacancy.



cheryl arft <carft@bhamgov.org>

#### **Board of Review Resignation**

1 message

**Michael Steinberger** <steinberger.michael@gmail.com> To: Laura Pierce <lpierce@bhamgov.org> Wed, Dec 28, 2016 at 9:13 AM

Ms. Pierce,

Regrettably, I have to resign from the Board of Review. It has become clear that the nature of the Board of Review meetings-large chunks of time during the work day--is not compatible with my schedule.

I value civic engagement, and I hope to volunteer again in the future in a capacity that makes more sense for me.

Please let me know if you need anything else.

Thank you and Happy New Year, Mike Steinberger

SUGGESTED RESOLUTION:

To accept the resignation of Michael Steinberger from the Board of Review, thank him for his service, and direct the Acting Clerk to begin the process of filling the vacancy.

City of B	irmingham	MEMORANDUM
		City Clerk's Office
DATE:	December 29, 2016	
то:	Joseph A. Valentine, City Manager	
FROM:	Cheryl Arft, Acting City Clerk	
SUBJECT:	Special Event Request Farmers Market	

Attached is a special event application submitted by the Birmingham Shopping District requesting permission to hold Birmingham Farmer's Market in Municipal Parking Lot #6 (North Old Woodward) on Sundays, May through October, 2017 from 9:00 AM to 2:00 PM.

The application has been circulated to the affected departments and approvals and comments have been noted.

The following events have either been approved by the Commission or are planned to be held May - October and have not yet submitted an application. These events do not pose a conflict with the proposed event.

Event Name	Date	Location
Art Birmingham	May 13-14	Shain Park
Celebrate Birmingham Hometown Parade	May 21	Downtown & Shain Park
Village Fair	May 31-June 4	Shain Park
Birmingham Street Art Fair	Sept 16-17	South Old Woodward
Halloween Parade & Pumpkin Patch	Oct 16	Downtown & Shain Park

#### SUGGESTED RESOLUTION:

To approve a request from the Birmingham Shopping District to hold Birmingham Farmers' Market May through October, 2017 from 9:00 AM to 2:00 PM, in Municipal Parking Lot No. 6 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.

12-20010825

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

#### I. <u>EVENT DETAILS</u>

- 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

# FEES:FIRST TIME EVENT:\$200.00ANNUAL APPLICATION FEE:\$165.00

(Please print clearly or type)

Date of Application December 19, 2016

## Name of Event Birmingham Farmers Market

Detailed Description of Event (attach additional sheet if necessary) \_\_\_\_\_\_ Fifteenth Annual event held weekly from May to October.

Location Municipal Parking Lot #6 on North Old Woodward

Date(s) of Event	Sundays, 5/7/17 through 10/29/17 Hours of Event 9 am to 2 pm
	Sundays, 5/7/17 through 10/29/17 Hours of Set-up 7 am to 9 am
	own Sundays, 5/7/17 through 10/29/17 Hours of Tear-down 2 pm to 3:30

Organization Sponsoring Event Birmingham Shopping District	
Organization Address 151 Martin Street	
Organization Phone 248-530-1200	
Contact Person Lori Rondello	
Contact Phone 248-530-1254	
Contact Email LRondello@bhamgov.org	

## II. EVENT INFORMATION

1.	Organization Type Birmingham Shopping District			
	(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 List expected income Attach information about the beneficiary.			
4.	First time event in Birmingham? YES VNO If no, describe This will be the 15th annual farmers market season in Birmingham.			
5.	Total number of people expected to attend per day 3,200			
6.	The event will be held on the following City property: (Please list)          Street(s)       Municipal Parking Lot #6			
	Sidewalk(s)			
7.	Will street closures be required? YES NO			
8.	What parking arrangements will be necessary to accommodate attendance? Nearby parking deck and street meters are sufficient			

- Will staff be provided to assist with safety, security and maintenance? ✓YES NO
   Describe There will be a market manager on site as well as shopping district staff and community volunteers.
- 10. Will the event require safety personnel (police, fire, paramedics)? YES ✓ NO Describe
- 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
	Time music will begin after 9:30
	Time music will end 2:00 pm
	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? VES NO Number of signs/banners Two Size of signs/banners 14' x 4' banner on N. Old Woodard parking deck; 10' x 4' sign on south end of parking lot.
	Size of signs/banners
14.	Will food/beverages/merchandise be sold? VES 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 (attach additional sheet if necessary)

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

### III. <u>EVENT LAYOUT</u>

- 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	4 575 - 201 ( 1968) 5 ( 1978) 1970 - 201 ( 1978) 1970 - 201 ( 1978)	\$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	Coorte autory present d'un agric Charles Martérie au Thagaro a de Charl	\$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 VESNO *(show location of each on map)* NOTE: Stakes are not allowed.

TYPE QUANTITY SIZE Tents/Canopies/Awnings 10' x 10' 1-50 (A permit is required for tents over 120 sq ft) Portable Toilets 2 1 regular/ 1 special Rides 0 Displays 0 Vendors 1-70 Temporary Structure (must attach a photo) Other (describe)

#### SIGNATURE OF APPLICANT REQUIRED

## EVENT NAME BIRMINGHAM FARMERS MARKET EVENT DATE MAY 7, 2017 THROUGH OCTOBER 29, 2017

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.

12/19/16 Date

Signature

#### 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.

#### TO: Birmingham Property Owner

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.

NAME OF EVENT:	<b>Birmingham Farmers Market</b>	
----------------	----------------------------------	--

LOCATION: Parking Lot #6 on N. Old Woodward

DATES/TIMES: Sundays only, May 7 - October 29, 2017, 9:00 am - 2:00 pm

#### BRIEF DESCRIPTION OF EVENT/ACTIVITY:

The market offers a hometown experience that's fun for all ages, with fresh prepared foods, live music, a children's craft area and more. Throughout the season more than 70 booths feature a diverse array of Michigan grown produce including vegetables, fruits, flowers and garden plants, plus baked goods, hand-crafted items, soaps and decorative items.

HOURS OF SET-UP 7:00 am to 9:00 am HOURS OF TEAR-DOWN 2:00 pm to 3:30 pm

#### DATE OF CITY COMMISSION MEETING: Monday, January 9, 2017

The City Commission meets in room 205 of the Municipal Building at 151 Martin at 7:30 p.m. 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). Log on to www.bhamgov.org/cvents for a complete list of special events.

EVENT ORGANIZER:	Birmingham Shopping District
ADDRESS:	151 Martin Street, Birmingham, MI 48009
PHONE:	248/530-1200

December 19, 2016

#### TO: Birmingham Property Owner

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.

NAME OF EVENT:	<b>Birmingham Farmers</b>	Market	
LOCATION:	Parking Lot #6 on N.	Old Woodward	
DATES/TIMES:	Sundays only, May 7	- October 29, 2017, 9:00 am	1 ~ 2:00 pm
BRIEF DESCRIPTION OF EVENT/ACTIVITY: The market offers a hometown experience that's fun for all ages, with fresh prepared foods, live music, a children's craft area and more. Throughout the season more than 70 booths feature a di- verse array of Michigan grown produce including vegetables, fruits, flowers and garden plants, plus baked goods, hand-crafted items, soaps and decorative items.			
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LOCATION:	Parking Lot #6 on N. Old Woodward
DATES/TIMES:	Sundays only, May 7 - October 29, 2017, 9:00 am - 2:00 pm

BRIEF DESCRIPTION OF EVENT/ACTIVITY:

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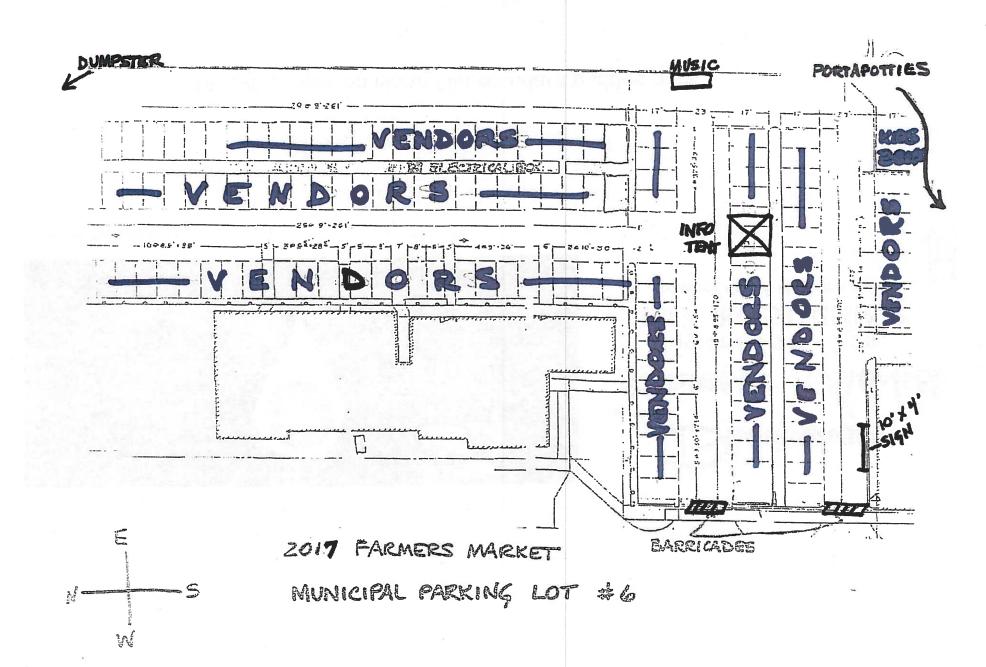
EVENT ORGANIZER:	Birmingham Shopping District
ADDRESS:	151 Martin Street, Birmingham, MI 48009
PHONE:	248/530-1200



#### HOLD-HARMLESS AGREEMENT

"To the fullest extent permitted by law, the **Birmingham Shopping District** and any entity or person for whom the **Birmingham Shopping District** 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 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 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, its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham."

Applicant's signature





14' x 4' banner on North Old Woodard parking deck



10' x 4' sign on south end of Muncipal Parking Lot #6

## **DEPARTMENT APPROVALS**

#### EVENT NAME FARMERS MARKET

#### LICENSE NUMBER <u>#17-00010825</u>

## COMMISSION HEARING DATE JAN. 9, 2017

## NOTE TO STAFF: Please submit approval by 12/28/16

#### DATE OF EVENT: <u>5/7 – 10/29/17</u>

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)
<b>BUILDING</b> <b>101-000.000.634.0005</b> 248.530.1850	SW	Annual safety inspection. All tents and canopies must be weighted down.		\$127.90	
FIRE 101-000.000-634.0004 248.530.1900	JMC	<ol> <li>No Smoking in any tents or canopy. Signs to be posted.</li> <li>All tents and Canopies must be flame resistant with certificate on site.</li> <li>No open flame or devices emitting flame, fire or heat in any tents. Cooking devices shall not be permitted within 20 feet of the tents.</li> <li>Tents and Canopies must be properly anchored for the weather conditions, no stakes allowed.</li> <li>Clear Fire Department access of 12 foot aisles must be maintained, no tents, canopies or other obstructions in the access aisle unless approved by the Fire Marshal.</li> <li>Pre-event site inspection required.</li> <li>A prescheduled inspection is required for food vendors</li> </ol>		\$0	

through the Bldg. dept. prior to	
opening.	
8. All food vendors are required to	
have an approved 5lbs. multi-	
purpose (ABC) fire extinguisher	
on site and accessible.	
9. Cords, hoses, etc. shall be	
matted to prevent trip hazards.	
10. Exits must be clearly marked in	
tents/structures with an occupant	
load over 50 people.	
11. Paramedics will respond from the	
fire station as needed. Dial 911	
for fire/rescue/medical	
emergencies.	
12. A permit is required for Fire	
hydrant usage.	
13. Do Not obstruct fire hydrants or	
fire sprinkler connections on	
buildings.	
14. Provide protective barriers	
between hot surfaces and the	
public.	
15. All cooking hood systems that	
capture grease laden vapors	
must have an approved	
suppression system and a K fire	
extinguisher in addition to the	
ABC Extinguisher.	
16. Suppression systems shall be	
inspected, tested, and properly	
tagged prior to the event. All	
Sprinkler heads shall be of the	
155 degree Quick Response type	
unless serving an area of high	
heat and approved by the Fire	
Marshal. The suppression system	
shall have a continuous water	
supply as well as a secondary	
back up supply. Activation of the	
suppression system will shut	
down the ride and cause	

		illumination of the exits.			
<b>POLICE</b> <b>101-000.000.634.0003</b> 248.530.1870	SG	Barricades / On duty personnel to give extra patrol.		\$520	
PUBLIC SERVICES 101-000.000-634.0002 248.530.1642	Carrie Laird 12/20/2016			\$3,500 Equipment, Labor, Trash	
ENGINEERING 101-000.000.634.0002 248.530.1839	A.F.	No pavement damage to anchor tents or other fixtures. Maintain 5' clear pedestrian walkway on sidewalks.	None	\$0	\$0
<b>INSURANCE</b> 248.530.1807	CA	City event	None	0	0
<b>CLERK</b> 101-000.000-614.0000 248.530.1803		Notification letters mailed by applicant on <b>12/19/16.</b> Notification addresses on file in the Clerk's Office. Evidence of required insurance must be on file with the Clerk's Office no later than (city event).	Applications for vendors license must be submitted no later than 4/21/17.	\$165	
				TOTAL DEPOSIT REQUIRED	ACTUAL COST
				\$4,312.90	

FOR CLERK'S OFFICE USE			
Deposit paid			
Actual Cost			
Due/Refund			

City of	Birmingham	MEMORANDUM
		City Clerk's Office
DATE:	December 29, 2016	
TO:	Joseph A. Valentine, City Manager	
FROM:	Cheryl Arft, Acting City Clerk	
SUBJECT:	Special Event Request Movie Night	

Attached is a special event application submitted by the Birmingham Shopping District requesting permission to hold the Family Movie Night on June 23, July 14, and August 11 in Booth Park.

The application has been circulated to the affected departments and approvals and comments have been noted.

The following events have either been approved by the Commission or are planned to be held June – August and have not yet submitted an application. These events do not pose a conflict with the proposed event.

Event Name	Date	Location
Farmers Market	May – October (Sundays)	Lot 6
In the Park Concerts	June – August (Wednesdays)	Shain Park
Breathe Deep Michigan 5K	June 3	Booth Park & surrounding neighborhood
Battle of the Bands	June 16	Shain Park
Day on the Town	July 22	Downtown & Shain Park
Bates Street Block Party	August 12	Shain Park
Birmingham Cruise Event	August 19	South Old Woodward

#### SUGGESTED RESOLUTION:

To approve a request from the Birmingham Shopping District to hold the Family Movie Night on June 23, July 15, and August 11 in Booth Park, 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.

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

### I. <u>EVENT DETAILS</u>

- 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

# FEES:FIRST TIME EVENT:\$200.00ANNUAL APPLICATION FEE:\$165.00

(Please print clearly or type)

Date of Application December 19, 2016

## Name of Event Birmingham Movie Nights

Detailed Description of Event (attach additional sheet if necessary)

Three outdoor movies and entertainment.

Location Booth Park	
Date(s) of Event	Hours of Event
Date(s) of Set-up Day of Event	_Hours of Set-up_12:00 pm
Date(s) of Tear-down Day of Event	Hours of Tear-down 11:30 pm
Organization Sponsoring Event Birmingha	m Shopping District
Organization Address 151 Martin Street,	
Organization Phone 248-530-1200	

Contact Person Lori Rondello

Contact Phone 248-530-1254

Contact Email LRondello@bhamgov.org

## II. EVENT INFORMATION

1.	Organization Type City, BSD
	(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 List expected income Attach information about the beneficiary.
4.	First time event in Birmingham? YES VNO If no, describe_12th annual event
5.	Total number of people expected to attend per day 500-1,000
6.	The event will be held on the following City property: (Please list)           Street(s)
	Sidewalk(s) Park(s) Booth Park
7.	Will street closures be required? YES
8.	What parking arrangements will be necessary to accommodate attendance? Nearby parking deck and street meters are sufficient.

9.	Will staff be provided to assist with safety, security and maintenance? <b>V</b> YES <b>NO</b> Describe BSD staff will be on site during event.		
10.	Will the event require safety personnel (police, fire, paramedics)? YES NO Describe On call status.		
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 7:30 pm Time music will end 10:30 pm 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 Size of signs/banners Submit a photo/drawing of the sign(s). A sign permit is required.		
14.	<ul> <li>Will food/beverages/merchandise be sold? YES NO</li> <li>Peddler/vendor permits must be submitted to the Clerk's Office, at least two weeks prior to the event.</li> <li>All food/beverage vendors must have Oakland County Health Department approval.</li> <li>Attach copy of Health Dept approval.</li> <li>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.</li> </ul>		

# LIST OF VENDORS/PEDDLERS (attach additional sheet if necessary)

GOODS TO BE SOLD	WATER HOOK- UP REQUIRED?	ELECTRIC REQUIRED?
	tõ.	
	GOODS TO BE SOLD	

## III. EVENT LAYOUT

- 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	TBD	\$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)	<u>2</u> # 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 YESNO *(show location of each on map)* NOTE: Stakes are not allowed.

ТҮРЕ	QUANTITY	SIZE
Tents/Canopies/Awnings	4	10' x 10'
(A permit is required for tents over 120 sq ft)		
Portable Toilets	2	
Rides		
Displays		
Vendors		
Temporary Structure (must attach a photo)		
Other (describe)	6 - tables	6' x 8'

#### SIGNATURE OF APPLICANT REQUIRED

## EVENT NAME BIRMINGHAM MOVIE NIGHTS EVENT DATE JUNE 23, JULY 14, & AUGUST 11, 2017

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.

### IV. <u>SAMPLE LETTER TO NOTIFY ANY AFFECTED</u> <u>PROPERTY/BUSINESS OWNERS</u>

- 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.
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#### NOTIFICATION

DATE: December 19, 2016

TO: Downtown Birmingham Business/Property Owner

The Birmingham City Code requires that we receive approval from the Birmingham City Com mission to hold the following special event. The code further requires that we notify any prop erty 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.

NAME OF EVENT:	Movie Nights
LOCATION:	Booth Park
DATES/TIMES:	Fridays, June 23, 2017 July 14, 2017 August 11, 2017 7:30 p.m. with movies beginning at dusk

DATE/TIME OF CITY COMMISSION MEETING: Monday, January 9, 2017 at 7:30 p.m.

The city commission meets in room 205 of the Municipal Building at 151 Martin. 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). To receive updates on special events held in the city log on to www.bhamgov.org/enotify.

EVENT ORGANIZER:	Birmingham Shopping District	EVENT ORGANIZER:	Birmingham Shopping District
ADDRESS:	151 Martin	ADDRESS:	151 Martin
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ADDRESS:	151 Martin
PHONE:	248/530-1200



#### HOLD-HARMLESS AGREEMENT

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Applicant's signature

O Hose Bib Location Beledrical panel becation 8-110 outlets 1-30 amp 220 outlet 1-50 amp 720 outlet maine Aight HILL TI SPONERE 1 PLIP  $\bigcirc$ PATIO Ø STAGE 132.ft REAK OF SEMAWR TURF HILL L'ANN-WAVES TOT LOT 420004-77 PD - INFO TENT SWALE MAZE HARMON BOOTH PARK NOT TO SCALE

## **DEPARTMENT APPROVALS**

#### EVENT NAME BIRMINGHAM MOVIE NIGHTS - BSD

#### LICENSE NUMBER <u>#17-00010824</u>

## COMMISSION HEARING DATE JAN. 9, 2017

NOTE TO STAFF: Please submit approval by 12/28/16

DATE OF EVENT: 6/23, 7/14 & 8/11/17

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	SW	No building department involvement	none	\$0	
FIRE 101-000.000-634.0004 248.530.1900	JMC	<ol> <li>No Smoking in any tents or canopy. Signs to be posted.</li> <li>All tents and Canopies must be flame resistant with certificate on site.</li> <li>No open flame or devices emitting flame, fire or heat in any tents. Cooking devices shall not be permitted within 20 feet of the tents.</li> <li>Tents and Canopies must be properly anchored for the weather conditions, no stakes allowed.</li> <li>Clear Fire Department access of 12 foot aisles must be maintained, no tents, canopies or other obstructions in the access aisle unless approved by the Fire Marshal.</li> <li>Pre-event site inspection required.</li> <li>A prescheduled inspection is required for food vendors</li> </ol>		\$0	

through the Bldg. dept. prior to	
opening.	
8. All food vendors are required to	
have an approved 5lbs. multi-	
purpose (ABC) fire extinguisher	
on site and accessible.	
9. Cords, hoses, etc. shall be	
matted to prevent trip hazards.	
10. Exits must be clearly marked in	
tents/structures with an occupant	
load over 50 people.	
11. Paramedics will respond from the	
fire station as needed. Dial 911	
for fire/rescue/medical	
emergencies.	
12. A permit is required for Fire	
hydrant usage.	
13. Do Not obstruct fire hydrants or	
fire sprinkler connections on	
buildings.	
14. Provide protective barriers	
between hot surfaces and the	
public.	
15. All cooking hood systems that	
capture grease laden vapors	
must have an approved	
suppression system and a K fire	
extinguisher in addition to the	
ABC Extinguisher.	
16. Suppression systems shall be	
inspected, tested, and properly	
tagged prior to the event. All	
Sprinkler heads shall be of the	
155 degree Quick Response type	
unless serving an area of high	
heat and approved by the Fire	
Marshal. The suppression system	
shall have a continuous water	
supply as well as a secondary	
back up supply. Activation of the	
suppression system will shut	
down the ride and cause	

		illumination of the exits.			
POLICE 101-000.000.634.0003 248.530.1870	SG	Personnel and Barricades		\$300	
PUBLIC SERVICES 101-000.000-634.0002 248.530.1642	Carrie Laird 12/20/2016	NO STAKES DRIVEN IN THE GROUND. ESTIMATED COSTS INCLUDE BANNER PLACEMENT AND REMOVAL, BARRICADE PLACEMENT AND REMOVAL EACH EVENT, SET UP AND CLEAN UP EACH EVENT		\$1,900	
<b>ENGINEERING</b> <b>101-000.000.634.0002</b> 248.530.1839	A.F.	Approved	N/A	\$0	
<b>INSURANCE</b> 248.530.1807	СА	City event	None	0	0
<b>CLERK</b> <b>101-000.000-614.0000</b> 248.530.1803		Notification letters mailed by applicant on <b>12/19/16.</b> Notification addresses on file in the Clerk's Office. Evidence of required insurance must be on file with the Clerk's Office no later than (city event).	Applications for vendors license must be submitted no later than <b>6/8/17</b> .	\$165	
				TOTAL DEPOSIT REQUIRED	ACTUAL COST
				\$2,365	

FOR CLERK'S OFFICE USE					
Deposit paid					
Actual Cost					
Due/Refund					

Rev. 1/3/17 h:\shared\special events\- general information\approval page.doc

City of	Birming A Walkable	

## MEMORANDUM

**Planning Division** 

DATE:December 19, 2016TO:Joseph A. Valentine, City ManagerFROM:Matthew Baka, Senior PlannerAPPROVED:Jana Ecker, Planning DirectorSUBJECT:Parking in the Right-of-Way at 33263 Woodward

The owners of the above referenced property are seeking permission to include the two (2) parking spaces in the right-of-way on Woodward towards their off-street parking requirement. The property located at 33263 Woodward is currently vacant. Per Article 06, section 6.02 of the Zoning Ordinance, commercial spaces within the City of Birmingham that have been vacant for more than six months lose their legal non-conforming status and are required to meet current Zoning Ordinance standards, including the off-street parking requirement. There are two (2) existing on-site parking spaces, located at the rear of the building. The existing site is zoned B2B, General Business, which allows for an extended list of retail uses as well as office.

At this time, the applicant is requesting approval to utilize the two (2) parking spaces in the right-of-way on Woodward towards their total parking count, which would create a total of four (4) parking spaces for the site. Approval of this request would provide adequate parking to allow for the majority of retail or office uses, which require 1 parking space per 300 square feet of space.

Article 4, section 4.43 (G) (1) of the Zoning Ordinance states:

- G. The required off-street parking facilities for buildings used for other than residential purposes may be provided by the following method:
  - 1. By providing the required off-street parking on the same lot as the building being served, or where practical, and with the permission of the City Commission, the area in the public right-of-way abutting the property in question may be included as a portion of the required parking area if such area is improved in accordance with plans which have been approved by the engineering department.

In accordance with Article 4, section 4.43(G) (1) of the Zoning Ordinance, the applicant may include the two (2) right-of-way parking spaces adjacent to their building in their required parking calculation if approved by the City Commission. The inclusion of these two (2) spaces

will eliminate the necessity for a parking variance. The applicant has agreed to comply with the recommendations of the Engineering Division.

#### SUGGESTED RESOLUTION:

To approve the use of two (2) parking spaces in the right-of-way directly abutting the property located at 33263 Woodward to fulfill a portion of the off-street parking requirements per Article 4, section 4.43 (G)(1) of the Zoning Ordinance, and to make any improvements recommended by the Engineering Division.

## Google Maps 33263 Woodward Ave



Imagery ©2016 Google, Map data ©2016 Google 20 ft

1



# MEMORANDUM

**Planning Division** 

DATE: January 3, 2017

TO: Joseph A. Valentine, City Manager

FROM: Matthew Baka, Senior Planner

APPROVED: Jana L. Ecker, Planning Director

SUBJECT: Set a Public Hearing to consider amendments to Article 03, Section 3.04 of the Zoning Ordinance to create a D5 Overlay District, Article 06, section 6.02, to allow for the extension/enlargement of legal non-conforming buildings and the rezoning of 555 S. Old Woodward, 401 S. Old Woodward, & 225 E. Merrill from D4 to D5 in the Downtown Overlay

On December 14th, 2016 the Planning Board held a public hearing to consider Zoning Ordinance amendments with the goal of bringing several non-conforming buildings in Birmingham into compliance. The proposed ordinance amendments would add a new D-5 classification to the Downtown Overlay Zone which would allow buildings that are currently non-conforming to be considered legal in regards to setbacks, number of stories, and height. The new D-5 zone would also allow additions or new construction in the D-5 to match the height of abutting or adjacent buildings. In addition to the Zoning Ordinance amendments, the Planning Board also held a public hearing on December 14<sup>th</sup>, 2016 to consider the rezoning of three buildings within the Downtown Overlay to be considered for a recommendation for rezoning to D-5 to the City Commission. Those buildings are 555 S. Old Woodward (The 555 Building), 411 S. Old Woodward (Birmingham Place), and 225 E. Merrill (Merrillwood Building). Attached is the draft ordinance language, the staff report from the most recent study session, and relevant meeting minutes for your review.

#### Suggested Action:

To set a public hearing for February 13, 2017 to consider the following amendments to Chapter 126 Zoning:

- (a) Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district;
- (b) Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming buildings;

AND

To set a public hearing for February 13, 2017 to consider the rezoning of the following properties:

- (a) **555 S. Old Woodward** (555 Office and Residential Buildings) from D4 in the Downtown Overlay to D5 in the Downtown Overlay;
- (b) **411 S. Old Woodward** (Birmingham Place) from D4 in the Downtown Overlay to D5 in the Downtown Overlay; and
- (c) **225 E. Merrill** (Merrillwood Building) from D4 in the Downtown Overlay to D5 in the Downtown Overlay.

City of	of Birmingham	
DATE:	December 5, 2016	

TO: Planning Board Members

FROM: Matthew Baka, Senior Planner

SUBJECT: Public Hearing on Legal Non-conforming Buildings

On October 26, 2016 the Planning Board set a public hearing for December 14<sup>th</sup>, 2016 to consider Zoning Ordinance amendments with the goal of bringing several non-conforming buildings in Birmingham into compliance. The proposed ordinance amendments would add a new D-5 classification to the Downtown Overlay Zone which would allow buildings that are currently non-conforming to be considered legal in regards to setbacks, number of stories, and height. The new D-5 zone would also allow additions or new construction in the D-5 to match the height of abutting or adjacent buildings. In addition to the Zoning Ordinance amendments, the Planning Board also set a public hearing on October 26<sup>th</sup>, 2016 to consider the rezoning of three buildings within the Downtown Overlay to be considered for a recommendation for rezoning to D-5 to the City Commission. Those buildings are 555 S. Old Woodward (The 555 Building), 411 S. Old Woodward (Birmingham Place), and 225 E. Merrill (Merrillwood Building). Attached is the draft ordinance language, staff report from the most recent study session, and relevant meeting minutes.

MEMORANDUM

**Planning Division** 

#### Suggested Action:

To recommend APPROVAL to the City Commission the following amendments to Chapter 126 Zoning:

- (c) Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district;
- (d) Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming commercial buildings;

To recommend APPROVAL to the City Commission the rezoning of the following properties:

- (d) **555 S. Old Woodward** (555 Office and Residential Buildings) from D4 in the Downtown Overlay to D5 in the Downtown Overlay;
- (e) **411 S. Old Woodward** (Birmingham Place) from D4 in the Downtown Overlay to D5 in the Downtown Overlay; and
- (f) **225 E. Merrilwood** (Merrillwood Building) from D4 in the Downtown Overlay to D5 in the Downtown Overlay.

## DRAFT LANGUAGE

## 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 03, DOWNTOWN BIRMINGHAM OVERLAY DISTRICT, SECTION 3.04, TO CREATE A NEW D5 ZONE AND TO ESTABLISH DEVELOPMENT STANDARDS FOR THIS DISTRICT.

Article 03 shall be amended as follows:

#### Section 3.04 Specific Standards

- A. <u>Building Height, Overlay:</u> The various elements of building height shall be determined as follows for the various zones designated on the Regulating Plan:
  - 1. D2 Zone (two or three stories):
    - a. Eave line for sloped roofs shall be no more than 34 feet.
    - b. Peak or ridge of any sloped roof shall be no more than 46 feet as measured to the average grade.
    - c. Maximum overall height including the mechanical and other equipment shall be no more than 56 feet.
    - d. A third story is permitted if it is used only for residential.
    - e. All buildings in D2 Zone containing a third story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.
    - f. A third story shall continue in a different plane, beginning at the eave line, not greater than 45 degrees measured to the horizontal or setback 10 feet from any building facade.
    - g. All buildings constructed in the D2 Zone must have a minimum eave height or 20 feet.
  - 2. D3 Zone (three or four stories):
    - a. Eave line for sloped roofs shall be no more than 46 feet.
    - b. Peak or ridge of any sloped roof shall be no more than 58 feet as measured to the average grade.
    - c. Maximum overall height including the mechanical and other equipment shall be no more than 68 feet.
    - d. A fourth story is permitted if it is used only for residential.
    - e. All buildings in D3 Zone containing a fourth story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.

- f. The fourth story shall continue in a different plane, beginning at the eave line, no greater than 45 degrees measured to the horizontal or setback 10 feet from any building facade.
- g. All buildings constructed in a D3 Zone must contain a minimum of 2 stories and must have a mini- mum eave height of 20 feet.
- 3. D4 Zone (four or five stories):
  - a. Eave line shall be no more than 58 feet.
  - b. Peak or ridge of any sloped roof shall be no more than 70 feet as measured to the average grade.
  - c. Maximum overall height including mechanical and other equipment shall be no more than 80 feet.
  - d. The fifth story is permitted if it is used only for residential.
  - e. All buildings containing a fifth story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.
  - f. The fifth story shall continue in a different plane, beginning at the eave line, no greater than 45 degrees measured to the horizontal or set back 10 feet from any building facade.
  - g. All buildings constructed in the D4 Zone must contain a minimum of 2 stories and must have a minimum eave height of 20 feet.
- 4. D5 Zone (over 5 stories)
  - a. All existing buildings located in the D5 Zone on November 1, 2016 are deemed legal, conforming buildings with regards to setbacks, number of stories and height.
  - b. All existing buildings located in this zone district on November 1, 2016 may be extended or enlarged only if the property owner elects to develop the extended or enlarged portion of the building under the provisions of the Downtown Overlay and the extension or enlargement meets all of the requirements of the Downtown Birmingham Overlay District and the D4 Zone.
  - c. New buildings constructed or additions to existing buildings in the D5 Zone must meet the requirements of the Downtown Birmingham Overlay District and the D4 Zone, except that the height of any addition and new construction in the D-5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing building in the D-5 to which they are immediately adjacent or abutting if the property owner agrees to the construction of the building under the provisions of a Special Land Use Permit.
- **4.5** C and P Zones: Downtown Birmingham Overlay District building height shall comply with the underlying height restrictions listed in each two-page layout in Article 2 of the Zoning Ordinance, but may be negotiated by the Planning Board.
- **5.6.** Stories at sidewalk level shall be a minimum of 10 feet in height from finished floor to finished ceiling. The Planning Board may reduce this standard for renovations to existing buildings that do not meet this standard.

- **6.7.** A transition line shall be provided between the first and second stories. The transition shall be detailed to facilitate an awning.
- **7.8**The maximum width of all dormers per street elevation on buildings may not exceed 33% of the width of the roof plane on the street elevation on which they are located.
- B. <u>Building placement</u>. Buildings and their elements shall be placed on lots as follows:
  - 1. Front building facades at the first story shall be located at the frontage line, except the Planning Board may adjust the required front yard to the average front setback of any abutting building.
  - 2. In the absence of a building facade, a screenwall shall be built along the frontage line and aligned with the adjacent building facade. Screenwalls shall be between 2.5 and 3.5 feet in height and made of brick, stone or other masonry material matching the building. Upon approval by the Planning Board, screen- walls may be a continuous, maintained evergreen hedge or metal fencing. Screenwalls may have openings a maximum of 25 feet to allow vehicular and pedestrian access.
  - 3. Side setbacks shall not be required.
  - 4. A minimum of 10 foot rear yard setback shall be provided from the midpoint of the alley, except that the Planning Board may allow this setback to be reduced or eliminated. In the absence of an alley, the rear setback shall be equal to that of an adjacent, preexisting building.
  - 5. First-floor awnings may encroach upon the frontage line and public sidewalk, but must avoid the street trees; provide at least 8 feet of clearance above the sidewalk; and be set back a minimum of 2 feet from the road curb.
  - 6. Upper-floor awnings shall be permitted only on vertically proportioned windows, provided that the awning is only the width of the window, encroaches upon the frontage line no more than 3 feet, and is not used as a backlit sign.
  - 7. Loading docks and service areas shall be permitted only within rear yards. Doors for access to interior loading docks and service areas shall not face a public street.
  - 8. All buildings shall have their principal pedestrian entrance on a frontage line.

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2015 to become effective 7 days after publication.

Mark Nickita, Mayor

Cheryl Arft, 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 06, NONCONFORMANCES, SECTION 6.02, TO ALLOW FOR THE EXTENSION AND/OR ENLARGEMENT OF EXISTING LGEGAL, NON-CONFORMING COMMERCIAL BUILDINGS.

Article 06 shall be amended as follows:

#### 6.02 Continuance of Nonconformity

- A. Limitations: Any nonconforming building or use existing at the time of enactment or amendment of this Zoning Ordinance may be continued if maintained in good condition, but:
  - 1. The use shall not be changed to another nonconforming use except as permitted by the Board of Zoning Appeals.
  - 2. The use shall not be reestablished after discontinuance for 6 months.
  - 3. The use or building shall not be extended or enlarged except as herein provided. Nonconforming **residential** buildings may be extended or enlarged, provided that the extension or enlargement does not itself violate any provision of the Zoning Ordinance. Where the extension or enlargement will violate any provision of the Zoning Ordinance, application for a variance shall be made to the Board of Zoning Appeals pursuant to Section 8.01(F).

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2015 to become effective 7 days after publication.

Mark Nickita , Mayor

Cheryl Arft, City Clerk

City of T	Birmingham	MEMORANDUM
		Community Development Department
DATE:	September 22, 2015	
TO:	Planning Board Members	
FROM:	Jana L. Ecker, Planning Director	
SUBJECT:	Study Session on Legal Non-conforming Buildings	

1

Last year, the owners of the 555 S. Old Woodward building applied to the Planning Board to amend the Zoning Ordinance to allow the renovation of the existing building, the addition of new residential units along S. Old Woodward, as well as an addition to the south of the existing residential tower for new retail space and residential units. The Building Official had previously ruled that some changes to the existing legal non-conforming building may be permitted. However, the scale and scope of the changes that the property owner sought to implement would exceed what would be permitted as maintenance and thus were not permitted in accordance with the legal non-conforming regulations contained in the Zoning Ordinance.

In order to renovate and expand the existing building, the owners of the 555 S. Old Woodward building requested a Zoning Ordinance amendment to create a new <u>D-5: Downtown Gateway</u> <u>Over Five Stories</u> zoning classification in the Downtown Birmingham Overlay District. The proposal was then to seek rezoning of the 555 S. Old Woodward properties from the existing D-4 Overlay zoning classification to the proposed D-5 Overlay zoning classification, which would essentially render the existing building at 555 S. Old Woodward as a legal, conforming building that could then be renovated and expanded in accordance with new D5 development standards.

On May 13, 2015, the Planning Board began discussing the applicant's proposal to create a new <u>D-5: Downtown Gateway (Over Five Stories)</u> zoning classification in the Downtown Birmingham Overlay District. Planning Board members discussed the desire to review the proposed amendment within the spirit, vision and context of the entire downtown, and not to create a new zoning classification around a specific building. The Planning Board did, however, recognize the importance of the 555 S. Old Woodward building and the need to allow renovations and additions to improve its presence at the south end of Downtown Birmingham. Specific concerns raised regarding the existing 555 S. Old Woodward building were the unwelcome facades of the Woodward elevation, the split level concept on the S. Old Woodward elevation, and the exposed structured parking.

At subsequent Planning Board meetings on June 10<sup>th</sup>, 2015 and July 8<sup>th</sup>, 2015 the Planning Board further discussed the ways that the building could be modified and improved as a conforming structure and not through the use of variance requests. The Planning Board indicated that they would like to craft a zoning classification or overlay expansion that allows

the 555 Building to be renovated but also mirrors the development standards in the Triangle District across Woodward, which allows a maximum of 9 stories. Board members discussed taking a look at the 555 building along with several other parcels in the context of future development. It was suggested that this could be accomplished through a combination of a new zoning district and a Special Land Use Permit (SLUP) or the addition of a D6 zone as well, to differentiate permitted height north of Bowers, and south of Bowers along Woodward. The board reviewed multiple examples of similar "gateway corridor" districts in other cities (see attached), along with highlights, notes and sample ordinance language from other cities that were relevant. There were varying viewpoints on whether a new overlay should be created that included multiple properties along Woodward, and if so, which properties to include. No consensus was reached.

On September 9, 2016, the board reviewed a revised draft of the proposed D5 zone. Board members discussed the appropriate height for buildings along the west side of Woodward adjacent to the Triangle District. Some board members felt that the allowable height in a new D5 or D6 zone should mirror the 9 stories permitted in the Triangle District on the east side of Woodward. Other board members felt that additions should be permitted to match the height of existing non-conforming buildings. The board was unable to reach consensus on how to proceed, and requested additional information and direction from the City Attorney on potential options to provide exemptions for non-conforming buildings. The City Attorney's response letter dated September 29, 2016 is attached for your review.

On June 20, 2016 the issue of legal non-conforming commercial buildings was discussed at a joint meeting of the City Commission and Planning Board. The 555 S. Old Woodward building, the Merrillwood Building and Birmingham Place were referenced due to their non-conformity with regards to their height and bulk, and the desire to allow improvements or changes to these buildings. While no action was taken at the joint meeting, there was consensus that the issue of the improvement or expansion of legal non-conforming buildings should be studied.

On July 25, 2016, the City Commission again discussed the issue of legal, non-conforming commercial buildings and directed the Planning Board to review the non-conformance provisions pertaining to commercial buildings to provide specific requirements, considering a new zoning category or categories, that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures.

On September 14, 2016, the Planning Board resumed their discussion regarding legal nonconforming buildings. Specifically, the Planning Board discussed the following options to allow changes to legal non-conforming buildings for maintenance, renovation and/or expansion:

# 1. <u>Allow Maintenance and Renovation Only of Existing Legal, Non-</u> <u>conforming Commercial Buildings</u>

Article 6, Section 6.02 of the Zoning Ordinance could be amended as follows:

# 6.02 Continuance of Nonconformity

- A. Limitations: Any nonconforming building or use existing at the time of enactment or amendment of this Zoning Ordinance may be continued if maintained in good condition, but:
  - 1. The use shall not be changed to another nonconforming use except as permitted by the Board of Zoning Appeals.
  - 2. The use shall not be reestablished after discontinuance for 6 months.
  - 3. The use or building shall not be extended or enlarged except as herein provided. Nonconforming **residential** buildings may be extended or enlarged, provided that the extension or enlargement does not itself violate any provision of the Zoning Ordinance. Where the extension or enlargement will violate any provision of the Zoning Ordinance, application for a variance shall be made to the Board of Zoning Appeals pursuant to Section 8.01(F).

The amendment noted above would allow for the maintenance, extension or enlargement of an existing legal, non-conforming building so long as the addition meets the current zoning standards for the existing zone district. This amendment would allow both commercial and residential legal non-conforming buildings to be expanded using a consistent approach. As an example, this approach would allow a 10 story legal non-conforming building in a 5 story zone district (building that is non-conforming for height only) to construct an addition. However, the addition could not be 10 stories in height to match the existing building, but could be built up to a maximum of 5 stories as currently allowed in the zone district.

# 2. <u>Allow the Expansion of Existing Legal, Non-conforming Buildings To</u> <u>Match Existing Non-conforming Conditions</u>

Article 6, Section 6.02 of the Zoning Ordinance could be amended as follows:

# 6.02 Continuance of Nonconformity

- A. Limitations: Any nonconforming building or use existing at the time of enactment or amendment of this Zoning Ordinance may be continued if maintained in good condition, but:
  - 1. The use shall not be changed to another nonconforming use except as permitted by the Board of Zoning Appeals.
  - 2. The use shall not be reestablished after discontinuance for 6 months.
  - **3.** The use or building shall not be extended or enlarged except as herein provided. Nonconforming **residential** buildings may be extended or enlarged, provided that the extension or enlargement does not itself **increase the degree of the dimensional nonconformance**, **nor** violate any provision of the Zoning Ordinance. Where the extension or enlargement will violate any provision of the Zoning Ordinance, application for a variance shall be made to the Board of Zoning Appeals pursuant to Section 8.01(F).

#### Section 6.02 Continuance of Nonconformity

- A. Limitations: Any nonconforming building or use existing at the time of enactment or amendment of this Zoning Ordinance may be continued if maintained in good condition, but:
  - 1. The use shall not be changed to another nonconforming use except as permitted by the Board of Zoning Appeals.
  - 2. The use shall not be reestablished after discontinuance for 6 months.
  - 3. The use or building shall not be extended or enlarged except as herein provided. Nonconforming residential buildings may be extended or enlarged, provided that the extension or enlargement does not itself violate any provision of the Zoning Ordinance. Where the extension or enlargement will violate any provision of the Zoning Ordinance, application for a variance shall be made to the Board of Zoning Appeals pursuant to Section 8.01(F). A legally nonconforming structure may expand its square footage provided that the expansion does not exceed the extent of the height and/or setback in nonconformance. All other development standards must be met in the expansion.
    - b. A vertical expansion of a nonconforming building or structure which is legally nonconforming as to one or more setback requirements is a permitted expansion of that nonconformity.
    - c. A horizontal expansion of a nonconforming building or structure which is legally nonconforming as to one or more height requirements is a permitted expansion of that nonconformity.

Both of the amendments noted above would allow for the maintenance, extension or enlargement of an existing legal, non-conforming building up to, but not exceeding, the existing non-conforming dimension. The first option listed above is more general in nature, and could include the expansion of any type of non-conformity (height, setbacks, FAR, density, lot coverage etc.). The second option listed above is limited to expanding only height and/or setback non-conformities. As an example, this approach would allow a 10 story legal non-conforming building in a 5 story zone district (building that is non-conforming for height or setbacks) to construct an addition up to 10 stories in height to match the existing building height and setbacks.

# 3. <u>Convert Existing Legal, Non-conforming Buildings to Conforming Using</u> <u>a Special Land Use Permit</u>

Another option to consider may be to convert buildings or structures in Downtown Birmingham that are legal non-conforming with regards to height into conforming buildings through the use of a Special Land Use Permit. An amendment to Article 3, Overlay Districts, or to Article 6, Nonconformances, could be proposed as follows:

<u>Conversion of Non-conforming Status</u>: A building in the Downtown Birmingham Overlay District that is a legal non-conforming building or structure with regards to height may be deemed a conforming building or structure with regards to height if the property owner agrees to specific conditions to control the future extension, enlargement or renovation of the building or structure and said conditions are approved by the City Commission under the provisions of a Special Land Use Permit.

This approach would allow for the extension or enlargement of existing legal, non-conforming buildings downtown on a case by case basis as negotiated by the City Commission. The amendment noted above would provide flexibility for different site conditions and would provide control over the parameters of future expansion based on site and neighborhood context. As an example, a 10 story legal non-conforming building in a 5 story zone district could be deemed conforming if placed under the provisions of a SLUP that establish the specific conditions for maximum extension or enlargement of the building in the future.

# 4. <u>Re-establish the Zoning District(s) in effect when Building Permits</u> were Issued for Buildings in Excess of 5 Stories (or amend the B3 Zoning District) to render existing buildings conforming

Another option to consider may be to re-establish the former zoning classification(s) in place in the 1970's when several buildings were legally constructed greater than 5 stories in height, and to rezone properties with non-conforming buildings with regards to height back to this classification. Thus, any extension or enlargement of an existing legal, non-conforming building so rezoned would be permitted as anticipated at the time of construction. As an example, a 10 story building constructed in 1975 under a classification that permitted 11 stories in height could be extended or enlarged up to 11 stories in height.

# 5. Create a New Zoning District(s)

Another option to consider is to create a new zoning classification(s) that would permit additional building height and rezoning certain properties to this classification, thus rendering legal non-conforming buildings or structures conforming buildings with regard to height. This approach has been discussed by the Planning Board over the past year, and amendments have been drafted to create two new classifications under the Downtown Overlay, D5 and D6, to attempt to address the non-conforming heights of several buildings downtown. The Planning Board has also discussed using this approach to address sites along the west side of Woodward to allow additional height even for existing conforming buildings along the corridor to match the height permitted on the east side of Woodward in the Triangle District. The latest version of the draft previously discussed by the Planning Board is attached and highlighted to indicate areas noted for further discussion. As an example using this approach, an existing 10 story legal non-conforming building in a 5 story zone district could be rezoned to a new zoning classification to be created that would allow 10 story buildings as of right.

At the Planning Board meeting on September 14, 2016, board members agreed that the improvement and maintenance of existing legal, non-conforming commercial buildings should be permitted, and expansion of such buildings should also be permitted consistent with regulations for residential buildings. Board members also discussed at length the issue of several legal, non-conforming buildings in the Downtown Overlay District, and the desire to allow improvements to those buildings as well. After much discussion, the Planning Board directed Planning staff to meet with the applicant for the 555 Building to craft ordinance language that would make existing buildings downtown conforming with regards to both height and setbacks, and to allow future expansion that would comply with the standards of the D4 Overlay.

On September 28, 2016, the Planning Board discussed draft ordinance language that proposed to create a D5 zone district that would render existing buildings legal and conforming with regards to setback and height. Board members agreed that additions or renovations should be permitted to existing buildings. With regards to the construction of new buildings in the proposed D5 zone district, there was much discussion as to whether such buildings should meet the 5 story maximum height in the D4 zone district, or should be allowed to match the height of the existing adjacent buildings. The consensus of the board was to allow additional height for new buildings in the D5 to match existing adjacent buildings, if the new building was constructed under the provisions of a SLUP. At the end of the discussion, the applicant asked if the Planning Board could simply waive certain requirements in the D5 zone instead of requiring a SLUP. Staff agreed to discuss this with the City Attorney.

Since the September 28, 2016 Planning Board meeting, City staff has met with the applicant to refine the draft ordinance language. Accordingly, please find attached draft ordinance language for your review based on the Planning Board's direction from the last meeting that addresses the improvement of commercial buildings throughout the City, and also specifically addresses the legal, non-conforming status of buildings downtown.

The applicant has also provided another version of a draft ordinance for the Planning Board's discussion as well based on their desire to construct a new building that exceeds the height of the existing 555 building, but maintains the same number of stories. The applicant's revised draft is also attached for your review.

Finally, City staff has reviewed the applicant's request as to whether the Planning Board can simply waive certain requirements in the D5 zone with both the City Manager and the City Attorney. Although it was unclear as to whether there was a legal question, the City Manager directed the City Attorney to respond. The City Attorney has advised that the question of whether the Planning Board can waive specific requirements is not a legal question, but rather a

policy question. Ultimately, the City Commission has the sole authorization to pass zoning legislation, with or without waivers, so long as they remain in compliance with the Michigan Zoning Enabling Act.

Should the Planning Board wish to recommend the attached ordinance amendments, the board may also wish to consider proposing a rezoning of the 555 Building, Birmingham Place and/or the Merrillwood Building to the proposed D5 Zone (over 5 stories).

# Suggested Action:

To set a public hearing for December 14, 2016 to consider the following amendments to Chapter 126 Zoning:

- (a) Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district;
- (b) Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming commercial buildings;

## AND

To set a public hearing for December 14, 2016 to consider the rezoning of the following properties:

- (g) **555 S. Old Woodward** (555 Office and Residential Buildings) from D4 in the Downtown Overlay to D5 in the Downtown Overlay;
- (h) **411 S. Old Woodward** (Birmingham Place) from D4 in the Downtown Overlay to D5 in the Downtown Overlay; and
- (i) **225 E. Merrilwood** (Merrillwood Building) from D4 in the Downtown Overlay to D5 in the Downtown Overlay.

# Planning Board Minutes May 13, 2015

#### STUDY SESSION Proposal to add D-5: Downtown Gateway Over Five Stories to the Downtown Birmingham Overlay District

Ms. Ecker advised that the Planning Division has received an application from the owners of the 555 S. Old Woodward building to request an amendment to the Zoning Ordinance to create a new D-5 zoning classification to the Downtown Birmingham Overlay District.

The building owners are interested in renovating the existing buildings and adding new residential units along S. Old Woodward Ave., as well as adding an addition to the south of the existing residential tower for new retail space and residential units. The building official previously ruled that any changes to the existing legal non-conforming building would increase the non-conformity, and thus be prohibited unless numerous variances were approved. Therefore, the petitioner feels their hands have been tied in terms of making exterior and structural improvements to the building.

Accordingly, the applicant is requesting a Zoning Ordinance amendment to create a new D-5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District. Over the past several months, the applicant has reviewed several drafts of the proposed ordinance language with City staff.

Proposed ordinance language to amend Article 3, section 3.01, 3.02 and 3.04 of the Birmingham Zoning Ordinance was presented for the Planning Board to review and consider.

Mr. Rick Rattner, 380 N. Old Woodward Ave., Attorney for the petitioner, was present with a representative of the owner, Mr. Jerry Reinhart; the architect, Mr. Bob Ziegelman; and a landscaper from his office. Mr. Rattner gave a presentation aimed at convincing the Planning Board why the petitioner would like to see the changes made and why it would work in this particular location. Their primary goal is to get the building zoned so that it comes into compliance. They want to do a building that is an icon in the City of Birmingham and a great gateway to the City, along with being completely in line with the 2016 Plan. Included in the presentation was a video depicting Andres Duany's comments when he came to the City in 2014. He stated it is a special building that requires special treatment and it could become incredibly exciting and really cool.

Mr. Koseck said they have not seen a site plan showing the footprint relative to property lines, along with the expansion opportunity. The building needs to be seen in its context. He received confirmation that the tall building is apartments and the other building contains office space. Ms. Ecker said the way this ordinance is written the commercial side could potentially go up an equivalent height to the apartment side.

Mr. DeWeese thought it would be appropriate for the board to think through, if they were going to allow a building of that scale, what they would want there that fits the spirit and essence of the rest of Downtown. He knows that the back side is not inviting at all from the Woodward

Ave. side and the front side is not pedestrian oriented the way it is set up. The lower levels could be made more friendly and the parking garage covered up.

Chairman Clein felt the board should look at the proposed ordinance and decide whether creating a D-5 Zone makes sense. Mr. Williams considered this an iconic structure that is long overdue for attention. The Planning Board has almost totally ignored the south end of town, so let's start with this.

Mr. Koseck noted there are buildings being built today that look a lot like this. They have beautiful high tech glass and he knows what Duany is talking about in terms of lighting it so that it glows. Mr. Williams thought the only practical way to proceed with this study is to set up a sub-committee of this board to work with staff.

Chairman Clein suggested the next step would be to come back to a study session to allow the board to review and provide their input. It was discussed that the board should not create the language of the district around a specific project. Everyone agreed that another study session is in order so that the board can look at all of the implications of the request. June 10 would be the earliest.

Mr. Rattner said it is important to him to put together a package for Ms. Ecker as quickly as they can. Chairman Clein asked for a graphic of an existing site plan so the board knows what parcels are included and what are not. Context should be shown so it is clear what is around the site and how that plays into it. Mr. Koseck added it is about the existing footprint, the applicant's ownership limits, and context within 200 ft.

Mr. Williams stated this is an important building and the board will treat it accordingly.

## Planning Board Minutes June 10, 2015

# STUDY SESSION D-5 - Proposed Gateway Zone in the Downtown Birmingham Overlay District

Mr. Baka explained the owners of the 555 S. Old Woodward Ave. building are interested in renovating the existing building, and adding new residential units along S. Old Woodward Ave., as well as adding an addition to the south of the existing residential tower for new retail space and residential units. The building official previously ruled that any changes to the existing legal non-conforming building would increase the non-conformity, and thus be prohibited unless numerous variances were approved.

Accordingly, the applicant is requesting a Zoning Ordinance amendment to create a new D-5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District. Over the past several months, the applicant has reviewed several drafts of proposed ordinance language with City staff. On May 13, 2015, the Planning Board began discussing the applicant's proposal to create a new D-5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District.

It was discussed this amendment should be viewed not only as to how it applies to 555 S. Old Woodward Ave., but possibly to other properties as well. Mr. Baka read highlighted areas from the proposed ordinance language to amend Article 3, section 3.01, 3.02, and 3.04 of the Birmingham Zoning Ordinance for the board to review and consider.

The 555 S. Old Woodward Ave. building is 180 ft. in height. Allowable height in the general proximity across Woodward Ave. is 114 ft. maximum. Mr. Koseck thought the board should be looking at the proposed language in a broad way, and not just specific to the 555 S. Old Woodward Ave. property. Chairman Clein advised not to incorporate a number of items for one particular parcel just because that makes it easier. Mr. Share added that if the applicant needs some variances, then the applicant needs some variances.

Mr. Rick Rattner, 380 N. Old Woodward Ave., Attorney for the applicant, was present with Mr. Bob Ziegelman, the architect; and Messrs. Jack Reinhart and Bruce Thal, the building owners. Mr. Rattner noted parts of the proposed ordinance were included because they were important to put into law so that their building could exist and not be doomed to some type of less than satisfactory condition under the current Zoning Ordinance. They hope to make their building the re-invigoration of S. Woodward Ave. In order for this to happen, a Gateway Zone must be established and their building zoned D-5. He went on to describe improvements they hope to make to the building and talked about building height, which would include an elevator shaft 14 ft. above the roof. If they construct a new building on the property they own to the south of the 555 Building it would comply with the old Overlay Zone Ordinance. They are providing their own parking on-site. With respect to architectural standards, they plan to re-surface and light the existing building as described by Andres Duany. Proposed signage standards allow for identification on all sides of the building. One way or another, the reasonable Zoning Ordinance for this area and the Gateway should be passed in order to benefit the City.

No members of the public wished to come forward to provide comment at this time.

Mr. Share announced he was having trouble conceptualizing why on any of the Gateway sites there would be buildings higher than the nine (9) maximum stories allowed in the Triangle District. Mr. Koseck noted there are all kinds of non-conforming buildings in the City and he doesn't think the goal is that they should all go away and become conforming. That is why the Board of Zoning Appeals exists. He is in favor of improvements being made to the building, but as the applicant makes enhancements he hopes they would go further to be more in compliance with D-4, D-3, D-2, and D-1. It scares him to expand D-5 beyond the limits of this property without further study.

Mr. Jeffares thought the building should be polished so that it stands out like a jewel, and other buildings should be more in context with the nine (9) stories allowed in the Triangle District. Mr. DeWeese was in support of the building enhancement, but he also did not want so see it spreading.

Chairman Clein thought of this as an opportunity to take a look at this building along with several parcels in the context of future development. If Bruce Johnson, Building Official, and Tim Currier, City Attorney, would come to a Planning Board meeting and are on board, he would be in favor of providing some relief in a unique situation; but he just doesn't want to do it capriciously. The Ordinance standards were put in place for a reason and he would be supportive of fitting them into the context of a building that obviously is not going away, in order to help make it better.

Ms. Whipple-Boyce was also in support of helping to make this Gateway building better looking. She thought also that it would be helpful to have Messrs. Johnson and Currier come to a Planning Board meeting. She could not imagine why the Planning Board could not somehow help the applicant to get their building re-skinned in some other way. Further, the ordinance proposal should not include some of the things that the board does not want to have in the City.

Ms. Lazar was in full support, as well, of trying to do something with the building. However, she didn't see how this board could whip up a new ordinance in a short period of time. It concerns her that what might be applied to this building could become applicable to some other sites which would not be appropriate. She would rather try to help the applicant get to where they need to be with this building.

Mr. Share thought another way to get through this problem would be to modify the Ordinance to change the definition of *Dimensional Expansion of Non-Conformity*.

Mr. Jack Reinhart explained that it is difficult to get financing for a non-conforming building.

Mr. Rattner was positive they would get this done, but more work is needed in order to find the right answer. It will come out the right way if everyone works for it.

Chairman Clein suggested when this draft ordinance is brought back with input from tonight that Mr. Johnson; and if possible, Mr. Currier, be present for that study session to walk through the higher level issues and answer questions.

#### Planning Board Minutes July 8, 2015

## STUDY SESSION D-5 - Proposed Gateway Zone in the Downtown Birmingham Overlay District

Ms. Ecker provided background. The owners of the 555 S. Old Woodward building are interested in renovating the existing building, and adding new residential units along S. Old Woodward Ave., as well as adding an addition to the south of the existing residential tower for new retail space and residential units.

The applicant is requesting a Zoning Ordinance amendment to create a new D-5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District. Over the past several months, the applicant has reviewed several drafts of proposed ordinance language with City staff.

On May 13, 2015, the Planning Board began discussing the applicant's proposal to create a new D-5: Downtown Gateway (Over Five Stories) zoning classification in the Downtown Birmingham Overlay District.

It was discussed that the building official has now ruled the reason for installing a new curtain wall on the 555 Woodward Bldg. would be to maintain the building in good condition, and therefore should be considered maintenance. Accordingly, application to the Board of Zoning Appeals ("BZA") would not be necessary.

Board members talked about considering an ordinance to allow Woodward Ave. frontage parcels up to a certain height between Hazel and Brown. Seven stories would be permitted as of right and an extra two stories for making two of five concessions.

Mr. Williams stated that everyone knows the 555 Bldg. is the gateway to Birmingham and as far as he is concerned it needs improvement and the City should work with the owners to achieve that result. That benefits everybody.

Discussion considered whether the building could be improved without creating a new zoning classification. Mr. Boyle suggested the board try to give the Woodward Ave. frontage parcels a designation that relates to Woodward Ave. Ms. Ecker thought that makes a lot of sense. It relates to more of a holistic view as to what is right for that area - not just one property. Mr. Share agreed. Start out with proper planning for that set of properties as opposed to fixing the 555 Bldg., and incidentally create a new district to do that.

Ms. Whipple-Boyce observed the board hasn't done anything to help the 555 Bldg. Ms. Ecker listed some of the key issues that the board has talked about over the last couple of meetings such as an improved retail frontage; improved street activation; pedestrian focus and pedestrian scale architecture at the street level on the S. Old Woodward and Woodward Ave. sides; and connectivity improvements - there is no sidewalk along Woodward Ave.

Mr. Rick Rattner, Attorney for the applicants, noted their building is non-conforming and they cannot expand it; all they can do is repair and maintain it. No one will provide a loan to re-skin

a non-conforming structure. If they are going to do anything, they have to make it worthwhile in terms of expansion and improvements. He went on to describe the renovations they are considering.

Mr. Jack Reinhart spoke to say they have owned the building since 1982. They are looking at this as a comprehensive redevelopment and he will not do anything on the south end unless they can go all the way up. He doesn't think it is appropriate to go the BZA as there are too many exceptions to be considered.

Mr. Williams observed everyone agrees they want to create something that is conforming; not non-conforming. In his view, there are deficiencies on the Woodward Ave. (east) side. On the S. Old Woodward (west) side he sees retail too far from the street. On the south side he sees a blank wall. Therefore, from his standpoint three of the four sides of the building are not very good and he would like to see them improve. He thinks somehow the board has to craft something that allows for the development of other parcels on Woodward Ave., but at the same time allows improvements to these three geographic areas.

Mr. Boyle thought the board probably can't do everything that the applicants would like because the City Commission may not approve it all. However if some of the proposal is approved and the project is moved forward, then it will go a long way toward helping the applicants get value from their property and do what they want to do.

Mr. Williams summed up the discussion by saying the board wants to go the conforming route and use the SLUP process to do it. Maybe the applicant won't get everything but they can probably get a substantial achievement through the combination of the new MU classification plus SLUP exceptions for what they get as of right and what they get as a bonus. Ms. Ecker noted that is consistent with what the City does in other districts and what has been approved by the City Commission. This is a methodology gives the Planning Board flexibility. It was the consensus that staff should work on crafting something to that effect, taking the 555 Bldg. separately so that it gets through the City Commission.

In response to Mr. Rattner's inquiry, Ms. Ecker explained they can keep their existing height and renovate to maintain and repair it, but if they want to add more height to the building or bring the building to the south and go up higher, then they would have to get a SLUP if new ordinance language is approved.

## Planning Board Minutes September 9, 2015

# STUDY SESSION Creation of D-5 Zone in the Birmingham Overlay District

Ms. Ecker explained that in order to renovate and expand the existing building, the owners of the 555 S. Old Woodward Building are requesting a Zoning Ordinance amendment to create a new D-5: Downtown Gateway Over Five Stories zoning classification in the Downtown Birmingham Overlay District. The building official previously ruled that some changes in the existing legal non-conforming building may be permitted. The applicant is seeking to rezone the 555 S. Woodward Ave. properties from the existing D-4 Overlay zoning classification to the proposed D-5 Overlay zoning classification, which would essentially render the existing building as a legal, conforming building that could then be renovated and expanded.

At the Planning Board meetings of May 13, June 10, and July 8, 2015 the Planning Board discussed the ways that the building could be modified and improved as a conforming structure and not through the use of variance requests. The board indicated they would like to craft a zoning classification or overlay expansion that allows the 555 Building to be renovated but also mirrors the development standards in the Triangle District which allows a maximum of nine stories. Since that time, the applicant has submitted their revised draft of the proposed D-5 zone.

In accordance with the direction of the City Manager, the board can craft specific questions for the City Attorney and will respond in writing.

Mr. Williams suggested creating a D-5 District for the 555 Building and a D-6 District for other locations which might be nine stories. That would not isolate one parcel; but rather it would be a comprehensive approach. Further it would allow the 555 Building to be improved.

Ms. Ecker explained that the applicant has submitted language that has two different subzones. They are proposing a sub-zone north of Bowers and a sub-zone south of Bowers. South of Bowers (the tall part of the 555 Building) allows 168 ft. and includes the area they want to expand. That would make the existing residential portion of the 555 Building conforming and would allow them to expand. The sub-zone north of Bowers and south of Hazel allows nine stories.

Mr. Share announced he may be okay with making the existing building conforming but not okay with adding an additional 12 stories to it. However, Mr. Koseck thought it would look odd to have a five-story addition scabbed onto the front of the tower.

#### Motion by Mr. Share

## Seconded by Mr. Koseck to extend the meeting to 11:10 p.m.

## Motion carried, 7-0.

Board members suggested having identification signs on the building facade that fronts Woodward Ave. and maybe on the south facade. However, Chairman Clein was nervous about having them on the other facades that look into Downtown and across.

Other aspects of the applicant's submitted language were discussed. The group considered whether it would be feasible to make this building or any building in this condition 100% legally conforming. There are many issues, such as lighting, setbacks, height, uses. Mr. Share said that at some point they approach the problem of spot zoning. Mr. Koseck thought that enhancements and additions should comply with the ordinance. It was agreed that there need to be standards, but that there could be exceptions if certain criteria are met.

The board listed items for the City Attorney's response:

- Does our ordinance create sub-zones with geographic descriptions anywhere else? If we do this do we need to rezone anyway?
- What is the appropriate means to provide exemptions to make non-conformities conforming, other than grandfathering?
- > Look at the language that takes juris from the BZA.

Board members continued to discuss sections of the proposed ordinance language. Consensus of board members was not to allow drive-through facilities without SLUPS and they must be internal. A height of 168 ft. might be okay in some instances to make an existing building conforming, but not necessarily for additions. The board is willing to consider illuminated signs on Woodward Ave. elevations only, and is not willing to allow exemptions that would eliminate pedestrian friendly requirements. Board members also agreed that the southern gateway would be the southern point of the Triangle District.

# Motion by Mr. Share Seconded by Mr. DeWeese to extend the meeting 10 minutes to 11:20 p.m.

#### Motion carried, 7-0.

Mr. Rick Rattner, attorney for the applicant, said that taking variances and assigning them to the Planning Board instead of the Board of Zoning Appeals ("BZA") is a very common method used in PUDs. It is recognized that planning and design control is a lot of what is done in zoning. When variances go to the BZA they are judging the variance by a different standard that has nothing to do with design or form based code. It has to do with whether there is undue hardship or something that necessitates amending the ordinance.

The other thing is he has tried to get the 555 Building in a position where it complies with the 2016 Plan and what Andres Duany said last May. This is an ordinance to put the non-conforming structures into conformance so they can be improved rather than sit there and waste away.

Lastly, the ordinance allows opting in or opting out of the D-4 Overlay District. That could mean something when moving forward to re-do buildings on a form-based code.

## Motion by Mr. Williams

Seconded by Mr. Boyle to schedule a public hearing on the consideration of zoning classification D-5 for Wednesday, October 14.

Board members tended to agree they should feel comfortable prior to putting the new zoning classification before the public. That would make for a more efficient hearing.

## Motion failed, 2-5.

ROLLCALL VOTE Yeas: Williams, Boyle Nays: Clein, DeWeese, Koseck, Lazar, Share Absent: Whipple-Boyce

Chairman Clein wrapped up by saying this matter will be brought back at the next meeting for a study session with direction from the city manager/city attorney and language from staff.

## Joint City Commission / Planning Board Minutes June 20, 2016

# D. Existing commercial non-conforming buildings

Ms. Ecker described the issue as being several properties that are non-conforming with regards to height, bulk and mass. She provided some history of the buildings in question.

After discussion regarding maintenance and renovations that might be permitted, the number of variances that would be required, it was agreed that the discussion should be continued at the Planning Board level, with direction from the Commission.

There were no public comments.

## City Commission Minutes July 25, 2016

#### **Existing Commercial Non-Conforming Buildings**

City Planner Ecker explained that if a review of all the buildings in town was done, one would find something slightly non-conforming on many of the buildings that were built, especially if they were built prior to the sixty's when the zoning ordinance came into effect. She noted specifically buildings such as the Merrillwood Building, Birmingham Place, and the 555 building in regards to the height and bulk of the buildings. She explained that the discussion at the workshop was that there should be some regulation in the zoning ordinance that allows for some maintenance or renovation to those types of buildings when they are already nonconforming.

The City does have that for residential non-conforming now.

Mayor Hoff questioned whether renovation includes expansion as expansion is another issue. Ms. Ecker explained that it would be something for the Board to discuss.

Commissioner DeWeese noted that there are two elements – general language about what anyone could do for non-conformance and language that specifically applied to non-conforming and tell them what limits they can go to. That will give developers an opportunity to not always have to get exceptions.

Mayor Pro Tem Nickita commented that this is an issue that the Commission wants to address. He questioned if the City is looking at identifying a district or a series of buildings throughout the City. Ms. Ecker explained that this is to establish a procedure where if there was a nonconforming building in the City and whichever way it is non-conforming, it would give the owner a way to make changes to modernize that building.

#### **MOTION:** Motion by DeWeese, seconded by Bordman:

To review the non-conformance provisions pertaining to commercial buildings to provide specific requirements, considering a new zoning category or categories, that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures.

Jerry Reinhart, representing the 555 Building, suggested this item be moved to the top of the priority list.

VOTE: Yeas, 7

Nays, None Absent, None

#### Planning Board Minutes September 14, 2016

## 2. Non-Conforming Building Regulations

Ms. Ecker provided background. This is also at the top of the board's revised Priority List. She recalled that last year, the owners of the 555 S. Old Woodward building applied to the Planning Board to amend the Zoning Ordinance to allow the renovation of the existing building, the addition of new residential units along S. Old Woodward, as well as an addition to the south of the existing residential tower for new retail space and residential units. The Building Official had previously ruled that some changes to the existing legal non-conforming building may be permitted. However, the scale and scope of the changes that the property owner sought to implement would exceed what would be permitted as maintenance and thus were not permitted in accordance with the legal non-conforming regulations contained in the Zoning Ordinance.

In order to renovate and expand the existing building, the owners of the 555 S. Old Woodward building requested a Zoning Ordinance amendment to create a new D-5 Downtown Gateway Over Five Stories zoning classification.

At subsequent Planning Board and City Commission meetings, the ways that the building could be modified and improved as a conforming structure and not through the use of variance requests was discussed.

On July 25, 2016 the City Commission directed the Planning Board to review the nonconformance provisions pertaining to commercial buildings to provide specific requirements, considering a new zoning category or categories that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures.

Ms. Ecker advised the 555 Bldg., Birmingham Place, and Mountain King are the only properties in the City that are zoned B-3 in the underlying zone. She suggested an option that would amend the regulations for height and setback similar to what they were when the buildings were approved. Mr. Williams wanted to limit the focus on just the 555 Woodward Bldg. as he thinks it needs to be approved.

Ms. Ecker noted this option would allow the applicant to have a conforming status and apply for financing to do an expansion and improvement on the building. It would allow them to do an addition to the south and come to zero setback, and to go up to match the height of the building that is there. What it would not do is force them to address the issue of the garden level or the dead zone along Woodward Ave. However, it would permit them to address that.

Mr. Koseck was in favor of allowing the building to continue to be updated but that doesn't mean it should be permitted to grow. Any add-on to the south would have to meet the current Ordinance.

Mr. Rick Rattner, Attorney for the property owner, gave a PowerPoint presentation requesting to amend the Downtown Birmingham Overlay District to provide that the property be permitted to accommodate a building at the existing height of the 555 structures as they exist today. The building was completed in 1972 and after construction the Ordinance was amended and the building was de-zoned, which prevents any room for renovation. The solution is easy. Just

amend the B-3 Ordinance to what it was to say that the <u>maximum building height</u> is 168 ft. and 14 stories. Secondly, allow them to have the <u>same type of setbacks</u> that are allowed in the Overlay District.

They want to make the east side of the building that faces the Triangle District presentable. They also want to do that to the west side, which is not so much of a problem. It is a tragedy that this building is not conforming and doesn't have the advantage of modern setbacks. Ms. Ecker explained modern setbacks. In the Overlay, front building facades at the first story shall be located at the frontage line except that the Planning Board may adjust the required front yard to the average front yard setback of any abutting building. The frontage line has been determined to be on or within 3 ft. Side setbacks shall not be required. A minimum of 10 ft. rear setback shall be provided from the mid-point of an alley except that the Planning Board may allow this setback to be reduced or eliminated. In the absence of an alley the rear setback shall be equal to that of an adjacent pre-existing building.

Discussion concerned whether B-3 zoning that allows Birmingham Place and Mountain King to reach 168 ft. in height would be a hard sell to the public. The conclusion was they could not sell it on more than one piece of property. Mr. Williams proposed they go back to a previous zoning for the 555 Building that existed 45 years ago. He didn't think it should include any other property. Because of that they would not be making a special case for this building in the form of spot zoning. The legal argument is that it would be remedying a wrong.

Mr. Jerry Reinhart, the developer, said that for financing purposes and for preservation of value they want the entire property to be conforming. De-zoning has impacted the value of their asset and they are asking for proper zoning. Ultimately they want to expand the property to do some really cool things that would make it the gateway building to Birmingham. His suggestion was to allow any building in B-3 now and into the future to have building height at the height that was permitted at the time the building was constructed. So they have an existing conforming use; if they expand the building then they have to conform to D-4 setback requirements. That brings them to the lot line.

The board's dilemma was they want buildings to be at zero lot line, but not at 144 ft. which is the tallest building. The applicant wants the building to be entirely conforming. The board's consensus was to ask staff to meet with the applicant to craft steps to make these buildings conforming in the Overlay for both height and setbacks. That means future construction would comply with the existing Overlay which allows five stories.

# PLANNING BOARD MINUTES SEPTEMBER 28, 2016

## STUDY SESSION ITEMS

# 1. Non-Conforming Building Regulations

Ms. Ecker provided background. On September 14, 2016, the Planning Board resumed their discussion regarding legal non-conforming buildings. After much consideration, the Planning Board directed Planning Staff to meet with the applicant for the 555 Building to craft ordinance language that would make existing buildings downtown conforming with regards to both height and setbacks, and to allow future expansion that would comply with the standards of the D-4 Overlay.

Proposed draft ordinance language addresses the improvement of commercial buildings throughout the City, and also specifically addresses the legal, non-conforming status of three buildings downtown.

The applicant agrees with the approach first to create a D-5 Zone, and second to recommend rezoning of one or more properties into the new D-5 category. This would allow the board to have further discussion on whether they want it to be the 555 Building property, or include the Birmingham Place and the Merrillwood Building, which are also non-conforming with regard to height.

Chairman Clein summarized that the language would make any property that is put into the D-5 Zone legal and conforming as to height and setback. It would allow expansions as part of building maintenance. Undeveloped portions of the property could be built upon so long as it meets the D-4 Overlay standards. The south side of the 555 Building still needs to be resolved.

Mr. Williams did not agree with limiting the south side to five stories. However, anything built above five stories would require a Special Land Use Permit ("SLUP"). Mr. Share was in favor of tying all of the expansions to a SLUP. Chairman Clein felt the D-4 controls are in place and any expansion must conform. Mr. Share thought the City should have some control over how changes get made. Mr. Koseck liked the SLUP because it allows the City to control the design to meet the spirit and intent of the D-4 Zone. Mr. Jeffares agreed.

It was noted that parking would have to be provided for any expansion because the building is not in the Parking Assessment District.

Mr. Williams observed it is in everyone's best interest to see the building improved so the City will be reasonable whether or not there is a SLUP. He feels the developer needs some flexibility, particularly at the south end. Mr. Koseck pushed for the SLUP because of the complexity that surrounds the building.

Ms. Ecker thought it could be recommended that any new buildings must be constructed under the terms of a SLUP.

Mr. Richard Rattner, Attorney, represented the applicant. He said they are almost there with allowing the 555 Building to be conforming in all respects. Secondly, the proposed expansion language is fine. Third, they would like to see the height of a new building being constructed in the D-5 Zone be up to but not exceeding the height of the building immediately adjacent or abutting it. That means the south building cannot be any higher than the 555 Building. They would like to do that without a SLUP.

Parking is not a problem for them and any new building would have parking also. With Mr. Currier's involvement, Mr. Rattner thought this will turn out to be a great package to send to the City Commission. He doesn't think a SLUP is needed because there are ordinances to control the first five floors, and above that the new building will be controlled.

Mr. Jerry Reinhart, Contract Developer, said their concept was to cap the buildings that are over five stories at their current height and to make all three buildings conforming. With respect to the 555 Building they cannot do the project on the south end unless the City wants it. They don't have the real estate to do it without involving public property. With respect to the construction on the east and west of the building, it gets complicated with a SLUP. They would just like to build on the existing real estate in accordance with the D-4 Overlay Ordinance.

Mr. Koseck stated if it is not going to be a SLUP than the board has to establish some criteria for expansion of the building. He suggested if the applicant exceeds the D-4 Ordinance in height then that whole expansion from grade up becomes a SLUP. Board members discussed the following language:

# D-5 Zone (over five stories)

a. All existing buildings located in the D-5 Zone on \_\_\_\_\_\_ are deemed legal, conforming buildings.

b. All existing buildings located in this zone district on \_\_\_\_\_ may be extended or enlarged only if the Property Owner elects to develop the extended or enlarged portion of the building under the provisions of the Overlay and the extension or enlargement meets all of the requirements of the Downtown Birmingham Overlay District and the D-4 Zone.

c. The height of any addition and new construction in the D-5 Zone may be up to, but not exceed, the height of existing buildings in the D-5 to which they are immediately adjacent or abutting if the property owner agrees to the construction of the building under the provisions of a SLUP. Mr. Rattner summed up what had been discussed. Everything five stories and below on the existing building is built pursuant to the D-4 Overlay standards without a SLUP. The whole parcel becomes a SLUP when it is expanded above the five stories. He asked if they could elect to go to a SLUP in order to have some design flexibility. Or, whether the Planning Board could be allowed to waive certain requirements.

Ms. Ecker replied that question would have to go to Mr. Currier.

Board members agreed to add this item to the agenda for the October 26 Planning Board meeting. Mr. Williams observed that he would like to have Mr. Currier present for that meeting.

## CITY OF BIRMINGHAM REGULAR MEETING OF THE PLANNING BOARD WEDNESDAY, OCTOBER 26, 2016 City Commission Room 151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on October 26, 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; Alternate Board Member Daniel Share; Student Representative Colin Cousimano (left at 9 p.m.)
- Absent: Board Member Bryan Williams; Alternate Board Member Lisa Prasad
- Administration: Lauren Chapman, Asst. Planner Jana Ecker, Planning Director Carole Salutes, Recording Secretary

#### 10-180-16

#### UNFINISHED BUSINESS

#### 1. 555 S. Old Woodward Ave. (555 Building)

#### Request to amend Zoning Ordinance to render existing buildings legal, conforming structures and to permit additions and renovations

Ms. Ecker offered background. In order to renovate and expand the existing building, the owners of the 555 S. Old Woodward building have requested a Zoning Ordinance amendment to create a new <u>D-5: Downtown Gateway Over Five Stories</u> zoning classification in the Downtown Birmingham Overlay District. The proposal was to seek rezoning of the 555 S. Old Woodward properties from the existing D-4 Overlay zoning classification to the proposed D-5 Overlay zoning classification, which would

essentially render the existing buildings at 555 S. Old Woodward as legal, conforming structures and would allow for an addition at the south end that could go up to a height equal to the height of the building that exists now on the southern (residential) portion.

On September 28, 2016, the Planning Board discussed draft ordinance language that proposed to create a D-5 Zone District that would render existing buildings legal and conforming with regards to setback and height. Board members agreed that additions or renovations should be permitted to existing buildings. The consensus of the board was to allow additional height for new buildings in the D-5 to match existing adjacent buildings if the new building was constructed under the provisions of a Special Land Use Permit ("SLUP"). Presently the non-conformity section of the ordinance allows for non-conforming residential buildings to be altered, but it does not allow for non-conforming commercial buildings to be altered. So the proposal is to simply say that non-conforming buildings could be expanded in accordance with the regulations.

Ms. Ecker advised she did forward the Planning Board's request for review to the City Attorney. The City Attorney has advised that the question of whether the Planning Board can waive specific requirements is not a legal question, but rather a

policy question. Ultimately, the City Commission has the sole authorization to pass zoning legislation, with or without waivers, so long as they remain in compliance with the Michigan Zoning Enabling Act.

Mr. Share thought the ordinance should say that a height difference as well as other differences above five stories are allowed subject to a SLUP. As it reads now you can go higher, but not wider for example on stories six, seven, or eight, SLUP or not.

Ms. Ecker went on to say the applicant has submitted revised ordinance language with changes with regards to a request to potentially adjust the maximum height of a new building being placed on the site to exceed the height of existing adjacent buildings in the same zone district.

Mr. Richard Rattner, Attorney, 380 N. Old Woodward Ave., presented a PowerPoint. He said the draft ordinance proposed by the City allows the property owner to build up to the same height as an existing, abutting building in the D-5 Zone. However, they suggest that if the height remains the same it would be unfair because they could not reach the same number of stories. Modern buildings allow more room between the floors. Also, antenna and other appliances at the top could not be hidden. Therefore, they would like to have the opportunity to go 10% higher.

Ms. Ecker observed that an extra 10 ft. in addition to the building height is allowed to screen mechanical and associated equipment.

Mr. Koseck cautioned that the board should be careful not to look at a design rendering and form an opinion based on that design. Ms. Whipple-Boyce agreed. She can't imagine going to 110% when there is the ability to appeal to the Board of Zoning Appeals ("BZA"). Further, an extra 10 ft. in height is allowed to cover mechanical.

Ms. Ecker advised that Mr. Johnson suggested in the draft ordinance, section 3.04 subsection 4 (a) buildings are deemed legal, conforming with regards to setbacks, <u>number of stories</u> and height. Another possibility he suggested is that instead of creating a D-5 Zone, move the proposed language into Article 6, the nonconformity section, and say it would apply to all buildings in the Overlay. Board members expressed their opinion that doing so would open up the potential for a number of unintended consequences. Board members did not support this.

Chairman Clein asked for comments from members of the public at 8:05 p.m.

Mr. Marshall Fry, a property owner in Birmingham, asked what a D-5 Zone is and Ms. Ecker explained it is a new Downtown Overlay, five stories or more, that is being considered for application to one or more properties within the Downtown.

Mr. Rattner clarified they are not asking for more stories; they are asking for the same number of stories. Mr. Koseck noted that no one has ever talked about making a taller building than the 555; this was only about bringing it into conformance.

Ms. Ecker said in the past they have discussed a rezoning of three properties, the 555 Buildings; Birmingham Place, 411 S. Old Woodward Ave.; and/or the Merrilwood Building, 225 E. Merrilwood, to the proposed D-5 Zone (over 5 stories). In response to the chairman, she said the owners of these properties have not contacted her about being included.

Mr. Jerry Reinhart indicated he is an owner of 411 S. Old Woodward Ave. as well as the 555 Building. He thought that to apply the law uniformly across all of the non-conforming uses makes a lot of sense. It should be a policy issue, not a developer specific issue.

Board members indicated they have not studied the other properties with regard to setback, number of stories and height like they have the 555 Building. There was disagreement as to whether the board can move forward without the other owners being contacted. Ms. Ecker then stated she would contact them directly. Chairman Clein said he would be comfortable moving forward to a public hearing if the owners are notified.

#### Motion by Mr. Share

Seconded by Mr. Koseck to set a public hearing on December 14, 2016 for the proposed D-5 Ordinance, section 3.04 (4) with changes to the existing language in (a) adding <u>number of stories</u> between setbacks and height. Secondly, revising section (c) to include enlargements in the areas above the D-5 height limit, subject to Planning Board approval and a SLUP. Section 6.02 will remain as presented.

There was no public discussion at 8:20 p.m.

#### Motion carried, 7-0.

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

# DRAFT MINUTES OF THE REGULAR MEETING OF THE PLANNING BOARD WEDNESDAY, DECEMBER 14, 2016 City Commission Room 151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on December 14, 2016. Chairman Scott Clein convened the meeting at 7:31 p.m.

- **Present:** Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Lisa Prasad; Student Representative Colin Cousimano (left at 9 p.m.)
- Absent: Board Member Gillian Lazar; Alternate Board Member Daniel Share
- Administration: Matthew Baka, Sr. Planner Jana Ecker, Planning Director Carole Salutes, Recording Secretary Mike Morad, Building Inspector Scott Worthington, Asst. Building Official Jeff Zielke, Building Inspector

# 2. To consider the following amendments to Chapter 126, Zoning, of the Code of

# the City of Birmingham:

TO AMEND ARTICLE 3, DOWNTOWN BIRMINGHAM OVERLAY DISTRICT, SECTION 3.04, TO CREATE A NEW D-5 ZONE AND TO ESTABLISH DEVELOPMENT STANDARDS FOR THIS DISTRICT;

TO AMEND ARTICLE 6, NONCONFORMANCES, SECTION 6.02, TO ALLOW FOR THE EXTENSION AND/OR ENLARGEMENT OF EXISTING LEGAL, **NON-CONFORMING COMMERCIAL BUILDINGS**;

# AND

# To consider the rezoning of the following properties:

- (a) **555 S. Old Woodward** (555 Office and Residential Buildings) from D-4 in the Downtown Overlay to D-5 in the Downtown Overlay;
- (b) **411 S. Old Woodward** (Birmingham Place) from D-4 in the Downtown Overlay to D-5 in the Downtown Overlay; and
- (c) **225 E. Merrill** (Merrillwood Building) from D-4 in the Downtown Overlay to D-5 in the Downtown Overlay.

The Chairman opened the public hearing at 7:53 p.m.

Ms. Ecker recalled that on October 26, 2016 the Planning Board set a public hearing for December 14, 2016 to consider Zoning Ordinance amendments with the goal of bringing several non-conforming buildings in Birmingham into compliance. The proposed ordinance amendments would add a new D-5 classification to the Downtown Overlay Zone which would allow buildings that are currently non-conforming to be considered legal and conforming in regards to setbacks, number of stories, and height. The new D-5 Zone would also allow any new buildings or additions to existing buildings in the D-5 if the owner elects to develop the extended or enlarged portion under the provisions of the Downtown Overlay. They could go higher than five stories if they enter into a Special Land Use Permit ("SLUP") arrangement with the City.

# Motion by Mr. Williams

Seconded by Mr. Koseck to recommend approval to the City Commission the following amendments to Chapter 126 Zoning:

a) Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D-5 Zone and to establish development standards for this district;

(b) Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming

commercial buildings;

# AND

To recommend approval to the City Commission the rezoning of the following properties:

- (a) 555 S. Old Woodward (555 Office and Residential Buildings) from D-4 in the Downtown Overlay to D-5 in the Downtown Overlay;
- (b) 411 S. Old Woodward (Birmingham Place) from D-4 in the Downtown Overlay to D-5 in the Downtown Overlay; and
- (c) 225 E. Merrill (Merrillwood Building) from D-4 in the Downtown Overlay to D-5 in the Downtown Overlay.

Chairman Clein called for comments from members of the public at 7:58 p.m.

Mr. Paul Reagan received confirmation that surrounding property owners have been properly notified. He asked if the additional parking requirements have been studied and what plans have been made for the additional parking. He proposed that the residents really don't understand what is being considered.

Mr. Rick Rattner, 380 N. Old Woodward Ave., said he represents 555 N. Old Woodward Ave. and agrees with the motion.

Mr. Eric Wolf, 393 E. Frank, thought that parking is a major issue. Ms. Ecker explained there is a duty of continuing compliance for parking. If additions are made, they would have to meet certain circumstances and additional parking would have to be provided on-site for residential. Commercial would not because the buildings are in the Parking Assessment District.

## Motion carried, 7-0.

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

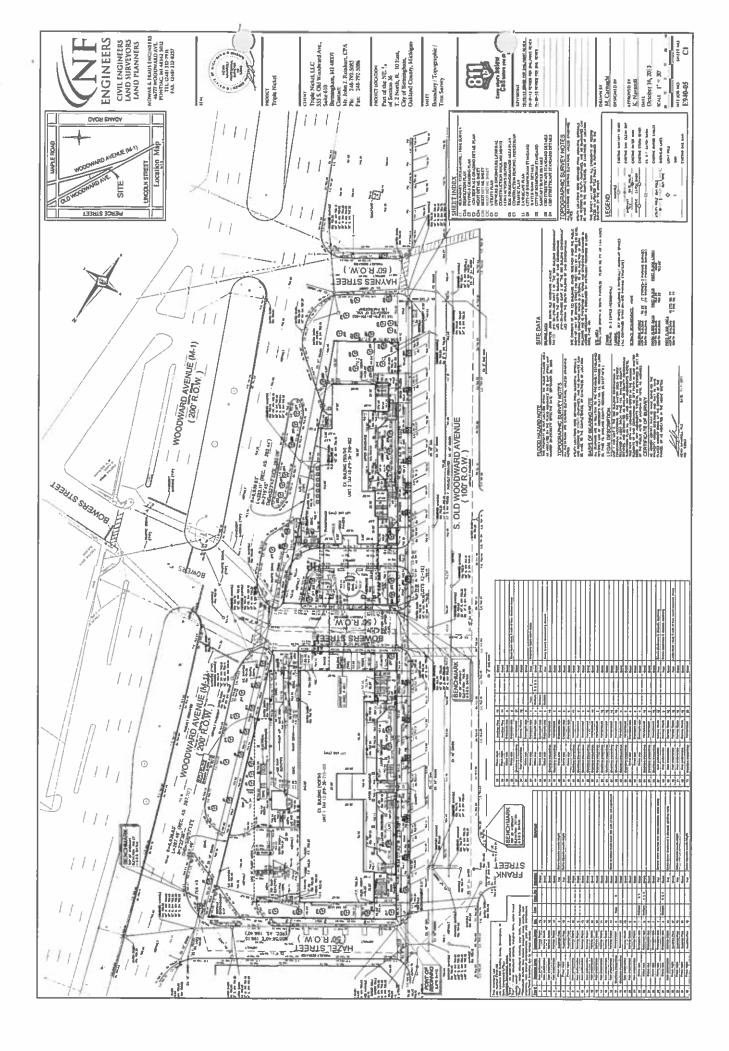
The Chairman closed the public hearing at 8:02 p.m.

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	APPLICATION FOR ZONING MAP Birmingham, M		
<u>TO 1</u>	THE CITY COMMISSION:	DECEIV	
The	undersigned hereby makes application to the Cit	y Commission to: APR 2 4 201	5
1.	Zoning Map Change:	CITY OF EIRMINGHA	
	Change premises described as:	COMMUNITY DEVELOPMENT DE	PARTMENT
	555 South Old Woodward, Birming	ham, MI 48009	
	No. Street		
	Legal Description	Downtown ( from its present zaning	Overlay District
	classification of D-4	a New Downtown Overlay to <u>Classification of D-</u> 5	
	A sealed land survey showing location, size of the lot to scale must be attached.	of lot and placement of building (if	any) on
2.	See attached proposed Downtown ( Change premises described as: Downtown ( N/A No. Street Legal Description	Overlay Zone Text and Let Overlay Gateway District	D-5
		from its present zoning	
	classification oft A sealed land survey showing location, size of the lot to scale must be attached. Statements and reasons for request or other d	of lot and placement of building (if	any) on
	Signature of Applicant:		
	Print Name: John J. Reinhart, Manag 555 Residential, LLC	ger Tartan Management, Lt	d., Managing Member of
	Name of Owner: 555 Residential, LI	LC	- Provide State
	Birming	uth Old Woodward, Suite 6 gham, MI 48009 645-1191	510 e 04/24/2015 4:08:53 anatatos anatatos atratatos 510
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### LEGAL DESCRIPTION

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UNIT 1 AND UNIT 2, THE 555 BUILDING CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE MASTER DEED THEREOF, RECORDED IN LIBER 39634, PAGE 142, OAKLAND COUNTY RECORDS, AND DESIGNATED AS OAKLAND COUNTY CONDOMINIUM SUBDIVISION PLAN No. 1955 AND ANY AMENDMENTS THERETO, TOGETHER WITH AN UNDIVIDED INTEREST IN THE COMMON ELEMENTS OF SAID CONDOMINIUM AS SET FORTH IN SAID MASTEF DEED, AND ANY AMENDMENTS THERETO, AS DESCRIBED IN ACT 5 OF THE PUBLIC ACTS OF MICHIGAN OF 1978, AS AMENDED.

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September 30, 2015

Ms. Jana Ecker Planning Department *City of Birmingham* 151 Martin Street, P.O. Box 3001 Birmingham, MI 48012-3001

#### Re: September 23, 2015 Planning Board Question Regarding Proposed D-5 Zone In Downtown Overlay

Dear Ms. Ecker:

I am in receipt of your email dated September 23, 2015 which contained the Planning Board meeting questions from September 9, 2015. Those questions and the answers are as follows:

1. Does our Zoning Ordinance create sub-zones with geographic descriptions in the ordinance language anywhere else (ie. area north of Bowers, area south of Bowers in proposed draft)? If we do this do we need to rezone those properties anyway?

**ANSWER:** The Birmingham Zoning Ordinance does create sub-zones with respect to the zoning map. In fact, the Downtown Overlay has four sub-zones. However, it does not create the sub-zones in the language or text of the Zoning Ordinance. Nevertheless, the creation of sub-zones by use of the map is just as effective. When the ordinance language creates a zone by geographic description, the map should also be amended so they are consistent.

2. What is/are the appropriate means to provide exemptions to make non-conformities conforming, other than grandfathering?

**ANSWER:** When a property becomes legal non-conforming due to a Zoning Ordinance change, it stays as such until the zoning is changed which it brings back into conformance, or the property itself is brought into conformance with the existing Zoning Ordinance. Grandfathering non-conforming property only categorizes that it is a legal non-conforming use. Grandfathering does not make it conforming.

The only way to make a non-conforming property conforming is to amend the ordinance to eliminate the non-conformities.

3. Look at the language (in the draft ordinance proposed) that takes juris from the BZA.

## Beier Howlett

Ms. Jana Ecker September 30, 2015 Page 2

**ANSWER**: A waiver is not a variance. We have other ordinances that contain waiver provisions such as the Subdivision Ordinance (102-4). Waivers are used in ordinances as part of the planning process where it is identified that certain requirements may cause unnecessary difficulties or in the case of the proposed ordinance, "impose unreasonable burdens" based on certain conditions that may exist. This does not take jurisdiction from the BZA on other matters not related to the waiver.

I hope the foregoing is helpful.

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



Fax: (248) 642-0856

Richard D. Rattner

rdr@wwrplaw.com

Williams Williams Rattner & Plunkett, P.C. Attorneys and Counselors 380 North Old Woodward Avenue Suite 300 Birmingham, Michigan 48009 Tel: (248) 642-0333

September 9, 2016

Planning Board City of Birmingham 151 Martin Street Birmingham, MI 48009

> Re: Proposal to accommodate properties with existing buildings in the Downtown Birmingham Overlay District higher than five stories and provide that the existing structure height is in conformance with the Downtown Birmingham Overlay District Ordinances

Dear Members of the Planning Board:

The property owner of 555 South Old Woodward ("Property Owner") makes a very simple request to amend the Downtown Birmingham Overlay District to provide that the property owned by this Property Owner ("Property") be permitted to accommodate a building at the existing height of the 555 structures as they exist today.

This Property Owner has been petitioning the City, in one form or another, for over three years to make significant improvements to the Property. But because the buildings are over five stories, they are nonconforming structures and can only be repaired and maintained. This nonconforming status is a real injustice to the Owner of this building. This unfair condition can be remedied by simply amending the ordinance to recognize the existing height limitations for buildings on this Property in the Downtown Birmingham Overlay District not exceed current building height. The same problem exists for any other building in the Downtown Birmingham Overlay District that exists at a height of over five stories.

The history of how this injustice occurred, and how this building and others were in effect "de-zoned" is fully explained in the attached letter, dated June 16, 2016, which was sent to the City Commission to be discussed at the workshop session of the City Commission and Planning Board which took place on June 20, 2016. The comments at the workshop session recognized the injustice and, after reading the attached letter, it was the consensus of the group that this is a situation that should be corrected.

This Property Owner implores the Planning Board to make a simple change to the zoning ordinance so that the height of the 555 buildings be deemed to be in conformance with the zoning ordinance for the Property owned by this Property Owner.

Planning Board City of Birmingham September 9, 2016 Page 2

## WWRP

After the several years of attempts to amend the Downtown Birmingham Overlay District to treat fairly and justly existing heights of buildings, the time to act is now. If no action is taken at this time in an effective and expeditious manner, this major structure and others in the Downtown Birmingham Overlay District are doomed to a nonconforming status which materially limits the possibility of significant improvement to the buildings and the Property. This improvement is not just limited to design, planning and theoretical form-based code architectural nuances, but structurally, without any change in the ordinance constitutes a detriment to the health safety and welfare of this community. A review of the letter of June 16, 2016, attached hereto, and the exhibits attached to that letter clearly traces the history of this zoning injustice for your review.

The Property Owner of 555 proposes that the Planning Board at this study session move forward as quickly as possible to make a simple amendment to the ordinance so that the height of the structures on the Property be deemed a conforming height in the Downtown Birmingham Overlay District.

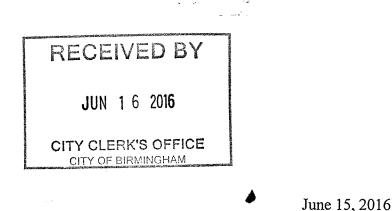
Respectfully submitted,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

/ Richard D. Rattner Attorney for Property Owner

RDR/cmc Enclosures

# Attachment 1



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

City of Birmingham City Commission 151 Martin St. Birmingham, MI 48009

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Re: Proposal for new D5 Downtown Birmingham Overlay District Zone

Dear Members of the City Commission:

Please accept this letter from the property owner ("Property Owner") of 555 South Old Woodward ("Property") as a letter in support of efforts to create a new D5 Overlay Zone in the Downtown Birmingham Overlay District.

#### **Executive Summary**

The office and residential buildings located on the Property (collectively, the "555 Building") and other buildings of over five stories in the Downtown Overlay District are legal nonconforming structures. This nonconformity is due to the fact that the City of Birmingham Zoning Ordinance ("Zoning Ordinance") in effect when these taller buildings were constructed was amended to limit the height of all new structures. The 555 Building was constructed in the early 1970's, and this amendment was enacted shortly after the construction of the 555 Building. Today, the maximum building height allowed in the City is 5 stories. The 555 Building is 15 stories. Other buildings in the downtown area are taller than 5 stories. Because of this legal nonconforming status, the property owners of some of the City's most prominent buildings are prohibited from renovating, remodeling, expanding or otherwise improving their property. Rather, these owners are limited to maintenance and repair projects. Simply stated, these important structures do not fit into any zoning district, and have effectively been "de-zoned." This "de-zoning" is not reasonable, is unfair to the property owner and causes detriment to the health, safety and welfare of the community in general.

Specifically, the 555 Building is the tallest building in the City and is prominently located at, and the symbol of, the southern gateway to downtown Birmingham. Any such property in this City should be subject to a reasonable Zoning Ordinance that permits appropriate improvements to be made to the existing structure as a "permitted" structure rather than as a "nonconforming" structure.

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The introduction of a new D5 Overlay District that permits a building height consistent with the existing structures in the City, and that otherwise amends the Zoning Ordinance to accommodate the reasonable requirements of taller structures, can remedy the unreasonable and unrealistic conditions caused by the current Zoning Ordinance.

#### Zoning History/Context

A review of the history surrounding the time at which the 555 Building was conceived and constructed is instructive. After a review of the minutes of the City Commission over a fouryear period starting in 1969, it is clear that the City of Birmingham was considering a change of ordinances for development of the downtown area. It should also be noted that this period of time is before the modern 2016 Plan was created in the 1990s. However, in 1972 the Zoning Ordinance was amended to allow a maximum height of 144 feet, and the 555 Building was constructed in compliance with that Ordinance. (See Exhibit A attached) Unfortunately, after the 1972 amendment, the Zoning Ordinance was amended to reverse course and reduce the maximum height allowable in the downtown. In 1977 the Zoning Ordinance was amended to lower the maximum height to 90 feet. (See Exhibit B attached) In 1986 the maximum height was further amended to 60 feet. (See Exhibit C attached) These last two amendments were passed without regard to, and in spite of the existence of significant tall buildings in the City. These amendments ignored the obvious problems that the nonconforming category created for the property owners of existing developments. In fact, these lower maximum height amendments created, and continue to create, such a myriad of encumbrances for the property owners, that it can fairly be said they not only "down zoned", but actually "de-zoned" properties such as the 555 Building.

Unfortunately, this unfair situation continues to inhibit any reasonable development of these taller structures. This problem, inherited from these prior Ordinance amendments, has not yet been remedied. Property owners of taller structures are still not allowed a fair and reasonable opportunity to improve their respective properties as a permitted structure under a modern Zoning Ordinance. By contrast, other property owners in the City and the Downtown Birmingham Overlay District have benefitted by the addition of the implementation of modern urban planning principals of the 2016 Plan. It is the goal of the Property Owner of the 555 Building to be treated the same as other property owners in the City, and be afforded the same rights and privileges as those property owners. The solution to this problem is to amend the Zoning Ordinance to include a the proposed D5 Overlay Zone, which accommodates buildings like the 555 Building, and recognizes these structures as "permitted" structures, not as legal nonconforming structures.

Below is an outline of the minutes from prior City Commission Meetings containing summaries of matter discussed and voted upon relative to the amendment to the B-3 Ordinance

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allowing the 144 foot maximum height.

	Date	Action
1.	3/31/1969	City Commission instituted moratorium on issuance of building permits in the B-2 and B-3 Zoning Districts
2.	7/28/1969	City Attorney recommended clarification of City Commission's intent regarding the building permit moratorium
3.	8/11/1969	Planning Board delivered report to City Commission which proposed the B- 1A Office Residential Zoning District
4.	8/25/1969	Public hearing re proposed B-1A Zoning District
5.	9/15/1969	City Commission conducted adjourned public hearing regarding proposed B-1A Zoning District. City Commission voted to reject amendment to Zoning Ordinance creating new Zoning District
6.	11/10/1969	Joint report received from City Manager and Planning Director re proposed change in Zoning Ordinance pertaining to business classifications and eight requirements
7.	11/24/1969	City Commission received preliminary drafts of 2 proposed amendments to Zoning Ordinance from Legal Advisor
8.	1/12/1970	City Commission conducted public hearing on 2 proposed amendments. Significant opposition was provided to City Commission in correspondence and in person
9.	3/9/1970	An additional report was received by the City Commission from the City Manager and the Planning Director regarding the amendments to the Zoning Ordinance
10.	4/13/1970	City Commission conducted an adjourned public hearing regarding the proposed amendments
11.	4/20/1970	City Commission conducted a further adjourned public hearing regarding the proposed amendments. The City Commission voted to amend the Zoning Map and to lift the building permit moratorium. The substantive amendments were rejected by the City Commission
12.	7/6/1970	The Planning Director reported to the City Commission that the Planning

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		Board completed its study on a new B-3 Zoning District
13.	9/28/1970	The City Commission received a report from the City Manager and Planning Director regarding a new proposed B-3 Office-Residential Zoning classification. This new proposed classification would apply to the Ann Street Area, between Brown and Lincoln and between Hunter and Woodward.
14.	10/19/1970	City Commission conducted public hearings on proposed B-3 Zoning Classification and amendment of Zoning Map. City Commission voted to reject both. City Commission again voted to lift the moratorium.
15.	11/2/1970	The City Commission received another report from the City Manager and the Planning Director containing a revised proposal for creating a B-3 Office-Residential Zoning District Classification.
16.	7/26/1971	The City Commission received a report from the City Manager and Planning Director advising that the Planning Board has taken action to place the South Woodward – Ann Street are on high priority for study.
17.	3/13/1972	City Commission considered written correspondence from Fischer Buick regarding property bounded by Woodward, Hunter, Hazel and Haynes. Such property was being developed by Jerome Rogers.
18.	4/24/1972	City Commission received a report from the City Manager and the Planning Director regarding a proposed B-3 Office Residential ordinance.
19.	6/5/1972	City Commission conducted a public hearing on the proposed amendment created a new B-3 Office Residential Zoning District. During the hearing, Mayor Page referred to the proposed amendment and prospect of developing the South Woodward area as "upgrading the usage of the land" The City Commission passed the amendment by a 4-3 vote.
		***
		The City Commission voted to rezone Assessor's Plat No. 13, Lots $1 - 17$ in the new B-3 Zoning District. This includes the "southerly portion of the

The City Commission voted to rezone Assessor's Plat No. 13, Lots 1 – 17 in the new B-3 Zoning District. This includes the "...southerly portion of the blocks bounded by Brown, Hunter, Haynes and Woodward..."

The then-owner and developer of the Property commenced construction of what would become the 555 Building. The construction would take a few years to complete.

Eventually, as referenced above, the B-3 Office-Residential Zoning District Ordinance was amended to today's standards, that is, among other things, to reduce the maximum allowable

W W R P

height to 60 feet, as follows:

- 5 stories (multiple-family)
- 60 feet (ground floor commercial with four stories of residential above)
- 5 stories (ground floor commercial with four stories of multiple-family above)
- 40 feet (buildings without multiple-family)
- 3 stories (buildings without multiple-family)

Even more recently, the City Commission amended the Zoning Ordinance to conform to the 1996 Downtown Birmingham 2016 Plan (the "2016 Plan"). This significant amendment included the creation of the Downtown Birmingham Overlay District and the D-1, D-2, D-3 and D-4 Zones. The Subject Property is located in the D-4 Zone.

Section 3.02 of the Zoning Ordinance contains all of the regulations for development in the Downtown Birmingham Overlay District. If the 555 Building were to be built today, assuming no variances were obtained, and the regulations for the D-4 Zone were strictly observed, the building would be subject to the following height requirements:

- a. Eave line shall be no more than 58 feet.
- b. Peak or ridge of any sloped roof shall be no more than 70 feet as measured to the average grade.
- c. Maximum overall height including mechanical and other equipment shall be no more than 80 feet.
- d. The fifth story is permitted if it is used only for residential.
- e. All buildings containing a fifth story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.
- f. The fifth story shall continue in a different plane, beginning at the eave line, no greater than 45 degrees measured to the horizontal or set back 10 feet from any building facade.
- g. All buildings constructed in the D4 Zone must contain a minimum of 2 stories and must have a minimum eave height of 20 feet.

In summary, the Zoning Ordinance does not allow for the construction of the 555 Building today, and worse, it abandons the 555 Building and other taller buildings to a category of legal nonconforming structures.

WWRP

#### The Birmingham of 2016

Multi-story buildings are, and will continue to be, part of the City. In order to have an orderly, beautiful, well-preserved city, these buildings must be in a proper zone so they can be improved, remodeled and updated as contemplated by the 2016 Plan. These buildings cannot survive with the type of artificial restrictions that unreasonably prohibit development and limit physical work to a "maintenance and repair" standard.

The proposed D-5 Zone, generally, would allow the current heights of the buildings that will be part of the zone and provide for other changes so that the Zoning Ordinance mirrors the existing facts of development in the City. The Property Owner simply wants to update the iconic 555 Building, the southern gateway to the City, so that it portrays the image of the City of Birmingham.

The changes that the Property Owner plans for the Property are also necessary to bring the 555 Building into compliance with the Downtown 2016 Plan. Other than the most basic of repairs and maintenance, under the current Ordinance and due to the legal nonconforming status of the 555 Building, the Property Owner is unable to do anything to the 555 Building without applying for and navigating through the variance process. This circumstance is not one that can be cured by the granting of variances. The variance procedure is not a substitute for a badly needed revision to the Zoning Ordinance. In this case, an orderly, fair and reasonable development demands that the Zoning Ordinance be amended and updated to include the 555 Building and other taller structures in the City.

The Property Owner has worked extensively and very closely with the Panning Board, Design Review Board, Building Official and the Planning Department with respect to the proposed D-5 amendment. A number of Study Sessions have been conducted by the Planning Board. The amendment itself as proposed by Property Owner consists of a modest number of text changes.

#### **Conclusion**

It is time for the Zoning ordinance to be changed to allow the Property Owner of the 555 Building and other taller buildings in the City, to bring these structures into conformance with the 2016 Plan and to provide the City of Birmingham with the gateway it deserves. When Andres Duany came to the City in 2014, he leveled his ever-present enthusiasm at the 555 Building. During his comments, Mr. Duany said, "[The 555 Building] is a *special building* that requires *special treatment* and *it could become incredibly exciting and really cool*." (Emphasis added)

W|W|R|P

Property Owner respectfully requests that the City Commission adopt an amendment to the Zoning Ordinance creating the D-5 Zone as discussed in this letter.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

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Richard D. Rattner

RDR/cmc

### EXHIBIT A Relevant Part of New B-3 Ordinance (City

of Birmingham Ord. No. 812, adopted June 5, 1972) (emphasis added)

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DENTGLICIQ 276 BOSI

HOME SOL DECOCORDING

Second Standard Second States

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brecht oom dwelling t = 500 sq.. tt.

bedroom dwellling  $t = 700 \, sq. \, tt.$ 

ee or more bedroom 11ing unit sq.ft. 

FUE S

Max Usable Floor Area In Percentage of Lot. Anea.

See Section 5.146

Maximum Boolding Height Tin Feet 144

1 101 Stories None

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rt said. rt said. Dner Conrad meetings, sel concurred. General g to	ducted within a completely enclosed building c.No interior display, visible from the exterior shall be permitted above the first	EXHIBIT B Relevant Part of 1977 Amendment to B-3 Ordinance (City of Birmingham Ord. No. 983, adopted February 28, 1977) (emphasis added)	
, as-	5. No Regulated Use, as defined in Section 5.2(2) of this Chapter, shall be permitted in this Zone District		
	ion 2. Section 5.119A is hereby amende HT, BULK, AND PLACEMENT REGULATIONS FO	d to read as follows:	
11 1	Req. Min. Reg.Min. Usable Max. Lot Area Floor Area Usable Sg.Ft. in Sg. Ft. Floor Area r Dwelling Per Dwelling in % of Unit Lot Area	MAX IMUM BUILDING	
RD OF ZONIN EALS PERMIT	None 1.Efficiency See dwelling unit- Section 400 sq.ft. 5.140 2.One bedroom	90 ft. for None multiple family buildings and buildings containing multiple family	
es ng	dwelling unit- 500 sq.ft. 3.Two bedroom dwelling unit- 700 sq.ft.	<pre>dwelling units combined with business uses in the same building complex 50% for buildings not</pre>	
	4. Three or more bedroom dwell- ing unit-900 Sq.ft.	contailing multiple family dwelling units	
3/.77	$\mathbf{r} = \mathbf{r} \mathbf{v}$	2//28/77	

#### EXHIBIT C

### CITY OF BIRMINGHAM ORDINANCE NO. 1348

#### Relevant Part of 1986 Amendment to B-3 Ordinance (City of Birmingham Ord. No. 1348, adopted September 2, 1986) (emphasis added)

AN ORDINANCE TO AMEND CHAPTER 39, ARTICLES 15 & 18 OF THE CODE OF THE CITY OF BIRMINGHAM TO REDUCE PERMITTED BUILDING HEIGHT IN THE B-3 ZONE DISTRICT

### THE CITY OF BIRMINGHAM ORDAINS:

Title V, Chapter 39, Zoning, Article 15, Office-Residential District (B-3), Section 5.115, Required Conditions, Subsection (3), of the Code of the City of Birmingham is amended to read:

#### 5.115. Required Conditions.

(3) Any building containing multiple-family dwelling units shall not have office or business uses above the first story. No office, business or parking use may be located on the same story or above a residential use.

Title V, Chapter 39, Zoning, Article 18, Schedule of Regulations, Section 5.155, B-3, Regulation of Maximum Building Height, of the Code of the City of Birmingham is amended to read:

#### Maximum Building Height:

#### In Feet:

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<u>60 feet for multiple family buildings and buildings containing business uses on the first story and four</u> stories of multiple family dwelling units.

40 feet for buildings not containing multiple family dwlling units.

#### In stories:

5 stories for multiple family buildings and buildings containing business uses on the first story and four stories of multiple family dwelling units.

3 stories for buildings not containing multiple family dwelling units.

ORDAINED this 2nd day of September, 1986, to be effective upon publication:

10 3485

VOTE: Yeas, 6 Nays, 1 (Appleford)

City of B	irmingham	MEMORANDUM
		<b>Building Division</b>
DATE:	July 1, 2013	
то:	Zoning Board of Appeals	
FROM:	Bruce R. Johnson, Building Official	
SUBJECT:	555 S. Old Woodward Renovation	

1

This report is to inform the Board of Zoning Appeals of a proposed renovation to the exterior of the existing building complex located at 555 S. Old Woodward. The buildings at this property are legal nonconforming in regards to building height. In response to concerns expressed by the City Commission, Planning Board, and residents of poor visual appearance of the exterior of the buildings, the owners have decided to renovate the exteriors of the buildings. The paragraphs below will discuss the proposed renovation and the attached renderings will visually detail the project. I am seeking confirmation from the Board of Zoning Appeals that the proposed renovation will be considered maintenance not an enlargement.

The existing complex consists of two buildings. The building located on the north side of the property is used for commercial purposes and the building to the South for residential. The commercial building is 7 stories and 77.5 feet tall. The residential building is 15 stories and 141.83 feet in height. If the property were developed utilizing the provisions of the today's ordinance, the provisions of the D4 Overlay District would be applicable. The maximum height for the commercial building would be 4 stories and 58 feet to the surface of the flat roof. The residential building could have 5 stories and 58 feet to the surface of its flat roof. Accordingly, the upper 19.5 feet of the commercial building and the upper 83.83 feet of the residential building are legal nonconforming. Other than their height, both buildings conform to all other ordinance requirements.

Article 06 of the Zoning Ordinance regulates nonconforming buildings. In accordance with Section 6.02, nonconforming buildings are allowed to continue as long as they are maintained in good condition. A previously mentioned, the City has been encouraging the owners of the subject property to maintain their buildings and improve their overall appearance. The owners hired the design firm of Smith Group JJR to develop plans to renovate the exterior of both buildings.

The attached renderings and plan sections were recently presented to me by Brooke Smith of Smith Group JJR. During this meeting it was explained to me that the design concept is to install a new curtain wall system in front of the existing one. The new system will eliminate air and water infiltration the building has been plagued with from the beginning, will bring it into compliance with today's wind load requirements, and will dramatically improve the buildings appearance as suggested by the City. Installing the new curtain wall first will allow the residents/occupants to remain in place during construction. The new system is designed to

properly transfer wind loads through girder beams into the buildings columns. The new system with its contrasting colors adds depth to the façade improving the buildings appearance. Once the new curtain wall is installed, the existing windows will be removed from within each unit and then the opening will be finished and trimmed back to the new curtain wall assembly creating a window box.

The depth of the new window box measured from the existing windows to the new glazing is 16 inches. The depth of the new curtain wall measured from the existing one varies from 16 inches to 20 inches where new brick veneer is utilized. While the new curtain wall system will be installed on the building, it will not increase the usable space within the building itself. In other words, the existing occupancy square footage of the building will remain the same. The question becomes whether or not the new curtain wall can be considered maintenance.

As mentioned earlier, the building complies with all other ordinance provisions except for its height. The new curtain wall will comply with all ordinance regulations including setbacks. The existing curtain wall is at the end of its useful life, does not comply with current wind load requirements, and needs to be replaced. The new curtain wall is designed to a minimum depth to install girder beams to properly transfer the wind loads in accordance with the code. Leaving the existing curtain wall in place provides space for insulation necessary to meet energy code requirements and provides protection to the occupants in the building during construction. All of these facts indicate that the new curtain wall is being installed to maintain the building in good condition and therefore should be considered maintenance. Accordingly, application to the Board of Zoning Appeals would not be necessary.

# 555 Old Woodward Exterior Maintenance Program Birmingham, MI

555 S. Old Woodward Avenue, 1974-2012

20 June 2013



555 South Old Woodward Avenue Birmingham, MI













555 South Old Woodward Avenue Birmingham, MI



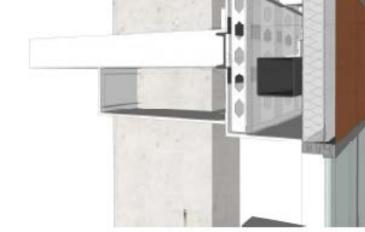


555 South Old Woodward Avenue Birmingham, MI

## SMITHGROUP JJR

## SECTION DEVELOPMENT





Low sill - apartment

There are three typical window sections:

- Low sill apartment
- High sill apartment
- Office building





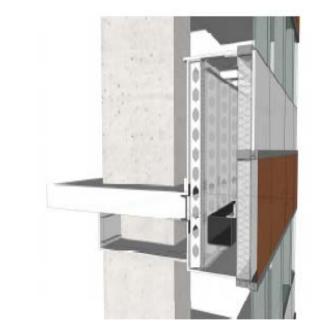
## SECTION DEVELOPMENT



High sill - apartment There are three typical window sections:

- . Low sill apartment
- High sill apartment
- Office building







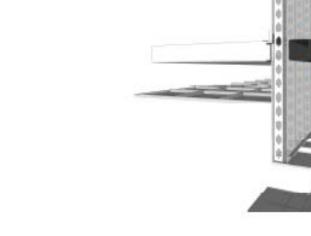
## SECTION DEVELOPMENT



#### Office Building

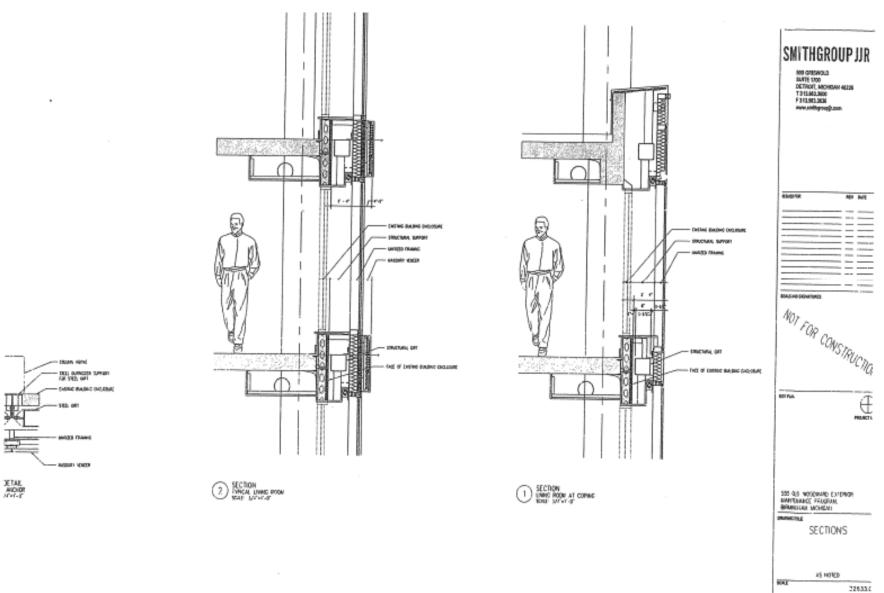
There are three typical window sections:

- Low sill apartment
- High sill apartment
- Office building



555 South Old Woodward Avenue Birmingham, MI



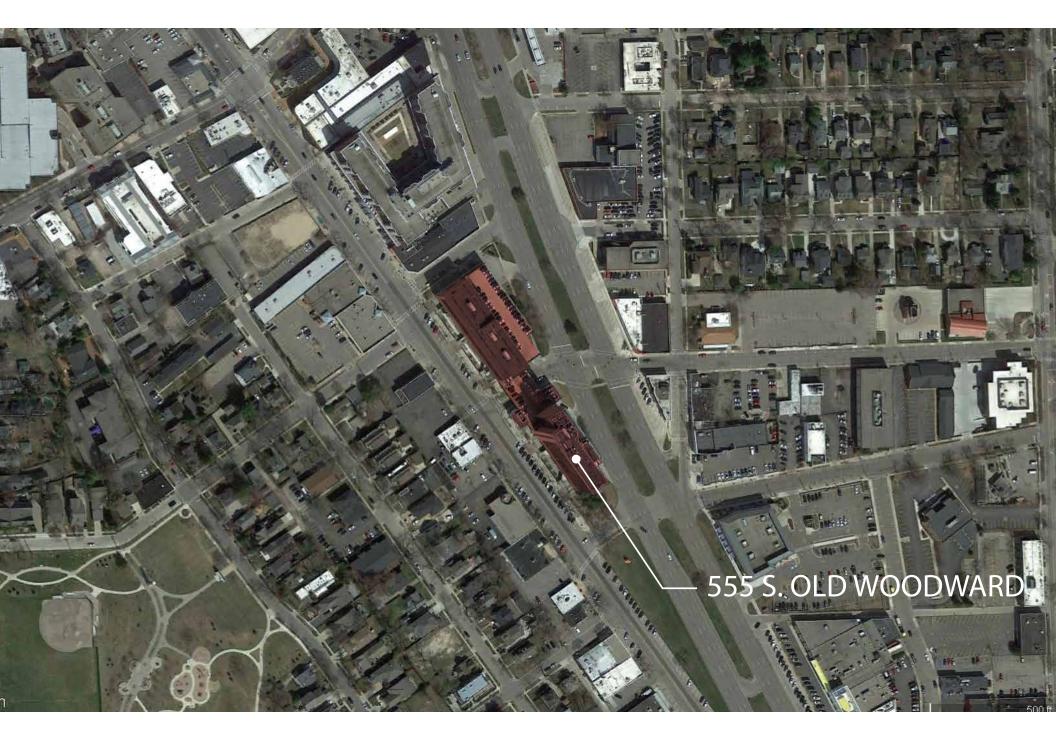


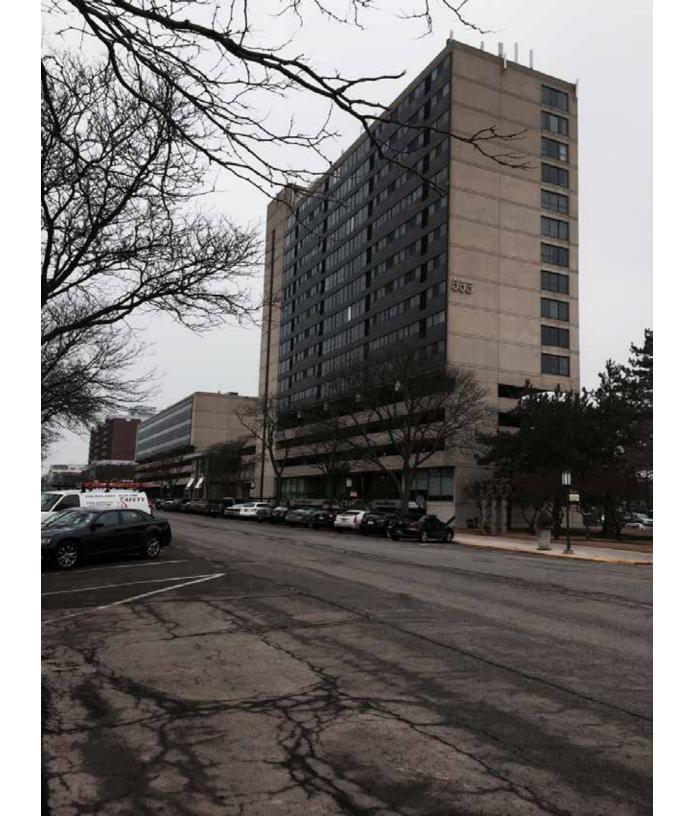
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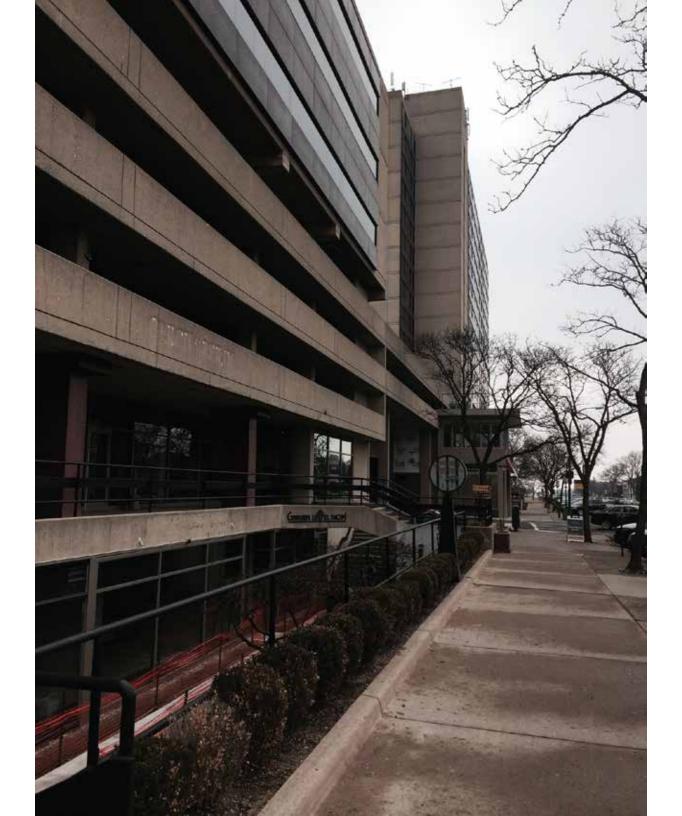
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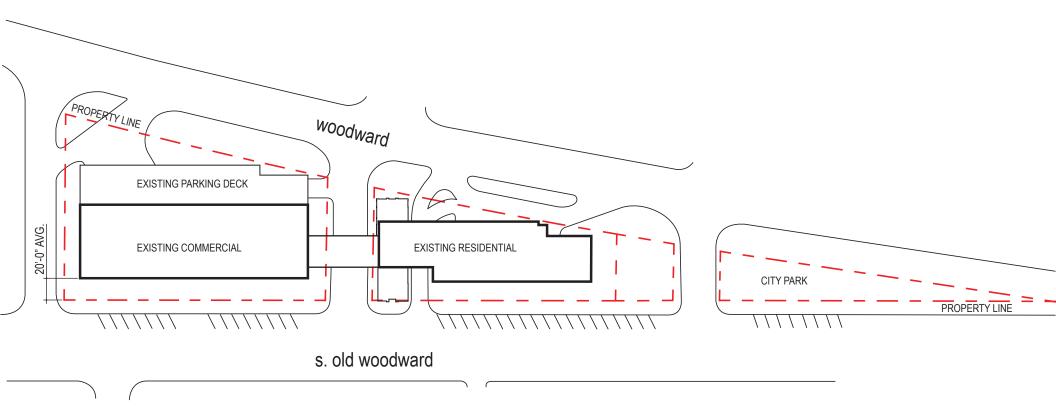
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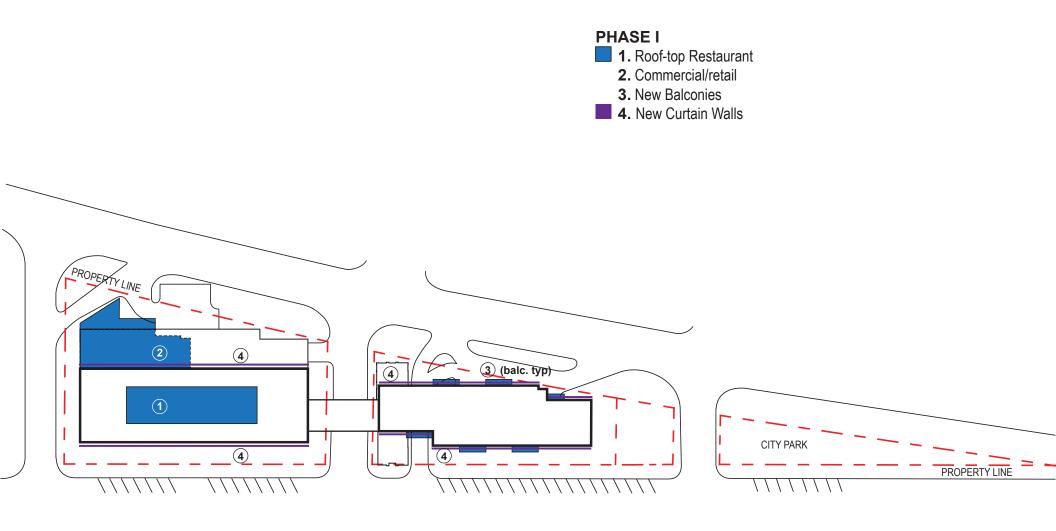
#### EXISTING



## 555 S. OLD WOODWARD

Luckenbach|Ziegelman Architects, PLLC 6/04/2015

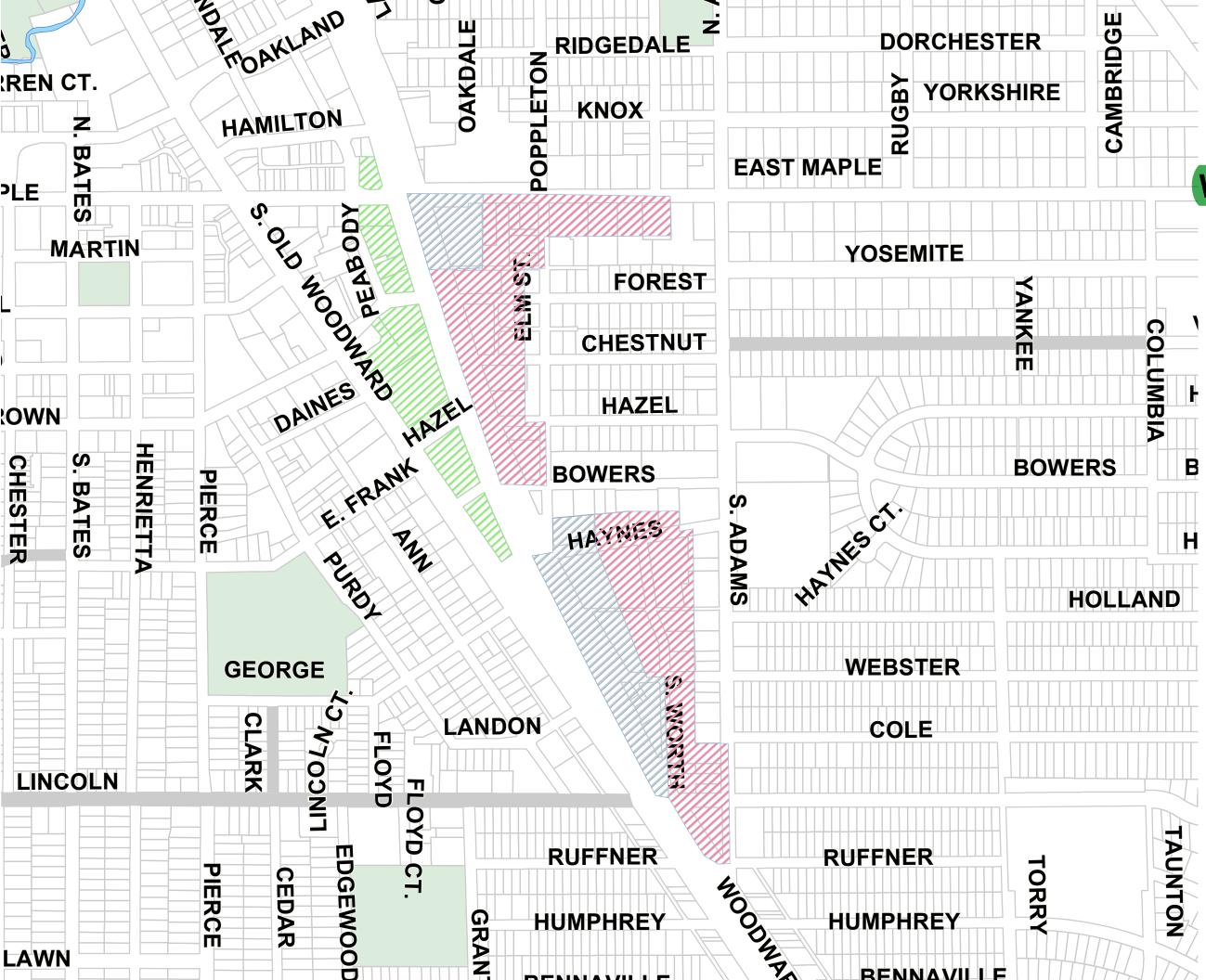
NORTH



NORTH

## 555 S. OLD WOODWARD

Luckenbach|Ziegelman Architects, PLLC 6/04/2015





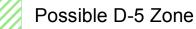
# Woodward Gateway D-5 Zone

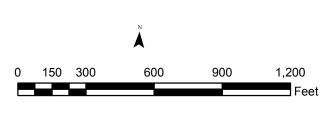
# Legend



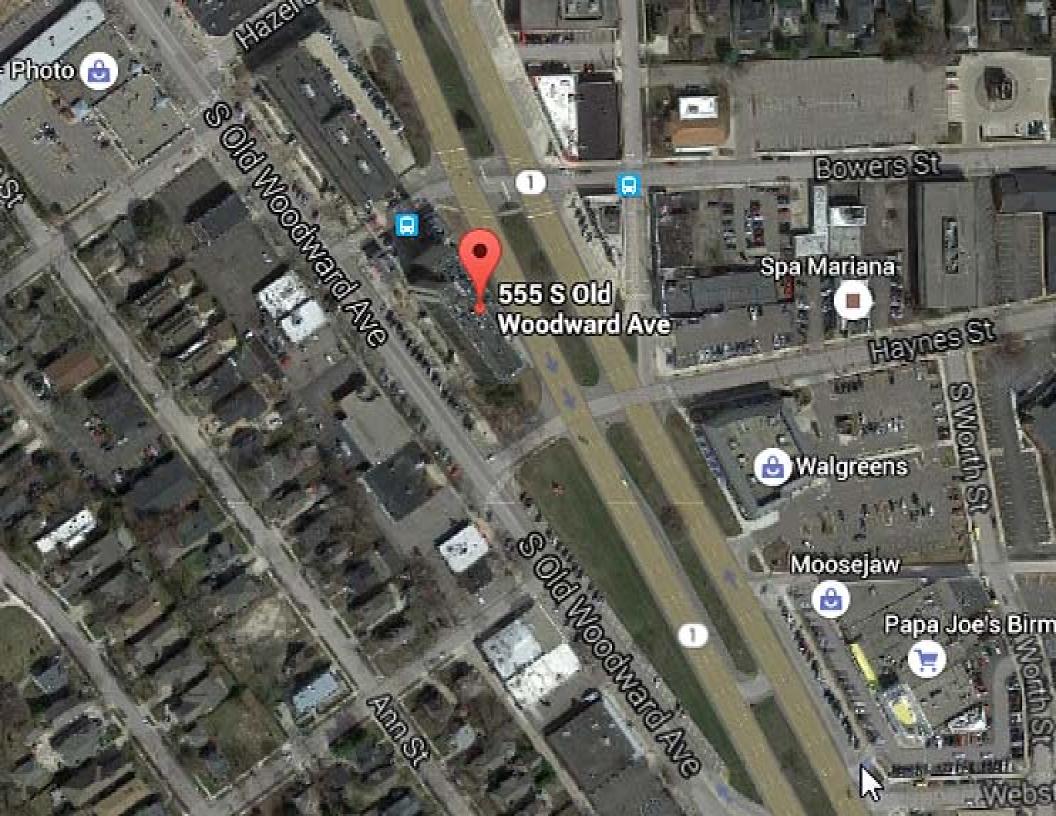
Zoning allows 9 stories

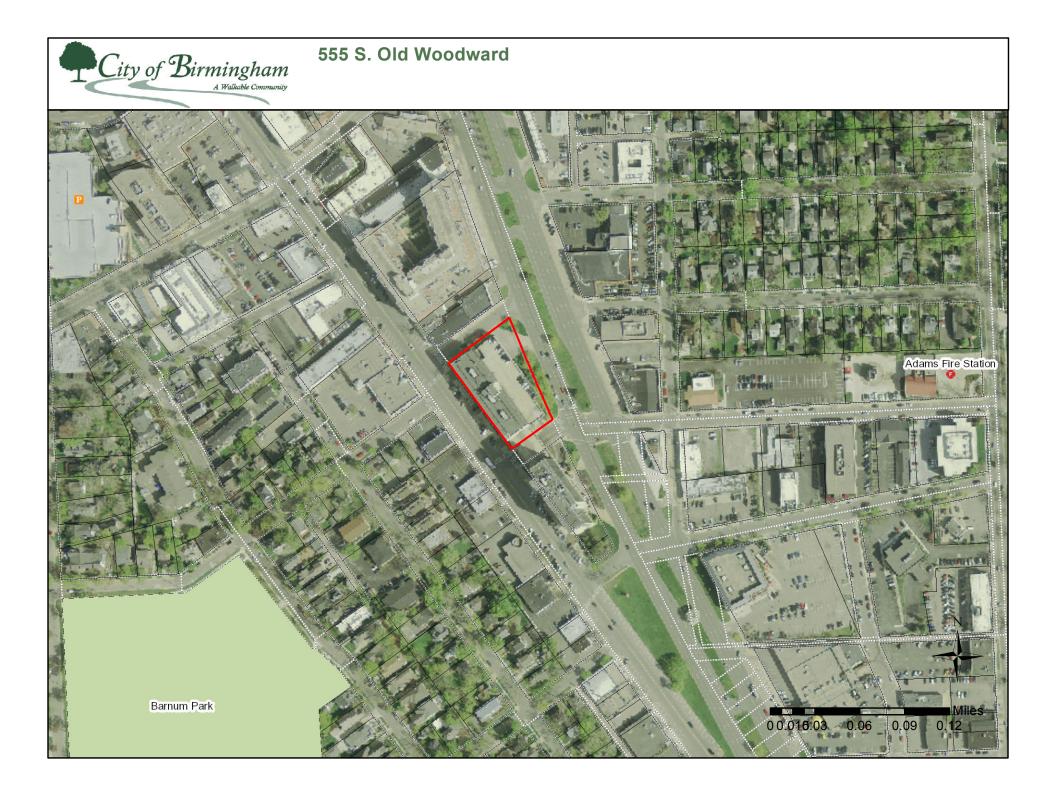
Zoning allows 7 stories

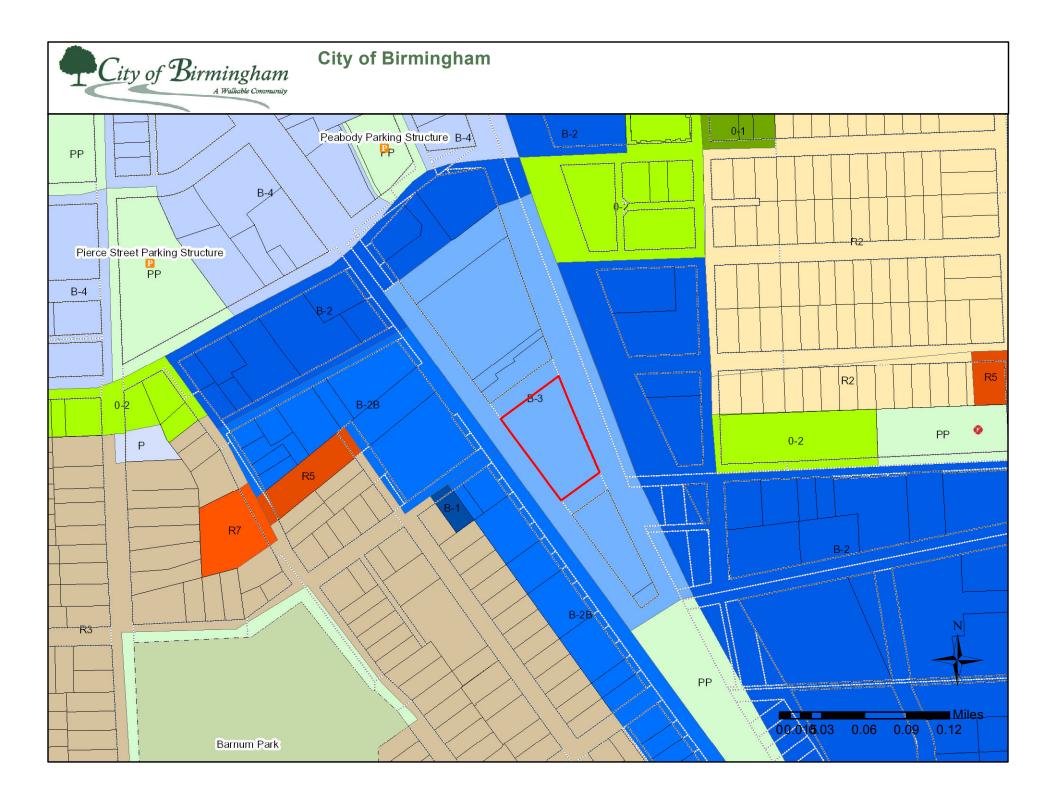




1 in = 422.818 feet







#### Downtown Birmingham 2016

#### SPECIFIC PROJECTS

#### SPECIFIC PROJECT 7: PIERCE STREET GARAGE

Finding: The Pierce Street Garage creates awkward, under-utilized residual spaces.

Discussion: Two of the residual spaces around the Pierce Street Garage are landscaped as mini-parks, which are redundant given the proximity of Shain Park. A third residual space is an unnecessarily large and duplicative access driveway system. Its three existing driveways could be consolidated into a single system passing underneath a new building. Each of the three residual spaces is large enough to contain an infill building (contiguous with the deck's walls), with first-floor retail and upperfloor apartments.

**Recommendation:** Sell or lease these three valuable parcels of urban land for development, thereby masking the deck and completing a retail loop. This specific project could create an ongoing source of revenue for the City.

References: This has never been done as a redevelopment project before.

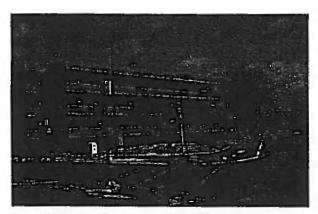
Appendices G - 1 and G - 8.

• Illus. 57, 58, and 59.

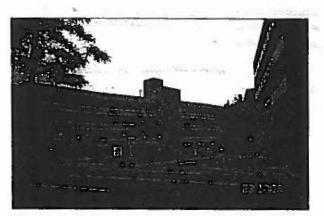
#### SPECIFIC PROJECT 8: MAPLE GATEWAY

Finding: One of the main entrances to Birmingham's CBD is on Maple Road and Hunter Boulevard, which is currently flanked by two gasoline stations.

Discussion: As a site for a more urban building, the lot north of Maple is too small to contain its own on-site parking, but the Park Street Garage is near enough to fulfill the need. The site to the south is substantially larger. It is adequate, not only for a habitable building, but for a substantial parking deck. The portions of these sites' buildings which front Maple as a pair could form a significant gateway to downtown. Each building should be designed with reference to the other: they should share a similar height, massing and, as much as possible, architectural syntax.



Illus. 57. Residual areas around the Pierce Street Garage are opportunities for installing liner buildings.



Illus. 58. There are gaps around the Pierce Street garage that commend themselves as excellent building sites.



Illus. 59. This type of glass storefront may be used to mask the Pierce Street Garage, although a multi-story mixeduse building would do better.

#### **GENERAL AREAS**

#### Downtown Birmingham 2016

Recommendation: The City should attempt to secure and hold the half-block circumscribed by Maple, Brownell, and Hunter, because it is the last block capable of containing a substantial parking deck for downtown expansion. This block and the block to the north (across Maple) should be carefully scrutinized at the time of their development. The City should encourage these developments to have reciprocal buildings, capable of forming a gateway to the CBD.

References: The procedures used to implement the previous generation of parking decks may be dusted off and analyzed for continued applicability.

Concerning the twin buildings proposed: they are so rare in the United States that, if Birmingham were to conjure up a pair like the ones illustrated, they may well become a regional or even a national landmark.

Appendices G - 1, G - 9, G - 10, and G - 11.

• Illus. 60 and 61.

#### GENERAL AREA 1: EAST MAPLE

East Maple Road between Adams and Hunter is currently a motley thoroughfare, but has the potential of becoming a respectable commercial area. Now in transition, it has automotive businesses (gas station, car rental agency), outdated commercial buildings (Nos. 745, 690, 700, 746, 1025, and 975), houses halfheartedly converted to commercial use (Nos. 772, 887, and 915), and a few new, handsome, well-landscaped buildings (The Fidelity Bank, Hamilton Funeral Home, and The Eccentric Building). As can be expected from such variety, the existing frontages differ to the point of urban incoherence. They range from sidewalk build-to lines (about 40 percent) to landscaped front yards (about 20 percent) to strip-style parking lots (about 40 percent). This random, unpredictable mixture fails to create an aesthetic approach to downtown Birmingham, nor does it sustain its own commercial viability. Redevelopment is further complicated by the fact that the lots vary in depth and thus in parking capacity, and by the proximity of small houses at the rear of some lots. In the context of a 20-year Master Plan,

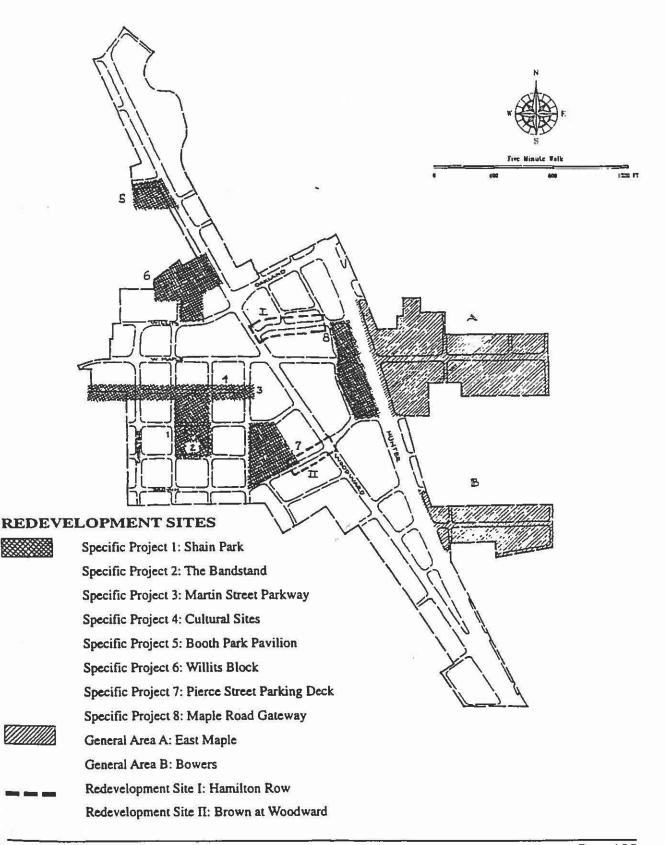


Illus. 60. The current Maple gateway to the CBD is a pair of gasoline stations.



Illus. 61. This pair of buildings replaces the pair of gasoline stations at Maple Road.

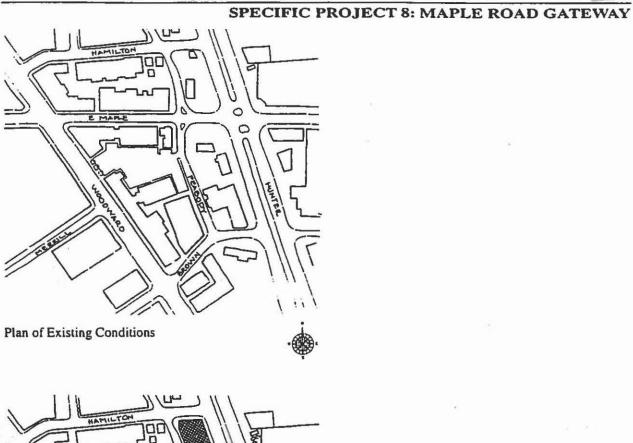
#### SPECIFIC PROJECTS 1 TO 8 AND GENERAL AREAS 1 & 2





Downtown Birmingham 2016

APPENDIX G - 9



Plan of Proposed Modifications



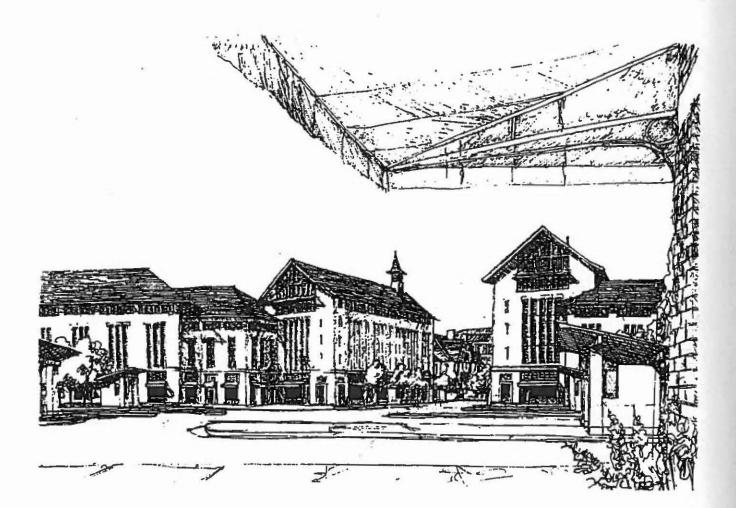
Parking Deck Mixed-Use Liner Building

© 1998 The City of Birmingham + Final Report + 1 November 1998 (Revised)

Downtown Birmingham 2016

#### **APPENDIX G - 10**

SPECIFIC PROJECT 8: MAPLE ROAD GATEWAY



### VIEW OF THE EAST MAPLE GATEWAY LOOKING WEST FROM THE KROGER SITE

© 1996 The City of Birmingham + Final Report + 1 November 1996 (Revised)

#### A Vision for the Triangle

Imagine the Triangle District as a vibrant, mixed-use neighborhood of homes, shops, restaurants, offices and public plazas. There is a mixture of housing ranging from single family homes along tree-lined streets, to brownstones and townhomes along local streets, to apartments and condominiums above offices and storefronts on the primary commercial corridors. The centerpiece of the Triangle is Worth Plaza, south of Bowers Street. As a lively triangle-shaped place it is a metaphor for the District as a whole, lined with shops, residences, and sidewalk dining.

The Triangle District is a walkable neighborhood. It features wide, treelined sidewalks along comfortable streets that are safe for pedestrians and bicyclists as well as automobiles. Roadways are designed so traffic flows calmly through the District. Narrow streets are lined with pedestrianoriented buildings that reveal plazas filled with gathering spaces, greenery and public art.

Instead of acting a barrier, Woodward Avenue is a grand, tree-lined boulevard, lined with distinctive buildings and a streetscape that welcomes both vehicles and pedestrians. Rather than a hard edge that divides the Triangle from downtown, Woodward is the spine that joins the City together.

The Triangle District is a stage for bold and distinctive architecture that creates a unique identity for the neighborhood and City. Building masses are the primary features, replacing the bleak parking lots that currently dominate the landscape. To accommodate the increase in activity, inefficient surface parking will be replaced by well-organized parking structures integrated into the streetscape.

This vision for the Triangle District creates a vibrant, mixed-use neighborhood filled with interesting destinations that attract people from across the region and provide Birmingham residents with an integrated neighborhood in which to live, work, shop and recreate.



View south down Woodward from Maple



#### **Goals and Objectives**

An analysis of conditions and goals of the community was conducted through a two-day intensive design charrette, with acknowledgement to existing City plans (see sidebar). The process involved the Planning Board, City staff, Triangle District business and property owners, residents and the general public in a public forum that included a walking tour of the District, one-on-one and group interviews, and topic-specific focus groups. The outcome was a set of policy objectives and physical plan concepts to guide public and private decision-making in the Triangle District as follows:

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

This plan is intended to provide a general framework for the redevelopment of the Triangle District. While some of the plan graphics show specific road alignments and development scenarios, these are illustrative of desired development form. The plan should be considered flexible in its implementation to reflect and respond to site-specific conditions and opportunities on a case-by-case basis.



**Charrette Participants** 

The goals and objectives of this plan were developed through a process of public participation and are built upon the goals and objectives of the following preceding plans:

- General Village Plan (1929)
- Birmingham Design Plan (1963)
- Urban Design Plan (1993)
- Downtown Birmingham 2016 Plan (1996)
- Eton Road Corridor Plan (1999)





#### Triangle District Urban Design Plan

#### Development Plan Summary

Infill development and redevelopment is recommended to create a distinct character for the Triangle District while complementing the Downtown and surrounding neighborhoods. Redevelopment of the Triangle should create an urban environment that is inviting and walkable. There should be mixed-uses within buildings to create a strong synergy of multiple uses with 24-hour/7-day-a-week activity.

The area should become a self-sufficient neighborhood with mutually supportive residential and commercial uses. While commercial uses along Woodward Avenue could be more general, community service, commercial uses in the heart of the Triangle and along Adams should be oriented more towards serving the immediate neighborhood. Residences and offices should be located in the upper floors above the shops and offices at street-level. Attached single-family, live-work, and other residential uses should also comprise a portion of street-level uses, especially along Elm Street and adjacent to existing single family residences. First-floor retail, especially restaurants, bistros, and cafés, should be encouraged but not required in the heart of the District.

**Building Design and Placement.** Buildings should be designed in a contemporary style and oriented toward their primary street. Designs should incorporate sustainable building elements for the site and the structures. Scale, and size should be compatible with adjacent structures, and facades and rooflines should vary to create relief from continuous surfaces. Pedestrian friendly features should be incorporated.

**Building Height.** Varied building heights are recommended to properly frame the streets and provide the massing necessary to relate to the scale of the streetscapes. The hierarchy of height ranges from taller mixed-use buildings along Woodward Avenue that are seven stories and higher, medium height mixed-use buildings of 4-5 stories in the District's interior

and along Maple to create a more intimate urban neighborhood, and structures at a smaller scale of three stories when abutting existing residential neighborhoods. Buildings should step back from the street at the higher stories.

**Public Open Space.** Opportunities are created for integrating public plazas and open space as part of any redevelopment. This includes small plazas on individual sites and larger open spaces that serve as neighborhood focal points. Recommended realignment of Worth Street creates the opportunity for a triangular plaza, referred to as "Worth Plaza," as the primary focal point for the redevelopment of the Triangle.

**Identity and Wayfinding.** Architectural designs will differentiate the Triangle from the rest of the City. A coordinated system of public and private signs will uniquely identify and direct visitors around the District. Signs will complement the City's established Signage and Wayfinding Program.

**Circulation.** Improvements to streets and intersections highlighted in this plan will help to reduce speeds on local streets, improve safety for vehicles and pedestrians, and ensure proper access to residences and business.

**Parking.** Parking needs to be provided more efficiently than the current configuration of disjointed surface parking lots. Redevelopment should incorporate multi-level parking structures and maximize the use of on-street parking. More efficient use of shared parking facilities will allow for redevelopment that is more pedestrian oriented and less dominated by parking lots.

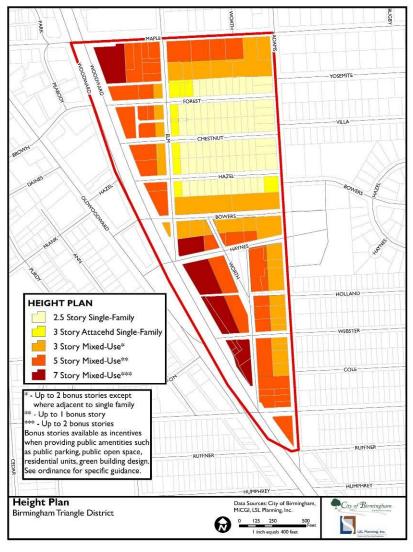
The development plan is a long-term vision for the Triangle District; the pace and order of which is dependent on a variety of factors. To facilitate the orderly and successful implementation of the plan, a phasing plan has been developed. (See the Implementation section.)



Sample Building Design



Sample Townhouse District



Triangle District Height Plan

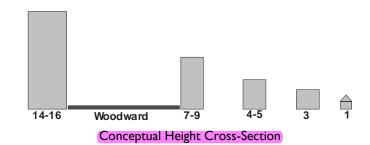
#### **Building Heights**

A hierarchy of heights is recommended between Woodward Avenue and the adjacent single-family residential neighborhoods. Taller buildings at least seven stories are needed to properly define the scale of Woodward Avenue's wide right-of-way and the taller buildings on the west side of the road. Building height should then step down to 4-5 stories in the interior of the Triangle District along the narrower streets. Buildings adjacent to single-family residential neighborhoods should be limited to three stories.

Height bonuses of up to an additional two stories will be allowed for developments that offer certain public amenities. These could include making public parking available in private parking structures, providing public open spaces, improvements to the public streetscape or incorporating energy-efficient green building design into structures. Payments to an escrow account designated for off-site amenities should be accepted in lieu of providing them.

New construction should create architectural variety by stepping back upper floors and varying the massing of buildings. Taller building should also be setback from nearby residential neighborhoods.

In order for the Triangle District to efficiently redevelop, parking will need to be provided with multi-level parking structures. The largest public parking structure will be required in the vicinity of Worth Plaza and should be located between the plaza and Woodward to take advantage of the highest allowable heights and best access.



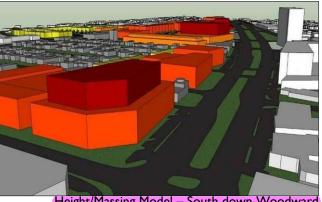
Triangle District Urban Design Plan | Birmingham Michigan

#### Height Defines Streetscape

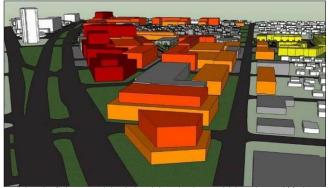
Recommended building heights will help to define streetscapes and create a strong sense of enclosure. This enclosure is a vital component to creating a more human-scale environment that is inviting to pedestrians and induces automobile traffic to slow down.

Currently, automobiles dominate Woodward Avenue, with its wide rightof-way of approximately 200 feet. This vast expanse of highway is open and uninviting to the pedestrian. The buildings on the west side of Woodward are taller, with the tallest being the 555 building at 15 stories. The plan recommends taller buildings on the east side of Woodward Avenue to create a better sense of enclosure. Buildings should range from between five and nine stories. With the tallest buildings ranging in height between 90 and 114 feet, this is half the distance across Woodward Avenue, which is an appropriate scale to create the desired sense of enclosure.

With the tallest buildings along Woodward Avenue, the heights will transition down to a level more compatible with the single-family residential neighborhoods and more appropriate to create the desired sense of enclosure for the narrower rights-of-way of the Triangle District's internal streets. In most cases, buildings in the interior should range between three and five stories. Those buildings within a minimum distance to existing single-family residential homes are limited to three stories. Shorter building heights are appropriate to frame the smaller scale of single-family residential streets.



Height/Massing Model – South down Woodward



Height/Massing Model – North down Woodward/Adams



Height/Massing Model – West down Bowers

9



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

January 22, 2016

Jana Ecker Director of Planning City of Birmingham 151 Martin Birmingham, MI 48009

### Re: Issue of whether a D-5/D-6 proposed Overlay Zone on South Old Woodward might be considered "spot zoning"

Dear Ms. Ecker:

Pursuant to our prior conversation, it is clear that the issue of "spot zoning" has been raised several times in public hearings and discussions at the Planning Board and City Commission. As can be seen in the very brief attached memo, such a rezoning does not qualify as a spot zoning issue.

The current zoning of the area of South Old Woodward contemplated for the D-5/D-6 Overlay Zone is B-3/D-4. The uses in the B-3/D-4 Overlay Zone are the same or similar to the uses proposed in the newly proposed D-5/D-6 Overlay Zones.

The attached memo emphasizes that spot zoning involves a "small zone of inconsistent **use** within a larger zone." There is no inconsistent use involved with this proposal for a new Overlay Zone. The argument that under Michigan law or planning policies a D-5/D-6 Overlay Zone existing alongside of the current D-2 through D-4 Downtown Birmingham Overlay Zones constitutes "spot zoning" appears unsupportable.

The purpose of the proposed D-5/D-6 Overlay Zone is to accommodate existing structures that were constructed almost half a century ago but remain nonconforming structures under current City ordinances. Such a nonconforming condition does not present an inconsistent use, but rather is consistent with the 2016 Master Plan.

The proposed D-5/D-6 Overlay Zone does not introduce any new or inconsistent uses to the current uses allowed in all other downtown Birmingham Overlay Zones. Therefore, the proposed D-5/D-6 ordinances will serve to allow those structures within the zone the permitted uses which are already existing in the Downtown Birmingham Overlay District.

Jana Ecker January 22, 2016 Page 2

W|W|R|P

In summary, this letter and the short memo attached are intended to clarify a term ("spot zoning") that we believe has been consistently misused in the recent discussion of zoning districts and the rezoning of property. We sincerely hope that the information presented in this letter will assist the City in its consideration of the proposal to amend the downtown Birmingham Overlay Zones to add the <u>consistent</u> zones of D-5/D-6 so that the Zoning Ordinance in the City of Birmingham fairly, accurately and reasonably reflects the structures and uses which currently exist and are permitted in both the current zoning ordinances and the 2016 Master Plan.

Should you have any further questions or comments, please do not hesitate to contact me.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

Richard D. Rattner

RDR/cmc Enclosure

3

#### Мемо

TO:	Jana Ecker,
	Planning Director
	City of Birmingham
FROM:	Richard D. Rattner
DATE:	January 6, 2015, Attached to letter of January 22, 2016
RE:	Spot Zoning
	1 00000

**ISSUE:** Whether a proposed D-5/D-6 Downtown Birmingham Overlay Zone to accommodate non-conforming structures on South Old Woodward and Woodward Avenue, currently zoned as B-3 or B-4/D-4, is "spot zoning."

#### ANALYSIS:

"Spot zoning has been recognized by Michigan courts. <u>It involves a small zone of inconsistent use within a larger zone.</u> Courts will scrutinize closely any ordinance which involves spot zoning." *Rogers v. Allen Park*, 186 Mich. App. 33, 39 (1990) (emphasis added, citations omitted).

Rogers is a good illustration of facts which **do not** fall within the spot zoning framework. In Rogers, the plaintiffs' (property owners) homes were along Southfield Road and they were unable to sell their homes as residences due to the proximity to the busy roadway. The subject area was zoned residential, but potential buyers wanted the property rezoned. Plaintiffs unsuccessfully petitioned the planning commission to rezone the area to restricted office use. The trial court ruled in favor of the homeowners. Id. at 35-36. As it relates to spot zoning, the Michigan Court of Appeals stated: "defendant [City] claims that the [trial] judge erred, because the order creates a spot-zone of nonresidential use within a single-family residential community. This argument is unpersuasive, both legally and factually...Defendant's [the City's] reliance on this theory is legally inappropriate, because this case did not involve an ordinance which created a zone of inconsistent use." Id. at 39 (Emphasis added).

Further, *Penning v. Owens*, 340 Mich. 355 (1954) serves as a good example of a typical spot zoning condition (court would not allow 2-lot commercial district virtually surrounded by residential area), while *City of Essexville v. Carrollton Concrete Mix, Inc.*, 259 Mich. App. 257 (2003) provides that consistency with a city's master land use plan is an important factor to consider when deciding whether spot zoning occurred.

Here, the area of the City proposed for the newly proposed D-5/D-6 Overlay Zones, is comprised principally of the 555 Old Woodward building (the "555 building"). The current zoning is B-3 zoning district with a D-4 zoning overlay. The new D-5/D-6 Overlay Zone is proposed to accommodate not only the *existing structures*, but to also provide proper zoning for the repair, maintenance, redevelopment and potential new construction planned for that area of the Downtown Overlay District. The plans for this project comply with, and accomplish the goals of the Downtown Birmingham 2016 Plan. The permitted uses in these newly proposed Overlay

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Zones are *the same* as *and consistent with the permitted uses* of both the existing underlying zoning district (B-3) and the current Overlay Zone (D-4) of the property at issue. In fact, the plans for the maintenance and repair part of the project have already been approved by the Design Review Board. Put another way, the argument that the addition of a D-5/D-6 Overlay Zone to the existing Overlay Zones is "spot zoning" appears unsupportable. The newly proposed Overlay Zones *would not constitute a small zone of inconsistent use within a larger zone since the permitted uses for these new Overly Districts will remain the same or similar to the permitted uses that now exist under current underlying and Overlay zoning. The term "spot zoning" should not be a part of, or confuse the deliberation surrounding a decision to create the D-5/D-6 Overlay Zones.* 



### **MEMORANDUM**

**Planning Division** 

DATE:January 3, 2017TO:Joseph A. Valentine, City ManagerFROM:Jana L. Ecker, Planning DirectorSUBJECT:Request to set a public hearing to consider the rezoning of 412 –<br/>420 E. Frank Street, Lots 31 & 32 and the west 32' of lots 3 & 4<br/>Blakeslee Addition from R-3, B-1 and B-2B to TZ1

On October 26, 2016, the Planning Board conducted the first portion of a public hearing to consider the requested rezoning of 412 – 420 E. Frank Street as noted above. After much discussion, the Planning Board requested the applicant to provide studies to illustrate the potential redevelopment of one or more of the parcels as single family residential, multi-family residential and/or commercial uses based on the existing zoning. The Planning Board continued the public hearing to November 9, 2016, and at that time the various studies were discussed. The applicant was advised to submit one additional development option to City staff in advance of the December meeting to allow staff to review the development study options for accuracy. The Planning Board then continued the public hearing to December 14, 2016.

On December 14, 2016, the Planning Board reviewed all of the potential development options that had been requested, and after much discussion and public input, voted to recommend approval of the proposed rezoning to the City Commission. Please find attached the reports and illustrations presented to the Planning Board, along with all relevant minutes for your review. Copies of previous discussions regarding 412 – 420 E. Frank are also included for your review as this was previously one of the parcels considered in the City-wide transitional zoning study.

The Planning Division requests that the City Commission set a public hearing date for **February 13**, **2017** to consider the requested rezoning of 412 -420 E. Frank Street.

#### **Suggested Action:**

To set a public hearing date for February 13, 2017 to consider the proposed rezoning of 412 - 420 E. Frank Street from B1 (Neighborhood Business), R3 (Single-Family Residential), & B2B (General Commercial) to TZ1 (Transitional Zoning).



**MEMORANDUM** 

**Planning Division** 

DATE: December 8, 2016

TO: Planning Board

FROM: Lauren Chapman, Assistant Planner

SUBJECT: 412 – 420 E. Frank Street, Lots 31 & 32 and the west 32' of lots 3 & 4 Blakeslee Addition - Application for Rezoning from R-3, B-1 and B-2B to TZ1

The subject property is located on the southeast corner of Frank Street and Ann Street, and includes one corner lot (Lot 32, Blakeslee Addition), one lot immediately to the south facing Ann Street and running parallel to Frank Street (Lot 31, Blakeslee Addition), and the rear 32' of lots 3 and 4 of the Blakeslee Addition that front on S. Old Woodward. All three of these lots or portions of lots were previously combined and appear to have been split into three independent parcels prior to 1960. All three parcels are currently under common ownership.

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 applicant has a contractual interest in the subject property, which includes the three parcels noted above. In accordance with the requirements of the Zoning Ordinance the property owner of parcels #19-36-253-001, 19-36-253-002 and 19-36-253-003, being Lots 31 & 32 and the west 32' of lots 3 & 4 Blakeslee Addition has also consented to this rezoning application.

The property proposed for rezoning includes a former home converted for office use (commonly known as 412 E. Frank Street), the Frank Street Bakery (commonly known as 420 E. Frank Street) and a vacant parcel striped for parking (no known street address). The applicant is requesting that the Planning Board hold a public hearing to consider the rezoning of the western portion of the property (412 E. Frank Street, parcel #19-36-253-001) from R-3 (Single-Family Residential) to TZ1 (Transition Zone), and the central portion of the property (420 E. Frank Street, parcel #19-36-253-002) from B-1 Neighborhood Business to TZ1 (Transition Zone) and the eastern portion of the property (no known address, parcel #19-36-253-003) from B2-B to TZ1 (Transition Zone).

#### Existing Zoning of Subject Property

The **western portion** of the entire parcel (roughly 60' along Frank, starting at Ann, known as 412 E. Frank, parcel # 19-36-253-001) is currently zoned **R-3 Single Family Residential**. A building currently exists on the western portion which was previously used for office use and associated parking. However, office uses are not permitted in an R-3 zone district, and thus a

Notice of Violation was issued. The previous office tenant relocated and the building is currently vacant.

The **central portion** of the entire parcel (60' in width along Frank, known as 420 E. Frank, parcel # 19-36-253-002) is currently zoned **B-1 Neighborhood Business**. This center portion is currently occupied by a one-story building that is used for Frank Street Bakery. An adjacent outdoor dining area and associated parking are also located on the central portion of the property.

The **eastern portion** of the entire parcel (32' in width along Frank, no known address, parcel # 19-36-253-003) is zoned **B-2B (General Business).** 

#### History of 412 E. Frank Street (Western Portion of Property)

The western portion of the property was zoned R-6 (Multiple-Family Residential) from 1935 to 1960. During this time, the existing building was used as a single family home, and occupied by the same family from 1931-1992.

On February 8, 1960, the western portion of the site (along with the eastern and central portions of the site) was rezoned to B-1(Neighborhood Business) at the request of the owners and occupants. The homeowners during this time also ran a custom drapery business from the site, and continued to reside in the home.

In 1980, the City of Birmingham adopted a new master plan, and direction was given by the City Commission to review zoning classifications in certain areas and consider rezoning. The area south of Brown, west of Woodward, north of Lincoln and east of Southfield was one of the areas identified as "Sensitive Residential" and considered for rezoning. Accordingly, in 1987 the City initiated the rezoning of the western portion of the property from B-1 (Neighborhood Business) to R-3 (Single-family Residential). On November 9, 1987, the City Commission approved the rezoning of the western portion of the property from B-1 to R-3. As a result of this downzoning, the property owner commenced a lawsuit against the City which was later discontinued.

In April 1995, an application for rezoning was initiated by the family of the long term property owners to attempt to rezone the western portion of the site back to the former B-1 (Neighborhood Business) zoning. The Planning Board denied the application based on the 1980 Master Plan, the desire of the City to strengthen the single-family nature of the areas west of Woodward and south of Brown, and the finding that the proposed zoning amendment would not further the residential character of the neighborhood.

In 2013 the property owner (not the current applicant) applied for a rezoning of the western and central portions of 412-420 E. Frank St. from B-1 and R-3 to B-2B. The property owner discussed numerous options for the redevelopment of the site, and the matter was postponed on several occasions to allow the property owner to finalize development plans.

The western portion of the property was included in discussions by the Planning Board and City Commission regarding the Transitional Zoning classifications. The Planning Board found that this property was transitional in nature, and recommended the rezoning of the parcel to TZ1, and then modified the recommendation to TZ2 based on the input of the neighbors. In September of 2015, the City Commission considered the rezoning of this transitional parcel and several others throughout the City of Birmingham. After much discussion, the City Commission approved the creation of both the TZ1 and TZ3 zoning classifications, and requested that the Planning Board provide further study and analysis of the permitted uses proposed in the TZ2 zone.

On February 24, 2016, the property owner moved forward again with the request to rezone 412 – 420 E. Frank to B-2B. However, at that time the Planning Board recommended denial of the proposed rezoning of the western portion of 412-420 E. Frank St. from R-3 to B-2B, in order to explore the possibility of rezoning the property to a transitional zoning designation as previously recommended to the City Commission. Relevant meeting minutes and City records from previous applications are attached.

The former home remains on the western portion of the site, facing Frank Street. It is currently vacant.

#### History of 420 E. Frank Street (Central Portion of Property)

The central portion of the property was zoned R-6 (Multiple-Family Residential) from 1935 to 1960. During this time, it appears that the central portion of the property was vacant, possibly used as a yard for the home on the western portion of the property. No records were found detailing any other uses until 1960.

On February 8, 1960, the central portion of the site (along with the western and eastern portions of the site) was rezoned to B-1(Neighborhood Business) at the request of the owners and occupants of 412 E. Frank. On September 8, 1960, a Building Permit was issued for construction of the existing one story building which was built as a medical clinic. A Certificate of Occupancy was granted for this building in 1961. Records indicate that this building was used for medical purposes into the 1990's. Prior to its current use as Frank Street Bakery, a vintage resale shop operated at this location. The resale shop was not a permitted use in the B-1 Neighborhood Business district, but a use variance was approved by the Board of Zoning Appeals in 2007.

In 2013 the property owner (not the current applicant) applied for a rezoning of the western and central portions of 412-420 E. Frank St. from B-1 and R-3 to B-2B. The property owner discussed numerous options for the redevelopment of the site, and the matter was postponed on several occasions to allow the property owner to finalize development plans.

The central portion of the property was included in discussions by the Planning Board and City Commission regarding the Transitional Zoning classifications. The Planning Board found that this property was transitional in nature, and recommended the rezoning of the parcel to TZ1, and then modified the recommendation to TZ2 based on the input of the neighbors. In September of 2015, the City Commission considered the rezoning of this transitional parcel and several others throughout the City of Birmingham. After much discussion, the City Commission approved the creation of both the TZ1 and TZ3 zoning classifications, and requested that the Planning Board provide further study and analysis of the permitted uses proposed in the TZ2 zone.

On February 24, 2016, the property owner moved forward again with the request to rezone 412 – 420 E. Frank to B-2B. However, at that time the Planning Board recommended denial of the proposed rezoning of the central portion of 412-420 E. Frank St. from B-1 to B-2B, in order to explore the possibility of rezoning the property to a transitional zoning designation as previously recommended to the City Commission. Relevant meeting minutes and City records from previous applications are attached.

A one story commercial building remains on the central portion of the site, and is currently occupied by Frank Street Bakery.

#### History of Eastern Portion of Property (no known address)

The eastern portion of the property was zoned R-6 (Multiple-Family Residential) from 1935 to 1960. During this time, the eastern portion of the property was considered vacant. No records were found detailing any other uses until 1960.

On February 8, 1960, the eastern portion of the site (along with the western and central portions of the site) was rezoned to B-1(Neighborhood Business) at the request of the owners and occupants of 412 E. Frank.

The eastern portion of the property was included in discussions by the Planning Board and City Commission regarding the Transitional Zoning classifications. The Planning Board found that this property was transitional in nature, and recommended the rezoning of the parcel to TZ1, and then modified the recommendation to TZ2 based on the input of the neighbors. In September of 2015, the City Commission considered the rezoning of this transitional parcel and several others throughout the City of Birmingham. After much discussion, the City Commission approved the creation of both the TZ1 and TZ3 zoning classifications, and requested that the Planning Board provide further study and analysis of the permitted uses proposed in the TZ2 zone.

The site is currently zoned as B2B. The site is currently used as a parking lot.

#### **Current Rezoning Application**

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

The current zoning classifications of the properties in the general area of the • Subject Property are R-3 (Single Family Residential) to the west and south, and B-2B (General Business) as well as D-2 in the Downtown Birmingham Overlay to the north and east. The Subject Property is surrounded by properties with different uses, some consistent with existing zoning classifications and many in variance of existing zoning. The Subject Property is bordered on the east side by an office building and parking lot which fronts on Old Woodward and is in the B2B zoning district. The property adjacent on the north side of Frank Street is a CVS drug store and surface parking lot which fronts on Old Woodward, While the properties to the west and south are in the R-3 (Single Family Residential) zoning district, the home directly west of the Subject Property at the south west corner of Ann Street and Frank Street currently has a multi-family use with three families occupying it. The three buildings on the west side of Ann Street immediately to the south of this corner home are all multi-family properties with 4 units, 24 units and 4 units respectively. The building on the west side of Ann Street two houses to the north of the intersection of Ann and Frank is being used as an office building with an adjacent parking lot containing 22 parking spots. Directly to the north of this property on the west side of Ann Street is an 8 unit multi-family building. One

block to the west at the intersection of Frank and Purdy is a building with 3 commercial offices and directly to the north is a 23 unit multi-family property. Other than this last property, all of the other multi-family and commercial properties west of the Subject Property have a non-conforming use in the R-3 Single Family Residential zoning district.

2. An explanation of why the existing zoning classification is no longer appropriate.

#### Response

- The parcel is made up of three contiguous lots with three different zonings (R-3, B-1, and B-2B).
- Given the current mix of uses on the three parcels which make up; the Subject parcel is a transitional property. The very limited areas of the three individual parcels would make it difficult to develop anything consistent to each of the parcel's current zoning. The B-2B eastern piece is zoned is only 32 feet in width. Further, Frank Street from Woodward to Ann has been widened and on-street metered parking added, with the effect of extending the Woodward business district along Frank Street, which along with the CVS plaza on the north side of Frank, with its large surface parking lot visible from the windows of any structure facing Frank Street from the Subject Property, makes this an undesirable site for single family homes.
- 3. An explanation of why the proposed rezoning will not be detrimental to surrounding properties.

#### Response

• The applicant requests that the Subject Property be rezoned to the transitional zoning classification of TZ-1. This request is consistent to the intent of the City's transitional zoning. The applicant intends to develop the property as multi-family with no commercial component to the project. Given the very close proximity of a half a dozen or more multi-family properties, this rezoning and use would provide a good transition from B-2B General Business and D-2 in the Downtown Birmingham Overlay to the north and east and would not change the character of the neighborhood.

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 submitted a plot plan as a part of their application package. However, the plot plan submitted does not list the current zoning of surrounding properties. A separate map indicating the zoning of the subject properties and the surrounding properties and their zoning classifications has been submitted.

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 then current master plan and the City's 2016 Plan.

B. Existing uses of property within in 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.

#### Planning Division Analysis and Recommendations

#### A. The objectives of the City's then current master plan and the City's 2016 Plan.

#### Birmingham Future Land Use Plan (1980)

The Birmingham Future Land Use Plan ("The Birmingham Plan") in 1980 noted that townhouse and multiple-family residential development could be found in five principal locations across the City: 1) in or adjacent to the central business district, 2) west of the central business district, 3) along North Woodward Avenue, 4) along the Grand Trunk Western Railroad right-of-way, and 5) at certain points along major thoroughfares in the city. The area surrounding the subject property, which is adjacent to the central business district to the west, was noted to contain a variety of duplex and multi-family residential properties in 1980.

The Birmingham Plan further provides that single-family residential development is indicated in the Future Land Use Plan for some areas in which two-family and multiple-family residential development has occurred in the past. The Birmingham Plan notes that these areas are indicated as single-family residential areas because it is the intention of the plan to prevent further proliferation of two-family and multiple-family residential development within the City. Specifically, the Plan notes that single-family residential development is to be preserved throughout most of the area bounded by Brown, Southfield, Lincoln, and the rear property lines of Woodward Avenue commercial uses. Accordingly, many properties in the area of Purdy, Frank and Ann Street were rezoned to R-3 in 1987. The Plan further states that densities in these areas should be compatible with then existing (1980) densities of approximately two units per net acre to nine units per net acre.

The western portion of the property known as 412 E. Frank Street is identified in the Birmingham Plan for future single family residential use, and is within the area defined as a "Sensitive Residential Area" that that should be protected against non-residential encroachment. Thus, this parcel was rezoned to R-3 in 1987. However, the future land use map was drawn by hand without the benefit of verified parcel lines, and thus it is not clear if the map on page 44 of the Birmingham Plan includes the central portion of the property known as 420 E. Frank, or the eastern portion of the property. Presumably it does not, as neither of these parcels were rezoned to R-3 in 1987 when others in the neighborhood were changed.

Overall, the Birmingham Plan provides the following relevant policy guidelines for residential development throughout the City:

Policy 1: The city's basic single-family residential character should be preserved. The pattern or private reinvestment in older neighborhoods should be encouraged by a firm determination to protect the long-range residential viability of these areas and prevent incompatible non-residential and high-density residential uses from being established in them.

Policy 2: The housing choice characteristics of the city should be preserved. Additional townhouse and multiple-family residential development should be permitted to occur, but not in locations where it will contribute to the instability of existing single-family areas.

The applicant is proposing the change in the zoning classifications for the Subject Property to allow the use of the properties for multi-family residential use with no commercial uses, which protects this area from non-residential encroachment as recommended in the Birmingham Future Land Use Plan.

#### 2016 Plan (1996)

None of the 3 parcels forming the subject property are within the Downtown Birmingham Overlay District. They are however, immediately adjacent to the south and west of the Downtown Birmingham Overlay District.

#### B. Existing uses of property within the general area of the property in question.

The existing uses in the general area of the subject property are a mix of single-family residential (to the south), multi-family residential (to the west), office (to the east), commercial and retail (to the north and south).

### 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-3 (Single-family Residential) to the west and south, R-7 (Multiple Family Residential) to the northwest and B-2B (General Business) as well as D-2 in the Downtown Birmingham Overlay to the north and east. The adjacent D-2 properties are also within the red-line retail district of the Downtown Overlay, with a first floor retail requirement along S. Old Woodward.

### D. The suitability of the property in question to the uses permitted under the existing zoning classification.

The subject property is in a transition zone from the two to three story D-2 section of the south end of the Central Business District to a downtown residential neighborhood with a mix of single and multi-family residential uses within the block. The subject property on the southeast corner of Frank and Ann was used for detached single-family residential exclusively through the early to middle part of the last century. Since 1960 however, the once large single-family lot has been subdivided and commercial uses have been added. In addition, Frank Street from Woodward to Ann was widened and on-street metered parking was added, effectively extending the central business district. The development of the CVS plaza in the 1990's created the view of the large surface parking lot from the front windows of the home, further eroding the desirability of the lot for detached single-family residential use. In 1996, the creation of the 2016 Plan also encouraged higher uses for the property to the east, encouraged a mix of uses to allow residential, retail and commercial uses along Old Woodward, and created a transition approach from the central business district into downtown residential areas. The southeast corner of Frank and Ann Street is now a small, isolated, single-family residential parcel on the block of Frank between S. Old Woodward and Ann Street. There is a single-family parcel to the south fronting on Ann Street which is significantly larger than the remainder of the single-family parcel at the corner of Frank and Ann. As previously noted by the Planning Board, the three parcels being considered for rezoning to TZ1 are clearly transitional from the commercial uses along Old Woodward to the residential neighborhood surrounding Barnum Park, and the Planning Board has previously recommended these parcels for rezoning to TZ1 as a suitable zoning classification for this site.

### 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.

In 1960 the entire parcel was rezoned to B-1 Neighborhood Business to match the commercial zoning on the north side of the Frank Street block from Old Woodward to Ann Street. At some point in the 1960's the once large single-family parcel was split into three lots and a new medical clinic was built on the central portion of the site. As discussed above, the City again rezoned only the western portion of the property at 412 E. Frank in 1987 back to R-3, but did not alter the commercial zoning of the central and eastern portion of the lot. The development of the CVS plaza in the 1990's created the view of the large surface parking lot from the front windows of the home. Other development trends in the area included the development of multi-family residential buildings along both Ann and Purdy, as well as the development of several new single family residential homes on Ann Street south of the subject property.

On October 26, 2016, the applicant appeared before the Planning Board to discuss the requested rezoning to TZ1. After much discussion and public input, the applicant agreed to postpone the request to November 9, 2016 and to study the possibility of placing a single family home on the western portion of the property at the corner of Ann and Frank, and a multi-family residential building on the central and eastern portions of the property using the TZ1 development standards. The applicant has not provided drawings to date, but will bring some options for discussion at the upcoming Planning Board meeting.

On November 9, 2016, the applicant brought several studies to demonstrate the difficulty in developing the site with the current zoning. However, the plans were submitted at the meeting, and staff did not have an opportunity to review them for zoning compliance. Accordingly, the Planning Board postponed the matter to December 14, 2016 and directed the applicant to conduct additional studies to illustrate their position that the current zoning is obsolete, and to further illustrate that the proposed TZ-1 classification would fit in with the surrounding neighborhood. Please find attached a report and drawings submitted by the applicant at this time for your review.

#### **Recommendation**

As the Planning Board has previously found, the entire parcel at 412 – 420 E. Frank Street is clearly a transitional property that separates the commercial areas to the north and east from the residential area to the west. The use of the property for low density multiple family use acts as a transition and buffer, and is entirely consistent with recent rezonings in similar transitional locations around the downtown. The proposed multiple-family residential development will also add to the diversity of housing options available, and is similar to those already found in the surrounding area. The proposed request to rezone the entire property to TZ1 Transition Zone and limit the use to residential use only is very appropriate in such a transition zone.

Accordingly, the Planning Division finds that the proposed rezoning of the Subject Property from R-3 (Single-Family Residential), B-1 (Neighborhood Business), and B-2B (General Business) to TZ1 (Transition Zone) should be recommended for approval.

#### Suggested Action:

Motion to RECOMMEND APPROVAL of the proposed rezoning of 412 - 420 E. Frank Street from B1, R3, & B2B to TZ1 to the City Commission.

OR

Motion to RECOMMEND DENIAL of the proposed rezoning of 412 - 420 E. Frank Street from B1, R3, & B2B to TZ1 to the City Commission.

#### PLANNING BOARD MINUTES RELATED TO 2016 PRIVATE REZONING APPLICATION

#### Planning Board Minutes October 26, 2016

#### 1. 412-420 E. Frank St. Frank Street Bakery and Petrella Designs Request for rezoning of the property from R-3 (Single-Family Residential), B-1(Neighborhood Business), and B-2B (General Business) to TZ-1 (Transition Zone)

Ms. Ecker noted the subject property is located on the southeast corner of Frank St. and Ann St., and includes one corner lot (Lot 32, Blakeslee Addition), one lot immediately to the east facing Frank St. (Lot 31, Blakeslee Addition), and the rear 32 ft. of lots 3 and 4 of the Blakeslee Addition that front on S. Old Woodward Ave.

The applicant is requesting that the Planning Board hold a public hearing to consider the rezoning of the western portion of the property (412 E. Frank Street, parcel #19-36-253-001) from R-3 (Single-Family Residential) to TZ-1 (Transition Zone), and the central

portion of the property (420 E. Frank Street, parcel #19-36-253-002) from B-1 Neighborhood Business to TZ-1 (Transition Zone) and the eastern portion of the property (no known address, parcel #19-36-253-003) from B2-B to TZ-1 (Transition Zone).

All three of these lots or portions of lots were previously combined and appear to have been split into three independent parcels prior to 1960. The three parcels are currently under common ownership. Ms. Ecker went on to summarize the history of the zoning on each of the three lots. The question now is whether the parcels should go from Single-Family, Commercial, Commercial to all TZ-1 Residential. In response to Mr. Jeffares, Ms. Ecker said if all three lots were combined under TZ-1, it would be possible build to up to 5 units with a total of ten parking spaces required.

Mr. Alex Bogarts, architect for the petitioner, described the mixture of uses in the area and why this property is suitable for consideration by the board for TZ-1 zoning. They see it as a great value to the community. There is ample space to meet or exceed any parking requirements.

Chairman Clein called for comments from members of the public at 9:40 p.m.

Mr. Eric Morganroth, 631 Ann St., said his R-3 residential neighbor should stay residential. He doesn't want to be the first residential home on this property when the corner lot should establish residential. He has no issue with the other two parcels being rezoned to TZ-1.

Mr. Eric Wolfe, 393 E. Frank St., said the corner parcel signifies the entrance to the single-family neighborhood. The original intention was to restore and preserve Single-Family Residential. He doesn't see any justification for the rezoning at all. It is totally developer driven and an encroachment into a single-family neighborhood. This area is congested and under tremendous parking pressure already. Further, he has no doubt this will have a negative effect on property values and he urged the board to deny the request.

Ms. Rohini St. Provon, who lives on Ann St., stated this is a sensitive residential area that is very congested. Another multi-family structure would create parking issues if they had guests and the overflow goes onto Ann St. Therefore, she opposed any multi-family property in that area.

Ms. Sariki Doshi, 659 Ann St., said she currently lives next to a multi-use apartment building. She also opposes the rezoning for all of the reasons that have been stated.

Mr. Sal Bitonti, 709 Ann St., owner of the property being discussed, said there is ample parking for the five units he hopes to build. They will be beautiful condos. He noted that Ann St. is predominantly condos and it has very little traffic.

Mr. Marshall Frye, said he owns the corner of Ann St. and Frank St., 610, 612 Ann St. and 380 Frank St. It is a home containing three apartments. He agrees with Mr. Wolfe that the neighborhood should remain as it is, a lovely community of residential homes.

Mr. Paul Reagan said one of the goals of the Central Birmingham Residents Assoc. has been to reclaim Ann St. from the mistakes that have been made for 50 years. To hear there is yet another home being planned for the corner is heartwarming. There is no reason to rezone the existing single-family home to TZ-1.

Ms. Whipple-Boyce said she has heard a very compelling argument to leave R-3 as it is. In her mind the other two parcels probably need some attention, but she doesn't know if TZ-1 is exactly the right thing to do.

Mr. Koseck wondered if the applicant has investigated whether the R-3 parcel could remain and the center parcel and the ones to the east could change to TZ-1. Mr. Bogarts replied they have not explored that opportunity and they are before the board for TZ-1.

Mr. Boyle noted it is clear that those who have already invested in the neighborhood wish to see single-family homes in the area. Mr. Koseck said they all agree this is a transitional zone. He thought if it were developed properly it could be this charming little thing at the end of the street.

Mr. Jeffares didn't see where five units would create more traffic than a restaurant. He doesn't see street values suffering. A single-family home could max out the lot; whereas if it is multi-family it would come back to the Planning Board and they could make sure it is something that fits.

Ms. Whipple-Boyce thought it would be most appropriate to leave the R-3 house on the corner as it is. She was willing to entertain a different zoning classification for the other two parcels.

Mr. Share wondered if the massing of the building isn't better for the neighborhood with a multiple-family development. The board should be cognizant of the fact that just preserving R-3 in that one corner isn't necessarily going to be an improvement when someone builds to the max.

Chairman Clein said he has yet to hear any proof this evening about why the R-3 parcel is transitional. Therefore, he cannot support the request to rezone to TZ-1.

Mr. Bogarts indicated they would like to be tabled in order to evaluate the R-3 site on the corner to see how much of a footprint is available for them to build and how practical that is.

#### Motion by Ms. Whipple-Boyce

## Seconded by Mr. Koseck to table the applications for rezoning for 412-420 E. Frank and resume them at the November 9, 2016 Planning Board meeting.

Mr. Eric Wolf made it clear that he does not support the motion.

#### Motion carried, 7-0.

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

#### Planning Board Minutes November 9, 2016

#### APPLICATIONS FOR REZONING AND ZONING ORDINANCE AMENDMENTS

1. 412-420 E. Frank St.

Frank Street Bakery and Petrella Designs

Request for rezoning of the property from R-3 (Single-Family Residential), B-1

## (Neighborhood Business), and B-2B (General Business) to TZ-1 (Transition Zone) (continued from October 26, 2016)

Ms. Ecker noted the subject property is located on the southeast corner of Frank St. and Ann St., and includes one corner lot (Lot 32, Blakeslee Addition); one lot immediately to the south facing Ann St. and running parallel to Frank St. (Lot 31, Blakeslee Addition); and the rear 32 ft. of lots 3 and 4 of the Blakeslee Addition that front on S. Old Woodward Ave.

The applicant is requesting that the Planning Board hold a public hearing to consider the rezoning of the western portion of the property (412 E. Frank Street, parcel #19-36-253-001) from R-3 (Single-Family Residential) to TZ-1 (Transition Zone); and the central portion of the property (420 E. Frank Street, parcel #19-36-253-002) from B-1 Neighborhood Business to TZ-1 (Transition Zone); and the eastern portion of the property (no known address, parcel #19-36-253-003) from B2-B to TZ-1 (Transition Zone).

On October 26, 2016, the applicant appeared before the Planning Board to discuss the requested rezoning to TZ-1. After much discussion and public input, the applicant agreed to postpone the request to November 9, 2016 and to study what could be done with the site by placing a single-family-home on the western portion of the property at the corner of Ann and Frank, and a multi-family residential building on the central and eastern portions of the property using the TZ-1 development standards.

Mr. Alex Bogarts, Architect for the petitioner, apologized that their materials were only submitted this evening. Chairman Clein said he does not like to be put on the spot to analyze plans received at the last minute. Mr. Williams stated in advance he will not vote yes or no for any proposal this evening. He does not want to deal with specific parcels of property, as the City has embarked upon a Master Plan for the whole City.

Mr. Boyle agreed with not rushing to judgment, but thought the board should not miss this opportunity to see what might be possible.

Mr. Mark Abernatha, Sr. Vice President from Mr. Bogart's office, took the board through a PowerPoint that depicted what they think is the highest and best use for each of the properties. In conclusion, they feel that a multiple family combined parcel is a wonderful transition from the surrounding commercial area and it won't generate much traffic.

Mr. John Sarkesian spoke to represent the developer. The property is under contract to them. They are willing to go on record as to what they will build. Mr. Bogarts pointed out they see this as down zoning because they are taking the property from business down to residential. The plan is for three stories containing five units plus parking. As seen on the concept rendering, the building has a lot of visual break up on the front including the detail of a drive-in under the building. The traffic and pedestrian access is closest to N. Old Woodward Ave. The building will be brick and limestone and there are 15 parking spaces on-site. These are for sale condominiums and the price point will be between \$1.2 million and \$2 million.

Chairman Clein went on record to state that he is not prepared to move this forward tonight because the materials are new and they need to be reviewed by staff. It was discussed that the Planning Board has no authority to accept contract zoning. The board can make a recommendation that will go to the City Commission and they will deal with it.

At 8:30 p.m. the Chairman asked for public comment.

Mr. Eric Morganroth, 631 Ann St., said he met with the applicant and determined there are some things about their proposal that he appreciates. It would represent the caliber of home that he lives in and would not depreciate his property. Further, he appreciates that all of the parking is self-contained and he likes the idea of the staggered elevation. Therefore, he is not opposed to this particular project with the criteria described and would like to see a project in that realm.

Mr. Paul Reagan said the applicant has come back largely with what they had last time. The existing zoning in the surrounding area is mostly R-3 and it should remain so. It is not the responsibility of this board to optimize the financial gain of an applicant. The proposal is for a big building, out of scale with the rest of the neighborhood. The applicant has failed to offer a good reason why the zoning must change.

Mr. Boyle discussed how well the six-unit Wallace Frost condominiums transition into his singlefamily Poppleton Park neighborhood. Mr. Williams indicated he would have liked to see concepts of how the two parcels to the east could be developed without the third parcel on the corner. They didn't see that, other than as a commercial building.

Chairman Clein noted the rendering is clouding the intent of the board's discussion which is whether R-3, B-2B, and B-1 are obsolete on the site. What the board asked for was to show what could go on the existing lots to prove or disprove the viability of the current zoning. Staff still has to review the assumptions that were made. Further, he noted that the RFP for the Master Plan has not yet been issued and this board cannot just stop the course of business until there might be someone on board who can take them through an 18 month development of a Master Plan. The board has to continue to push forward with the rules that are in place.

Mr. Koseck said he would like to see a rendering of the residential property developed with a detached garage. Additionally, he was curious what could be done on the B-1 and B-2B parcels if they were residential. Mr. Sarkesian responded if the two parcels were rezoned to TZ-1 it would be three units so the property would have a total of four units rather than the five they are looking for. However, the anchor of the small single-family would be impractical for them pursue.

Ms. Whipple-Boyce told the applicants if they do come back to the board and are still looking to have the TZ-1 zoning with a unit as shown and with deed restrictions and contract zoning without

calling it contract zoning, ultimately it will not be the Planning Board's decision anyway. Mr. Sarkesian said they have no problem doing any further studies, but they would not be interested in pursuing this property unless they can do a residential project. Chairman Clein said their role is to prove to this board that R-3 is obsolete and will not work on this site. On the other two sites prove to the board that based on setbacks and heights the new TZ-1 zoning classification would fit in with the surrounding neighborhood.

Mr. Williams thought the City Commission needs to tell this board what their policy is with respect to contract zoning.

#### Motion by Mr. Boyle Seconded by Mr. Williams to continue 412-420 E. Frank St., Frank Street Bakery and Petrella Designs to December 14, 2016.

There was no discussion from members of the public on the motion at 8:58 p.m.

Motion carried, 7-0.

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

#### DRAFT Planning Board Minutes December 14, 2016

#### **APPLICATIONS FOR REZONING**

# 1.~ 412 – 420 E. Frank St. (Frank St. Bakery & Petrella Designs) – Request for rezoning of the property from R-3, B-1 and B-2B to TZ-1 (Transition

**Zone)** (continued from November 9, 2016)

Ms. Ecker noted the subject property is located on the southeast corner of Frank St. and Ann St., and includes one corner lot (Lot 32, Blakeslee Addition); one lot immediately to the south facing Ann St. and running parallel to Frank St. (Lot 31, Blakeslee Addition); and the rear 32 ft. of lots 3 and 4 of the Blakeslee Addition that front on S. Old Woodward Ave. All three of these lots or portions of lots were previously combined and appear to have been split into three independent parcels prior to 1960. The three parcels are currently under common ownership.

The applicant is requesting that the Planning Board hold a public hearing to consider the rezoning of the western portion of the property (412 E. Frank St., parcel #19-36-253-001) from R-3 (Single-Family Residential) to TZ-1 (Transition Zone); and the central portion of the property (420 E. Frank St., parcel #19-36-253-002) from B-1 Neighborhood Business to TZ-1 (Transition Zone); and the eastern portion of the property (no known address, parcel #19-36-253-003) from B2-B to TZ-1 (Transition Zone).

On October 26, 2016, the applicant agreed to study the possibility of placing a single-family home on the western portion of the property at the corner of Ann St. and Frank St. and a multi-family residential building on the central and eastern portions of the property using the T-1 development standards.

On November 9, 2016, the applicant brought several studies to demonstrate the difficulty in developing the site with the current zoning. However, the plans were submitted at the meeting, and staff did not have an opportunity to review them for zoning compliance. Accordingly, the Planning Board postponed the matter to December 14, 2016 and directed the applicant to conduct additional studies to illustrate their position that the current zoning is obsolete, and to further illustrate that the proposed TZ-1 classification would fit in with the surrounding neighborhood.

The applicant has now made a few changes to their proposals. They added the option for single family on the R-3 lot on the corner of Frank St. and Ann St. with a detached garage and with an attached garage. Staff has found that everything is correct in terms of what could or could not be done on this site.

Mr. John Sarkesian spoke to represent the applicant for the rezoning request. He explained that in order to achieve their proposal the two commercial properties, the B-1 and the B-2B, would require down zoning to residential use, and the R-3 lot would remain a residential use. Their conclusion was the B-2B property would be very problematic to develop on its own, being only 32 ft. wide. The B-1 property could have a building and the architects have determined that a 6,000

sq. ft. two-story building could be built on the two parcels if they were to be combined as one commercial property.

He offered detailed analysis of two scenarios for the R-3 lot with a detached and with an attached garage. With an attached garage they determined that the total size as a two-story home with the allowable footprint would not be consistent with the local market. A larger home could be achieved with a detached garage, but it is still undersized and undervalued. Also, any building on the B-1 lot could be right along the eastern property line, two stories, 30 ft. high, affecting desirability, function, and value of the home. There would be no buffer from the commercial properties. For those reasons it seems improbable that someone would want to build a single-family home there, and if they did it would potentially undermine the values of the other single-family homes in the area.

They feel that the character of these three sites with the conditions sited conforms to the stated intent of transitional development, particularly TZ-1. Their proposed project would be a five-unit, for sale, residential condominium with 15 on-site parking spots. Traffic and parking would be contained and separated from the residential neighborhood. The building would be compatible with the area with respect to scale, architecture, and values of the adjacent single-family homes. It would provide a reasonable and orderly transition between commercial and single-family areas. If the property is rezoned, they would voluntarily offer in writing as a condition to rezoning that they would build a residential building of the size, character, and design being proposed.

Mr. Boyle received confirmation that the average size of the units would be 3,000 sq. ft. Further, that the combined B-1 and B-2B commercial site would require 20 parking spaces.

Chairman Clein called for comments from members of the public at 8:25 p.m.

Mr. Paul Reagan pointed out if the applicant is planning for five 3,000 sq. ft. units, they can build three units on the B-1 and the B-2B and one unit on the R-3. The only thing that would not happen is maximization of the total value of the property, which is not the affair of this board. It is feasible to utilize the R-3, so the applicant failed to prove necessity to rezone.

Mr. Eric Morganroth, 631 Ann St., thought that the proposed units would benefit the economic value of his house. He would like to see a commitment by the applicant to ensure the parking is all contained within the structure, that the caliber of the structure would be comparable to the other new construction in the area, and that it would be residential. Therefore, he is in support, knowing that it would down zone the area so that it would be more residential.

Mr. Eric Wolf, 393 E. Frank St. said he would like to get rid of the commercial use. There are advantages to eliminating that and down zoning that he could live with if they engage in "contract zoning." He thinks what has been designed is a very nice project.

Mr. Williams felt the City Commission has been hypocritical on the contract zoning issue. At one time they said no contract zoning and then with respect to Whole Foods that is exactly what they did. So, the question here is whether we can have contract zoning on this site. He will not vote

for this proposal or any other proposal until he understands what the City Commission's real position is on contract zoning.

In 1960 these parcels were rezoned to B-1. In 1987 the western-most property was, pursuant to the City's Master Plan, rezoned to R-3. Mr. Williams said it strikes him that this owner is bound by the prior owner's failure to challenge the R-3 rezoning in 1987. They commenced a lawsuit but did not follow through with it. For this board to undo that without a Master Plan is in his view is a dereliction of its responsibilities to adhere to the Master Plan. After saying all of that, he does think the benefits of downsizing on B-1 and B-2B are substantial to the neighborhood and substantial to the existing parking problem in the area. These three properties beg for a contractual resolution. Again, he will vote no on this proposal until he hears from the City Commission.

Mr. Koseck said he looks at these sites and, frankly, finds them to be an odd mix, especially as the B-2B is a very narrow lot. The R-3 house will be 5 ft. away from a wall that goes up 30 ft. and that house will look odd. The neighbors are in favor, so to him, the proposal to combine the lots is a very appropriate plan for this transitional area. Mr. Williams noted that what is proposed is just a general rezoning, not a project. Mr. Koseck pointed out the Planning Board can look at the plan based on the requirements of the Ordinance when it comes before them.

Mr. Jeffares thought if this isn't transitional zoning, he doesn't know what it is. There are many people who are empty nesters and are looking for this type of housing and they are not finding it. He appreciates that this allows our town to continue to be attractive to people and they don't have to leave when they move into a different part of their life. This nice five-unit development would be a perfect buffer.

Ms. Whipple-Boyce said she cannot forget the board is here to look at a rezoning and not the building being proposed. It seems to her that contractual zoning would be the best solution for these three properties but this body cannot recommend that. Therefore she was supportive of Mr. Williams' suggestion to forward this matter to the City Commission as a question, rather than a recommendation.

Mr. Williams thought this site begs the question of contract zoning much more so than the Whole Foods property. If that was restricted, why not this property.

Mr. Boyle felt that contemporary zoning needs to be respectful of the community as it is; not as it was. This is an opportunity to sit down and negotiate for a product that is appropriate for this area. The fact there is communication with the neighborhood residents goes hand-in-hand with contemporary master planning and zoning which needs to take into account what is possible in the context of this transitional area.

Chairman Clein said this matter comes down to points about the R-3 and about the overall process. The Planning Board is here for a rezoning. As was said, it is not the board's job to maximize value. In his opinion the only way a question can be posed to the City Commission is

either by putting forth a recommendation tonight related to the site or by postponing tonight because the petitioner wants to enter into negotiations with the administration.

Ms. Whipple-Boyce did not think the Planning Board has all of the tools that it needs and the City Commission is the only one that can help the board get those. Ms. Ecker observed that the Commission will have the final say either way.

Mr. Koseck noted the zoning being requested exists in the Zoning Ordinance. Speaking for himself, he is pretty tough on people that come to the board and do what he thinks is inappropriate for the community. He has faith this will work out as well as the decision on Whole Foods did.

Mr. Jeffares said he is on that same page. This board has the controls to make sure whatever is proposed fits into the community. The board should not have to go to the extent on each and every property in the community to say it has to see first what is going to be built.

Mr. Baka pointed out that TZ-1 has protectoral design standards built in as far as building materials, fenestration, etc.

Mr. Sarkesian stated they will not go before the City Commission if their proposal is voted down by this board. If the Planning Board doesn't like what they are doing, why would the Commission support them. So if they get a positive recommendation they will go to the Commission and fight for what they want to do and make it clear that they will voluntarily offer to restrict what they do with the property.

### Motion by Mr. Koseck

# Seconded by Mr. Jeffares to recommend to the City Commission approval of the proposed rezoning of 412-420 E. Frank St. from B-1, R-3, and B-2B to TZ-1.

Mr. Boyle thought that members of the Planning Board are sending a signal to their colleagues that they have done as much as they can. The developer is proposing to do something that the board is generally in favor of and the board sees this motion as moving it forward. He will therefore vote yes.

There were no comments from the public at 9 p.m.

### Motion carried, 6-1.

ROLLCALL VOTE Yeas: Koseck, Jeffares, Boyle, Clein, Prasad, Whipple-Boyce Nays: Williams Absent: Lazar

#### PLANNING BOARD MINUTES RELATED TO PRIOR CITY-WIDE TRANSITIONAL ZONING STUDY

#### Planning Board Minutes September 25, 2013

#### **REZONING APPLICATION** 412-420 E. Frank St. Request to rezone property from R-3 and B-1 to B-2B General Business

Ms. Ecker described the property in question. She advised the subject property is located on the southeast corner of Frank St. and Ann St., and includes one corner lot (Lot 32, Blakeslee Addition); one lot immediately to the south facing Ann St. and running parallel to Frank St. (Lot 31, Blakeslee Addition); and the rear 32 ft. of lots 3 and 4 of the Blakeslee Addition that front on S. Old Woodward Ave. **All three of these lots or portions of lots were previously combined and appear to have been split into three independent parcels prior to 1960. The three parcels are currently under common ownership.** 

Ms. Ecker advised that 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 applicant is the owner of the subject property, which includes the three parcels, noted above, and has provided authority to his architect to act on his behalf regarding the application for rezoning. In accordance with the requirements of the Zoning Ordinance the applicant is the property owner of parcels #19-36-253-001, 19-36-253-002 and 19-36-253-003, being Lots 31 & 32 and the west 32 ft. of lots 3 & 4 Blakeslee Addition. The applicant is requesting that the Planning Board consider the rezoning of the western portion of the property (a former home converted for office use, 412 E. Frank Street, parcel #19-36-253-001) to B-2B (General Business); and the central portion of the property, The Frank Street Bakery, 420 E. Frank St., parcel #19-36-253-002) to B-2B (General Business) to match the existing zoning of the eastern portion of the property (no known address, parcel #19-36-253-003), which is striped for parking and is currently vacant.

#### **Existing Zoning of Subject Property:**

The **western portion** of the entire parcel (roughly 60 ft. along Frank, starting at Ann, known as 412 E. Frank, parcel # 19-36-253-001) is currently zoned **R-3 Single-Family Residential**. A building currently exists on the western portion which is used for office use and associated parking.

The **central portion** of the entire parcel (60 ft. in width along Frank, known as 420 E Frank, parcel # 19-36-253-002)) is currently zoned **B-1 Neighborhood Business**. This center portion is currently occupied by a one-story building that is used for Frank Street Bakery. An adjacent outdoor dining area and associated parking are also located on the central portion of the property.

The **eastern portion** of the entire parcel (32 ft. in width along Frank, no known address, parcel # 19-36-253-003) is already zoned **B-2B General Business.** No zoning change is requested for this portion of the property.

Ms. Ecker went on to offer a history of each of the two properties requested for rezoning to B-2B in order to build a projected four-unit condominium project.

Ms. Ecker advised that the Planning Division finds that the proposed rezoning of the subject property at 412 E. Frank St. from R-3 Single-Family Residential to B-2B General Business, and the proposed rezoning of 420 E. Frank St. from B-1 Neighborhood Business to B-2B General Business should not be recommended for approval. B-2B Zoning allows for all kinds of commercial, recreational, institutional and residential uses. As an alternative, the Planning Board may wish to consider allowing Attached Single-Family Residential on the subject property, perhaps under an R-8 Attached Single-Family or ASF Attached Single-Family (under the Zoning Transition Overlay District) zoning classification instead. This would be consistent with the Planning Board's approach to similar transitional properties throughout the City.

Mr. Williams noted there are other parcels that would fit the definition of a transition area that haven't been identified. His view was that they all should be included when the board holds its public hearing on transition zoning.

The property owner, Mr. Sal Bitonti, 709 Ann St., and his architect, Mr. Irving Tobocman, 439 Greenwood, were present to discuss their proposal to go to B-2B Zoning in order to construct four attached single-family homes on the site. Mr. Tobocman said their reason for requesting B-2B zoning is so they can set the buildings back approximately 24 ft. from Frank St. At the corner, the idea is to continue that green area along Ann St. Lawn and trees will be planted within the setbacks to separate the units from people on the street. They chose this zoning because under R-8 Residential Zoning their building coverage would be very much smaller than what they are proposing.

Ms. Ecker noted the ASF Zoning could increase the building footprint because it allows them to move closer to Frank St. Chairman Boyle said of they go to B-2B Zoning it would open up a whole variety of permitted land uses. The ASF Zoning narrows down the land use to residential.

In response to a question from Mr. Koseck, Mr. Bitonti stated that he purchased and assembled the three properties about fifteen years ago.

The chairman took comments from the public at 8:32 p.m.

Mr. Eric Morganroth, 631 Ann St., said his biggest challenge with Ann St. is the parking. He wants to make sure that his home maintains its value and that the rezoning request is good for his children as well as the surrounding community.

Mr. Eric Wolfe, 393 E. Frank, said he has no objection to the current uses on the site. As far as rezoning to B-2B, the allowed uses are totally incompatible. The property could easily be combined with the piece to the east that is on S. Old Woodward Ave. and it would now be a very substantial parcel. So, the potential for a much greater density on this site is there; it is inevitable. He doesn't think there is a real plan, only an idea. B-2B just grants heavier zoning to permit the sale at a maximum price. As a homeowner directly impacted, he objects. The two buildings on the site are small parcels and act as a transitional buffer; they prevent the potential for a large development on this site. It was the intention of the 2016 Plan to prevent further proliferation of two-family and multi-family residential development in areas just like this. So he disagrees with the Planning Dept.'s conclusion which says that four attached units are a good idea. He doesn't think that should be addressed at this point.

Ms. Krista Winger, 371 E. Frank, expressed her opposition to the rezoning because the property could turn into anything rather than residences. She was afraid that more commercial would come into the neighborhood.

Mr. Clein pointed out that Transitional Zoning does not yet exist.

Several board members said they are not in favor of the B-2B Zoning Classification because far too many uses are allowed.

#### Motion by Mr. Clein Seconded by Mr. Williams to recommend postponement of the proposed rezoning for 412-420 E. Frank St. to the December 11 Planning Board meeting.

No one from the public commented on the motion at 9 p.m.

### Motion carried, 7-0.

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

Chairman Boyle asked the applicant to make an appointment with Ms. Ecker and her staff to come in and get a better sense of why the Planning Board is postponing and perhaps they will reconsider their idea regarding the zoning of this site.

The board took a short break at 9:30 p.m.

#### Planning Board Minutes December 11, 2013

## OLD BUSINESS 412-420 E. Frank St. Request for Rezoning (postponed from the meeting of September 25, 2013)

Mr. Baka advised the subject property is located on the southeast corner of Frank St. and Ann St, and includes one corner lot (Lot 32, Blakeslee Addition), one lot immediately to the south facing Ann St. and running parallel to Frank St. (Lot 31, Blakeslee Addition), and the rear 32 ft. of lots 3 and 4 of the Blakeslee Addition that front on S. Old Woodward Ave.

On September 25, 2013, the property owner and his architect appeared before the Planning Board to present a conceptual drawing of an attached single-family development that would encompass the three parcels proposed for rezoning. The applicant explained that they chose to request rezoning from R-3 and B-1 to B2-B, a commercial zone, because the development standards allowed for the setbacks that they desired on the site. The applicant indicated that they were not interested in the commercial uses. However, the Planning Board voiced concerns regarding the long term implications of such a change. While the current owner may not wish to pursue the commercial uses, any future owner would be permitted to do so. Considering the proximity of the parcels to the adjacent single-family residential, this area has been identified as a "sensitive residential area" in the Future Land Use Plan and meets the criteria of a transitional area as outlined in recent Planning Board study sessions.

Accordingly, the Planning Board postponed the public hearing for the proposed rezoning to allow the applicant to consider withdrawing their rezoning request in lieu of inclusion in the Zoning Transition Overlay District. Since that time the Planning Division has met with the applicant's architect to discuss the feasibility of constructing the proposed attached single-family development under one of the proposed ASF zones. Through those discussions it was determined that the ASF zones as currently proposed would permit the proposed development to be built without the need for any variances.

Based on this information, the applicant has indicated that they are amicable to being included in the Zoning Transition Overlay rather than pursuing the B2-B rezoning.

Mr. Irving Tobocman, 439 Greenwood, the architect for this proposal, was present with Mr. Salvador Bitonti, the property owner. Mr. Tobocman indicated they would be happy to postpone their application and see how the Overlay District develops. The only concern they have at this point is there was talk about a setback of 25 ft. from Ann St. Their major building is set about 21 ft. from the property line and their roof overhang and porch is approximately 17 ft.

#### Motion by Mr. Williams Seconded by Ms. Whipple-Boyce to postpone consideration of the proposed rezoning of 412-420 E. Frank St.

### Motion carried, 5-0.

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

#### Planning Board Minutes Wednesday, May 27, 2015

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;

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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;

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 4.3 4.4** TZ1, TZ2, TZ3 TZ1 TZ1, TZ2, TZ3

Essential Services Standards (ES) **4.09** TZ1, TZ2, TZ3

Fence Standards (FN) **4.10 4.11** TZ1, TZ2, TZ3 TZ1

Floodplain Standards (FP) **4.13** TZ1, TZ2, TZ3

Height Standards (HT) **4.16 4.18** TZ1, TZ2, TZ3 TZ1, TZ2, TZ3

Landscaping Standards (LA) **4.20** TZ1, TZ2, TZ3

Lighting Standards (LT) **4.21 4.22** TZ1, TZ2, TZ3 TZ1, TZ2, TZ3

Loading Standards (LD) 4.24 TZ1, TZ2, TZ3

Open Space Standards **4.30** TZ1, TZ2, TZ3 (OS)

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 DEFINITIONS 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, 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.

Mr. Baka recalled the Planning Board has held several study sessions over the past several years in order to develop a Transition Zoning classification that could be applied to areas of the City that abut single-family residential zones and are adjacent to commercial zones and/or located on major thoroughfares. The goal of these study sessions was to identify and revise the zoning classifications of these properties to provide a transition/buffer to the single-family neighborhoods through the use of screenwalls and landscaping.

Additionally, the new zones were crafted to incorporate small scale, neighborhood friendly uses that are likely to be patronized by residents of the immediate area. There are several restrictions proposed to control the new uses that would ensure that new development would be in keeping with the scale and standards that are expected in the City of Birmingham.

The Planning Board selected fourteen (14) locations throughout the City where these zones are proposed to be implemented. On some existing residential parcels this is proposed to be accomplished through attached single-family or multi-family housing. On commercial parcels, it is proposed to be accomplished through a mixed-use zone that permits residential and commercial uses.

On April 8, 2015 the Planning Board reviewed draft ordinance language for three new zoning classifications, TZ1, TZ2, and TZ3. At that time the Planning Board set a public hearing for May 27, 2015. The following outlines the proposal to be considered.

### Article 04

In addition to the regulations provided in Article 02 of the Zoning Ordinance, the Planning Dept. identified many additional development standards contained in

Article 04, Development Standards, that should be applied to the new transition zones. The Planning Department is now providing draft ordinance language for those development standards in a format that would allow for integration into Article 04 of the Zoning Ordinance.

### Article 05

The creation of the new zoning classifications would also require additions to Article 05, Use Specific Standards, for any permitted uses allowed in the TZ zones. Draft ordinance language to add to Article 05 has been proposed for review.

### Single-family dwellings in Transition Zones

Throughout the course of the study sessions it has been consistently maintained that single-family residential should be a permitted use in each zone. As discussed at the last study session, the standards that have been applied are R3, which is consistent with the rest of the Zoning Ordinance.

Mr. Baka discussed the permitted uses and development standards for each of the three zones, TZ1, TZ2, and TZ3. TZ1 is strictly residential and TZ2 and TZ3 are mixed- use or commercial zones. The only difference between TZ2 and TZ3 is that the maximum height is higher on TZ3 which allows three stories (minimum of two stories) and 42 ft.; whereas TZ2 permits a maximum of two stories.

Mr. Jeffares received clarification that E.F.I.S. is permitted as a building material for TZ1. For TZ2 and TZ3 it is allowed but not on the first floor.

Ms. Ecker spoke about why the City is taking this initiative. There are multiple parcels throughout the City that are in a difficult situation because they are either on a major road, adjacent to

commercial uses, and/or abutting up against single-family neighborhoods. These parcels have not been dealt with by either the Zoning Ordinance or the Master Plan over the last several decades. The Planning Board is attempting to create a Transitional Zone to show the unique circumstances in each of the cases and to clearly delineate which uses are appropriate for those locations. Some protection for the nearby residents has been put into place and the size of any commercial proposal has been limited. Mr. Koseck hoped this would get better tenants, better buffers and respect the neighborhoods.

At 8:08 p.m., Chairman Clein called for comments from the public related to dimensional standards or the creation of transitional zoning in general.

Ms. Patricia Shane who lives on Purdy spoke against the rezoning. She doesn't want commercial coming into her neighborhood.

Ms. Catherine Gains, 343 Ferndale, believed the rezoning will increase on-street parking and traffic which is already getting crazy in her neighborhood. Consider not passing the rezoning.

Mr. Larry Bertolini thought off-street parking for outside dining should be incorporated. He wanted to see a comparison of what was to what can be as far as change in density and change in parking. He hopes the area will not become over commercialized by developers.

Ms. Schuger, who owns property at 467 Park and 1823 Bradford, questioned what the City will be bringing to the residents of the community other than assisting developers. She thinks graphics would be very helpful.

Ms. Jean Rizzo, 431 Park, received confirmation that the rear setback for a TZ1 property is 20 ft. and the side setback is 10 ft. No one in her neighborhood wants the rezoning.

Mr. Steve Rockoff who lives on Webster asked if environmental or traffic impact studies have been done with the parcels as to how the residents could be affected by the rezoning. Chairman Clein answered that without the specifics of a development proposal the details of what the impacts would be could be very far flung. Mr. Rockoff stated everyone he has talked to about the rezoning is against it. Mr. Baka noted that in the TZ2 and TZ3 zones the density will not change.

Ms. Cathleen Schwartz, 582 Henrietta, noted the residents moved in with what is there now. Change is always hard and some of the changes proposed could be very different from what currently exists. She would like to see the parcels in the context of the whole City in order to get a sense of the scope of change.

Mr. Joe Murphy, 751 Ann, said the rezoning appears to him to be a commercial undertaking. He urged the board to consider another way to raise money for the City.

Mr. Jim Partridge, owner of property at the SE corner of Webster and Adams, observed there are four parcels along Adams Rd. that do not meet the criteria and are therefore unbuildable because they are 120 ft. x 40 ft. His is 120 ft. x 42.3 ft. There is no parking. That needs to be looked at. Further there will be disagreements about whether the City is complying with the Uniform Energy Code.

Mr. Will Huffacre, 532 Pierce, agreed that parking could become an issue. He is opposed to the Transition Zones. He hasn't heard why it would really benefit him as a resident. There don't seem to be any provisions to protect residents. He asked if the proposed ordinance amendments would

be retroactive. Chairman Clein responded there are code compliance officers who have the ability to issue violations for anything related to the ordinance. Ms. Ecker explained if the ordinance were to go through, an existing building is grandfathered in by legal non-conforming status. However, if a new use comes in or the building is expanded it would be subject to the new rules.

Mr. David Bloom who lives on Stanley stated the residents in this community have made it clear that they do not want to see this kind of development. He doesn't know why it is needed right now when there is so much other expansion going on in the City.

Mr. Paul Regan who lives on Purdy said that staff has done a yeoman's job on determining dimensionality, the height and the setbacks. However, the essence of zoning is usage and what is being considered now is not relief. Therefore, he is not in support. Separate the dimensionality from the uses and you would have a winner.

Mr. Koseck emphasized this proposal is not commercially driven in an effort to achieve more taxes for the City. It is not about putting more on a piece of property than can currently occur, because they all have to provide for their own parking.

Mr. Williams noted the board should focus on density in TZ1. Dimensions are not changing in TZ2 and TZ3 so focus on uses there.

Mr. Baka started a PowerPoint showing existing and proposed zoning for the 14 areas that are under consideration. Initial discussion centered around property at Park and Oakland which is a density issue because single-family is changing to multi-family. It may be the only one of the 14 that truly has density changes proposed. The post office is proposed to go to TZ1 if it is ever sold by the Federal Government.

Mr. Williams wanted to see a graphic depicting for each parcel what exists now and what could exist under current zoning; and what the proposed changes are with respect to uses. Other board members agreed the presentation needs to be a little simpler so that it is easier to understand.

#### Motion by Mr. DeWeese

Seconded by Mr. Williams to continue this public hearing to June 24, 2015 in order to provide more detailed information.

The chairman took discussion to the public for comments on the motion at 9:25 p.m.

Mr. Larry Bertolini noted additional items that might be reviewed at the next meeting:

- Clarification as to what happens if the existing church and the existing post office decide to vacate;
- > Show graphically that there will be no increase in density;
- > Review of parking for outside dining establishments.

Mr. Michael Poris, 36801 Woodward Ave. did not support the motion. He wanted to see the rest of staff's presentation.

Mr. Paul Regan noted that some of the uses come with cars and parking more so than others.

## Motion carried, 7-0.

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

#### Planning Board 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:

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## 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) TZ1, TZ2, TZ3 TZ1 4.2 4.3 TZ1, TZ2, TZ3 4.4 Essential Services Standards (ES) **4.09** TZ1, TZ2, TZ3 Fence Standards (FN) 4.10 TZ1, TZ2, TZ3 TZ1 4.11 Floodplain Standards (FP) **4.13** TZ1, TZ2, TZ3 Height Standards (HT) 4.16 TZ1, TZ2, TZ3 TZ1, TZ2, TZ3 4.18 Landscaping Standards (LA) **4.20** TZ1, TZ2, TZ3 Lighting Standards (LT) 4.21 TZ1, TZ2, TZ3 TZ1, TZ2, TZ3 4.22

Loading Standards (LD) <b>4.24</b> TZ1, TZ2, TZ3	
Open Space Standards (OS) <b>4.30</b> TZ1, TZ2, TZ3	
Outdoor Dining Standards (OD) <b>4.44</b> TZ2, TZ3	
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Structure Standards (SS) <b>4.69</b> TZ1, TZ2, TZ3	
Temporary Use Standards (TU) <b>4.77</b> TZ1, TZ2, TZ3	
Utility Standards (UT) <b>4.81</b>	TZ2, TZ3
Vision Clearance Standards (VC) <b>4.82</b>	TZ1, TZ2, TZ3
Window Standards (WN) <b>4.83</b>	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.

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Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

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## 1132 & 1140 Webster; 1137 & 1143 Cole St.; 1101 & 1120 E. Lincoln. Birmingham, MI.

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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 current 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 <u>Property area per lot on Park -</u> 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 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 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 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.

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 he has heard. He doesn't mind pulling properties out of the 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 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 AUGUST 24, 2015

### 08-183-15 PUBLIC HEARING TO CONSIDER ORDINANCE AMENDMENTS TRANSITIONAL ZONING

Mayor Sherman opened the Public Hearing to consider amendments to Chapter 126, Zoning, of the Code of the City of Birmingham at 7:36 PM.

City Planner Ecker explained that the Planning Board did a comprehensive review of the transitional type. The Planning Board found that there were some common characteristics between the properties including that the properties were already used or zoned commercial uses, abutting a single family residential property or neighborhood, located on major streets or a combination of those. She noted that all are commercial in their use or zoning with the exception of one property on Purdy which is zoned and used for single family.

She noted that the proposed zones would still allow for residential uses. Transitional Zone 1 (TZ1) is proposed to be residential uses only. Transitional Zone 2 (TZ2) and Transitional Zone 3 (TZ3) would allow for residential uses and some commercial uses. She noted that the Planning Board reviewed these use by use in each category and determined that each is a neighborhood compatible use and added controls to ensure it was neighborhood compatible. Anything related to food would require a special land use permit (SLUP). Some of the other standards include design standards, materials, and streetscape to further control the use and how the building would sit on a site.

Ms. Ecker explained that TZ1 is the most restrictive type of zoning proposed with regards to use. TZ1 is residential use only – only single family or attached single family or multi-family would be allowed on these properties. No commercial uses. She explained that the intent is come up with a comprehensive approach to providing for the orderly transition from commercial to residential areas which include a fully integrated mixed use pedestrian oriented environment, to protect the existing residential neighborhoods, to regulate the building height and mass to make sure the scale is appropriate, to review the uses to make sure the uses are appropriate, to make sure that the site design and building design are compatible with adjacent neighborhoods, and to encourage right-of-way design to calm traffic and create a distinction between the less intense residential areas and the more intense commercial areas.

Ms. Ecker explained that the uses requiring a SLUP include assisted living, churches, government use and office, independent hospice and senior living, schools, and skilled nursing facility. She noted that all of the current uses and buildings on the sites today would be allowed to remain as legal non-conforming. She noted that two to three stories are allowed with a maximum height of 35 feet, which is consistent with the permitted height in single family neighborhoods.

Ms. Ecker explained that the TZ2 are already used or zoned for commercial uses, with the exception of the property on Purdy. She noted that this allows for the same residential use and noted the list of uses proposed for that area was thoroughly vetted by the Planning Board and determined that the uses are neighborhood compatible commercial uses. She explained the uses allowed with a SLUP include anything with food. She further explained the development

standards and noted the permitted height is 30 feet and two stories maximum.

Ms. Ecker noted that in TZ3 is only in two locations – at Quarton and Woodward Ave and Chesterfield and Maple. She noted that there is no single family actual use or home directly abutting the property. She noted that the height would require two-stories minimum and three-stories maximum. She explained that all residential uses are permitted. The commercial uses are listed as well as those allowed with a SLUP.

She explained the design standards, buffer standards, and streetscape standards required for all transition zones. In response to a question from Commissioner Rinschler regarding uses, Ms. Ecker confirmed that if a use is not listed, it is not allowed.

Commissioner McDaniel suggested that under the SLUP category there be an "other" category with standards delineated such as low vehicle traffic, limited hours of operation, etc. He suggested eliminating the list of permitted uses and make everything subject to review against some predetermined standards. Ms. Ecker noted that the catch all category was debated by the Planning Board and determined that it was not how the rest of the ordinance was written and it was not something they wanted to add. Commissioner McDaniel stated it is worthy of reconsideration.

In response to a question from Commissioner Nickita, Ms. Ecker explained that the Planning Board wanted to make sure that everyone was clear that if they moved into a neighborhood around these parcels that all the uses were specifically listed and the resident would know what could be built next to them.

Mayor Sherman commented on the uses which are heavier than what is currently allowed such as food and drink establishments. Ms. Ecker explained that the public stated that they wanted a small scale neighborhood use such as a specialty food shop. She noted that they also heard from the public who did not want a food shop which is why it is in the SLUP category.

Commissioner Moore expressed his understanding of the tension the Board went through in terms of uses and predictability. At the same time, the City wants to encourage entrepreneurship. He suggested this is a discussion to have down the line in terms of how we go about ensuring that the City remains relevant in terms of uses.

Enid Livingston stated that she would like the see the height in TZ1 restricted to the average of the adjacent heights rather than 35 feet.

Dorothy Conrad expressed concern with the number of units permitted under the development standards.

David Conlin suggested a different definition of transition as it can have a disruptive connotation.

David Bloom stated that the City has gotten away from the term buffer zone and started calling it transition which is a vague word. He suggested more time be spent trying to find a way to get more neighborhood buy-in for this.

Jim Partridge stated that the discussion is out of sync with the existing building code. He

commented on the amount of glazing required. He expressed concern that this will become a City of awnings and transitional zoning should not be discussed until the windows are resolved, otherwise nothing will be built.

Patti Shayne expressed concern with density for such a small area, in particular on Purdy, as it is congested near the park. She stated that she is not clear how some of these zoning categories have emerged and is nervous about what could be built in such a small area.

Irving Tobocman expressed concern with the situation of the townhouses on Brown Street. He stated that the setbacks for residential should be left to the designer and architect so there is closer relationship between the walkable pedestrian situation and the people on the front porch like it is in most of the residential areas of the City.

Michael Murphy expressed concern with allowing the use of on-street parking as part of the parking requirement. He stated that blanketing the TZ2 with on-street parking across the board is not right.

Bill Finnicum expressed concern with the TZ1 zoning allowing front garages as they disrupt the rhythm of the street and the front porches are lost. He also expressed concern that there is no requirement for outside living space and allowing a building to be built up to the street as it will result in massive cumbersome structures.

David Kolar agreed with the suggested to incorporate a catch-all phrase for SLUP's. He expressed concern that with the new ordinance buildings would be built to an unusual shape and not leasable.

Larry Bertollini expressed concern with parking and increased traffic with the proposed uses. He noted that there is not a parking requirement with outdoor dining, which is allowed in TZ1 and TZ2. He noted that neighborhoods suffer with the parking issue.

Paul Reagan commented that there is a difference between the structural or dimensional provisions and the usages. He expressed concern that these buffers will be sieves, with the introduction of SLUPs.

Jim Mirro commented that he does not trust the process. He stated that spot zoning is bad and agreed with Mr. Reagan.

Bill Dow stated that he is unhappy with the ever increasing density and over-building of the City which is creating a lot of problems such as lack of parking, congested traffic, and encroachment in the neighborhoods.

Benjamin Gill agreed with Mr. Dow. He stated that when a particular problem comes up, a gigantic overview plan is not needed to take care of a few minor issues. He stated suggested using the rules already in place.

Commissioner Rinschler suggested eliminating all uses in TZ1 except for those that are specifically residential. Commissioner Nickita noted that it is a matter of interpretation as to whether the City wants the flexibility. He stated that for the most part it is residential unless there is a special condition in which case it is a SLUP. Commissioner McDaniel suggested

having no defined uses, instead define the standards against which that proposal would be evaluated.

Commissioner McDaniel expressed concern with the design standards as expressed by architects tonight. He suggested a resolution is needed. In response to a question from Commissioner Nickita, Ms. Ecker explained that a building could be built, but it may not be in the same configuration. She confirmed that the glazing standards have been studied by the building department who found that buildings could be built to comply with the energy code standards.

Commissioner Moore questioned 404 Park. Ms. Ecker stated that it is currently zoned R2. There are no commercial uses proposed on that site. Churches, schools and government offices would be allowed with a SLUP. She noted that those uses are currently allowed in R1, R2, and R3. It is consistent with what is allowed in the single family districts already in the City.

Commissioner Nickita noted that the Board has looked at the adjacent residential and commercial condition and extended the residential condition into this area to make it adhere more to what was there. He noted that the heights are an extension of the current heights in the neighborhoods. He pointed out that the City has added a series of requirements in the 2016, Triangle District, Rail District Plans that give direction on development to make sure that the sidewalks, streets, and buildings address their particular block so they are in context in the most appropriate way. The Plans give guidance to make sure that we maintain the street activity that we have throughout these districts. These edge conditions have lacked the additional controls and guidelines. This is a very controlled zoning that adheres to what we have in these other districts.

Commissioner Moore stated that this ordinance would provide for controls over these buffer/transition zones.

Mayor Sherman commented that the concerns are about the uses. He noted that there were no garage door standards on the front in TZ1. It should be consistent in all three zones as the City does not want the garage door in the front.

Commissioner Nickita stated that in the conditions identified in TZ3, it will lessen the impact of the conditions that are there.

The Commission agreed that the ordinance needs revisions.

City Attorney Currier explained the transitional zoning amendments do not legally constitute spot zoning. Taking a look at what has been considered with the transition zoning, there has been an attempt to bring before the Commission a comprehensive plan for transitional zoning to make a gradual transition that is not abrupt nor cause harm to either district. 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 taken into account the health, safety, and welfare of the entire community and the adjacent owners and occupants of nearby properties.

Commissioner Nickita disclosed that his architectural firm has previously consulted with one of the developers interested in one particular site that will be reviewed regarding rezoning. Therefore, he will recuse himself from consideration of 404 Park.

Planner Baka presented the proposed revisions to each property in TZ2 and TZ3 comparing the current uses and the proposed uses.

The following individual spoke regarding 564, 588, Purdy, 115, 123, 195 W. Brown, 122, 178 E. Brown:

• Paul Pereira, 543 Henrietta, commented that if it is rezoned, it should be TZ1 for attached residential units. He stated that the residents should be protected.

The following individuals spoke regarding 1111 & 1137 Holland; 801, 877, 999, 1035 & 1105 S. Adams Rd.; 1108, 1132 & 1140 Webster; 1137 & 1143 Cole St.; 1101 & 1120 E. Lincoln:

- Dave Kolar, 1105 S. Adams, commented on the setbacks for TZ2 and noted that the building façade shall be built within five feet of the front lot line for a minimum of 75% of the street frontage. He stated that he would have to have a 75 foot wall façade of a building, forcing the parking to behind the building and would give an unusual "L" shaped building to be buildable to meet this requirement. He stated that he would like a relief of zoning so he can duplicate exactly what is there if it is taken by casualty.
- Larry Bongiovanni agreed. He noted that this has been brought up at the Planning Board review. He suggested that parking be considered if there will be a three story building overcapacity and the impact on the area. Mr. Baka confirmed that the same setbacks would apply for residential and commercial.

The following individuals spoke regarding 1775, 1803, 1915, 1971, 1999, 2055, 2075 & 2151 Fourteen Mile Rd:

- Michael Murphy, 1950 Bradford, questioned the benefit of changing the zoning and expanding what is there. He suggested fixing what is on Woodward now.
- Dorothy Conrad stated that there are all medical buildings along 14 Mile now with no commercial use. She questioned what is the benefit to the community to put a commercial strip along 14 Mile when there is already viable development along there.

The following individuals spoke regarding 412 & 420 E. Frank:

- Irving Tobocman stated that the ordinance takes away the lawn area that is expected in a walkable community by making the developer build five feet from the sidewalk. He noted that there are no buildings with porches or greenery. He stated that the creative process that the architects bring is being taken away.
- Mr. Baka confirmed for a resident that all the parcels could be developed as residential. The resident suggested that it be broadcasted that residential opportunity would not be eliminated.
- Salvatore Bitonti, owner of a bakery, commented that he has someone who wants to build on the property. Mr. Baka clarified that this parcel was originally intended to be TZ1. Mr. Bitonti had a concern that if he did not build his residential properties that his current tenants would be phased out eventually. Based on those comments, the Planning Board switched it to TZ2.
- Paul Reagan stated that it could have continued to operate under the existing zoning.

**MOTION:** Motion by Rinschler, seconded by Nickita: To continue the Public Hearing to September 21, 2015.

VOTE: Yeas, 7 Nays, None Absent, None

## 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 <u>on Oakland Street</u> 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 <u>on Oakland Street</u> 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 CREAT E 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 by Dilgard:

To amend Chapter 126, Zoning, of the Code of the City of Birmingham, Article 4, all Sections noted below, to apply to each Section to the newly created TZ1, TZ2, and/or TZ3 Zone Districts as indicated: (TZ2 RESCINDED)

Ordinance Section Name	Section Number	Applicable Zone to be Added
Accessory Structures	4.02	TZ1, TZ2, TZ3 TZ1
Standards (AS)	4.03	TZ1, TZ2, TZ3
	4.04	
Essential Services Standards (ES)	4.09	TZ1, TZ2, TZ3
Fence Standards (FN)	4.10 4.11	TZ1, TZ2, TZ3 TZ1
Floodplain Standards (FP)	4.13	TZ1, TZ2, TZ3
Height Standards (HT)	4.16	TZ1, TZ2, TZ3 TZ1,
	4.18	TZ2, TZ3
Landscaping Standards (LA)	4.20	TZ1, TZ2, TZ3

Lighting Standards (LT)	4.21	TZ1, TZ2, TZ3 TZ1,
	4.22	TZ2, TZ3
Loading Standards (LD)	4.24	TZ1, TZ2, TZ3
Open Space Standards (OS)	4.30	TZ1, TZ2, TZ3
Outdoor Dining Standards	4.44	TZ2, TZ3
(OD)		

	1	L
Parking Standards (PK)	4.45	TZ1, TZ2, TZ3
	4.46	TZ1, TZ2, TZ3
	4.47	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	4.77	TZ1, TZ2, TZ3
(TU)		
Utility Standards (UT)	4.81	TZ2, TZ3
Vision Clearance Standards	4.82	TZ1, TZ2, TZ3
(VC)		
Window Standards (WN)	4.83	TZ2, TZ3

VOTE: Yeas, 7

Nays, None Absent, None

## **MOTION:** Motion by Hoff, seconded by Nickita:

To amend Article 9, Definitions, Section 9.02 to add definitions for boutique, parking, social club, tobacconist, indoor recreation facility, and specialty food store.

VOTE: Yeas, 7 Nays, None Absent, None

In response to a question from Commissioner Nickita, City Manager Valentine explained that there was a question on the current use of the property <u>at 412 & 420 East Frank</u> zoned R3. Staff has determined that the property appears to be in violation of the zoning ordinance with regard to the current use. It is currently under investigation as the current zoning is residential and the current use appears to be commercial. He noted that it is an enforcement issue.

City Attorney Currier stated that the Commission action on the rezoning is independent of the violation. He stated that staff has not had access to the property as of yet.

Commissioner Nickita stated that the current use may have an effect on how the Commission views the property. Commissioner Rinschler responded that the current use has no bearing on the future zoning.

## **MOTION:** Motion by Hoff, seconded by McDaniel:

To approve the rezoning of 412 & 420 E. Frank, Parcel # 1936253003, Birmingham MI. from B1-Neighborhood Business, B2B-General Business, R3-Single-Family Residential to TZ2 – Mixed Use to allow commercial and Residential uses which are compatible with adjacent

Single-Family Residential uses.

Mr. Baka explained for Patty Shayne that the property would be commercial or residential zone.

Erik Morganroth, 631 Ann, questioned why R3 would not be zoned TZ1 as it is a corner buffer lot.

Eric Wolfe, 393 Frank, stated that rezoning is not necessary on these parcels.

Nirav Doshi, 659 Ann, stated that the R3 should not be converted to TZ2. It should stay residential.

The Commission discussed the possibility of removing R3 out of the motion. Mayor Pro Tem Hoff suggested amending the motion to remove R3. There was no second.

Commissioner McDaniel suggested referring this back to the Planning Board to consider what has been proposed. Mr. Baka noted that the property owner requested to be in the study so they could consolidate the parcels under a single zone. Commissioner Nickita concurred that this should be reconsidered at the Planning Board level.

Mayor Pro Tem Hoff withdrew the motion. MOTION WITHDRAWN

**MOTION:** Motion by Nickita, seconded by Rinschler:

To send this item back to the Planning Board with direction based on the conversation tonight.

VOTE: Yeas, 7 Nays, None Absent, None

**MOTION:** Motion by McDaniel, seconded by Nickita:

To approve the rezoning of 151 N. Eton, Birmingham MI from B-1 Neighborhood Business to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses. (RESCINDED)

Dorothy Conrad stated that the Pembroke neighborhood does not object.

David Kolar stated that he was in favor of TZ2, until the SLUP requirement was added tonight which he objects. He stated that an identified number of basic uses is needed as these are small units.

VOTE: Yeas, 7 Nays, None Absent, None

**MOTION:** Motion by Hoff, seconded by McDaniel:

To approve the rezoning of 2483 W. Maple Rd. Birmingham MI. from B1- Neighborhood Business to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses. (RESCINDED)

VOTE: Yeas,

Nays, None Absent, None

**MOTION:** Motion by Dilgard, seconded by McDaniel:

To approve the rezoning of 1712, 1728, 1732, 1740, 1744, 1794 & 1821 W. Maple Rd. Birmingham, MI. 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. (RESCINDED)

VOTE: Yeas, 7 Nays, None Absent, None

**MOTION:** Motion by Nickita, seconded by Dilgard:

To approve the rezoning of 880 W. Fourteen Mile Rd., 1875, 1890 & 1950 Southfield Rd. Birmingham, MI. from B1-Neighborhood Business and O1-Office to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses. (RESCINDED)

VOTE: Yeas, 7 Nays, None Absent, None

**MOTION:** Motion by Nickita, seconded by Hoff:

To approve the rezoning of 100, 124, 130 & 152, W. Fourteen Mile Rd. & 101 E. Fourteen Mile Rd., Birmingham, MI. from B1-Neighborhood Business, P-Parking, and R5-Multi-Family Residential to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses. (RESCINDED)

VOTE: Yeas, 7 Nays, None Absent, None

**MOTION:** Motion by McDaniel, seconded by Moore:

To approve the rezoning of 1775, 1803, 1915, 1971, 1999, 2055, 2075 & 2151 Fourteen Mile Rd., Parcel # 2031455006, Birmingham, MI. from O1-Office to TZ2-Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses. (NO VOTE TAKEN)

Commissioner Moore stated that he will oppose this item. He stated that he approves the concept, but thinks the timing is wrong due to future changes to Woodward Avenue.

Dorothy Conrad noted that the current uses along 14 Mile Road are offices. There is no benefit to the neighborhood by changing the zoning to allow commercial uses with a SLUP.

David Kolar stated his objection and noted that the property owners should be notified that every use now requires a SLUP. It is a big change for a property owner.

City Attorney Currier stated the addition of the SLUP requirement is an additional restriction which was not part of the original notice to the property owners. He noted that this could be an issue for those not aware that the SLUP requirement was added tonight. In response to a question from the Commission, Mr. Currier confirmed that renotification to the property owners would be needed and the ordinance to add the SLUP restriction would have to go back to the Planning Board.

**MOTION:** Motion by Nickita, seconded by Hoff:

To rescind the motions regarding TZ2 for review of the Planning Board.

VOTE: Yeas, 7 Nays, None Absent, None

Mr. Valentine explained that TZ2 will be sent back to the Planning Board to hold a public hearing to incorporate the proposed language to include the SLUP restriction for commercial uses, and then back to the City Commission.

#### **MOTION:** Motion by Hoff, seconded by McDaniel:

To rescind the adoption of the TZ2 ordinance and all housekeeping pertaining to TZ2, but not TZ1 or TZ3, and refer TZ2 to the Planning Board per the discussion and to have the Planning Board take into consideration the discussion from the City Commission and from the public to arrive at a conclusion.

Commissioner Dilgard stated that he does not agree with the direction that everything has to be a SLUP. If it is sent back to the Planning Board, he suggested a SLUP be required for properties 1500 square feet or greater rather than just a blanket SLUP regardless the size of the property.

Commissioner McDaniel agreed and expressed concern that a 1500 square foot store would have to pay high fees for the approvals.

VOTE: Yeas, 7 Nays, None Absent, None

MOTION: Motion by Hoff, seconded by Nickita: To approve the rezoning of 36801, 36823 & 36877 Woodward, Parcel #'s 1925101001, 1925101006, 1925101007, 1925101008, 1925101009, Birmingham MI from O1- Office & P-Parking to TZ3 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

VOTE: Yeas, 7 Nays, None Absent, None

MOTION: Motion by Nickita, seconded by McDaniel: To approve the rezoning of 1221 Bowers & 1225 Bowers Birmingham, MI 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.

VOTE: Yeas, 7 Nays, None Absent, None

#### **MOTION:** Motion by Dilgard, seconded by Hoff:

To approve the rezoning of 400 W. Maple Birmingham, MI from O1 Office to TZ3 Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

VOTE: Yeas, 7 Nays, None Absent, None

**MOTION:** Motion by Nickita, seconded by Dilgard:

To approve the rezoning of 191 N. Chester Rd. Birmingham, MI. 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.

VOTE: Yeas, 7 Nays, None Absent, None

Mr. Currier noted that a protest petition was received on 404 Park which requires a <sup>3</sup>/<sub>4</sub> vote of the elected Commission. Mayor Sherman noted that six votes are needed and Commissioner Nickita has recused himself from this item.

#### **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)

Commissioner Rinschler and Commissioner Dilgard agreed that this should be referred back to the Planning Board based on the discussion.

#### Planning Board Minutes February 24, 2016

#### **REZONING APPLICATIONS**

1. 413 E. Frank St. (taupe building) 420 E. Frank St. (Frank Street Bakery) being lots 31 and 32 and the west 32 ft. of lots 3 and 4, Blakeslee Addition

Request to rezone 412 E. Frank St. from R-3 Single Family Residential to B-2B General Business, and request to rezone 420 E. Frank St. from B-1 Neighborhood Business to B-2B General Business

#### Motion by Mr. Williams

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

> E-mail from Bonnie Fry dated Wednesday, February 24, 2016.

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

### Motion carried, 7-0.

Mr. Baka advised that all three of these lots or portions of lots were previously combined and appears to have been split into three independent parcels prior to 1960. All three parcels are currently under common ownership.

Mr. Baka provided history as to the various rezonings that have taken place:

- Essentially since 1987 412 E. Frank St., the western portion of the property, has been zoned R-3.
- > 420 E. Frank St., the central portion of the property, has been B-1 since 1960.
- The eastern portion of the entire parcel (32 ft. in width along Frank St.) is already zoned B-2B and no zoning change is requested.

The Planning Division's recommendation is that the Birmingham Future Land Use Plan is pretty clear that this is a sensitive residential area. There has been much discussion recently about taking a new look at the existing Master Plan. The eastern portion is not designated as a sensitive residential area; however, changing it to B-2B would be much more intense than B-1 allows and it is felt that B-2B would be too intense. The City Commission has also specifically made a request that TZ-2 be reconsidered by the Planning Board for some additional changes. Therefore, perhaps this is not the right time to move a rezoning forward when there is another study on the table.

The property owner, Mr. Salvatore Bitonti, 709 Ann St., said he is afraid if the lessee for his 421 E. Frank St. property moves away he will not be able to rent it as residential.

Mr. Erik Morganroth, 631 Ann St., disclosed that he is a member of the Board of Zoning Appeals. However, he is speaking as a resident, not as a board member. He wants the property to remain residential because it is the corner that creates that sensitive residential area. In general along Ann St. the new construction has been residential. Combining the three parcels would be profitable for the current owner but it doesn't benefit the community.

Mr. Nero Padochi, 659 Ann St., thought that putting in a business would ruin the street.

Mr. Eric Wolf, 393 E. Frank St., noted that residents on the three corners of Frank St. and Ann St. all oppose this rezoning to B-2B. There are all kinds of alternatives for this site, although he would prefer that the corner remain R-3. There is no reason to introduce commercial options using the Transitional Zoning when they want the corner to remain single-family.

In response to a question, Ms. Ecker advised that TZ-1 would allow attached single-family similar to Brown St. It is up to Mr. Bitonti to decide what zoning he wants. Mr. Williams suggested that the board act on the City Commission's directive in the near future and look at transitional parcels.

#### Motion by Ms. Whipple-Boyce Seconded by Mr. Williams to recommend denial of the proposed rezoning of 412-420 E. Frank St. from B-1 and R-3 to B-2B to the City Commission.

#### Motion carried, 7-0.

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

#### APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE Birmingham Michigan

1. Zoning Map Change:

#### 2. Change Premises described as:

412 E. Frank Street & 420 E. Frank Street, Birmingham, MI 48009

Legal description:

Parcel I:

West ½ of Lots 31 and 32, of Plat of Blakeslee's Addition to the Village of Birmingham, According to the Plat thereof as recorded in Liber 2 of Plats, Page 50, Oakland County Records. (Parcel #19-25-252-001)

#### Parcel 2:

East 60 feet of Lots 31 and 32, of Plat of Blakeslee's Addition to the Village of Birmingham, According to the Plat thereof as recorded in Liber 2 of Plats, Page 50, Oakland County Records. (Parcel #19-25-252-002)

#### Parcel 3:

West 32 feet of Lots 3 and 4, of Plat of Blakeslee's Addition to the Village of Birmingham, According to the Plat thereof as recorded in Liber 2 of Plats, Page 50, Oakland County Records. (Parcel #19-25-252-003)

(Together, the "Subject Property")

From its present zoning classification of <u>Parcel 1 as R-3, Parcel 2 as B1 & Parcel 3 as B2B</u>, to a combined uniform zoning of <u>TZ-1</u>.

See attached Kem-Tec & Associates sealed land survey showing location, size of lot and placement of buildings.

Statements and reason for request or other data have a direct bearing on the request:

The Subject Property consists of three parcels each with a different current zoning:

The western portion (approximately 60' along Frank starting at Ann, known as 412 E. Frank was changed from B-1 zoning in 1987 to its current zoning of R-3 Single Family Residential. There is a building on this parcel that has an office use with associated parking.

The central portion (60' in width along Frank, known as 420 E. Frank) is currently zoned B-1 Neighborhood Business. This center portion is currently occupied by a building and outdoor dining and parking and used for a bakery.

The eastern portion (32' in width along Frank, no known address) is zoned B-2B (General Business) and is currently a parking lot.

The current zoning classifications of the properties in the general area of the Subject Property are R-3 (Single Family Residential) to the west and south, and B-2B (General Business) as

well as D-2 in the Downtown Birmingham Overlay to the north and east. The Subject Property is surrounded by properties with different uses, some consistent with existing zoning classifications and many in variance of existing zoning. The Subject Property is bordered on the east side by an office building and parking lot which fronts on Old Woodward and is in the B2B zoning district. The property adjacent on the north side of Frank Street is a CVS drug store and surface parking lot which fronts on Old Woodward. While the properties to the west and south are in the R-3 (Single Family Residential) zoning district, the home directly west of the Subject Property at the southwest corner of Ann Street and Frank Street currently has a multi-family use with three families occupying it. The three buildings on the west side of Ann Street immediately to the south of this corner home are all multi-family properties with 4 units, 24 units and 4 units respectively. The building on the west side of Ann Street two houses to the north of the intersection of Ann and Frank is being used as an office building with an adjacent parking lot containing 22 parking spots. Directly to the north of this property on the west side of Ann Street is an 8 unit multi-family building. One block to the west at the intersection of Frank and Purdy is a building with 3 commercial offices and directly to the north is a 23 unit multi-family property. Other than this last property, all of the other multifamily and commercial properties west of the Subject Property have a non-conforming use in the R-3 Single Family Residential zoning district. (See attached map entitled "Similar in Context Developments/Zoning Plan")

Given the current mix of uses on the three parcels which make up; the Subject parcel is a transitional property. The very limited areas of the three individual parcels would make it difficult to develop anything consistent to each of the parcel's current zoning. The B-2B eastern piece zoned is only 32 feet in width. Further, Frank Street from Woodward to Ann has been widened and on-street metered parking added, with the effect of extending the Woodward business district along Frank Street, which along with the CVS plaza on the north side of Frank, with its large surface parking lot visible from the windows of any structure facing Frank Street from the Subject Property, makes this an undesirable site for single family homes.

The applicant requests that the Subject Property be rezoned to the transitional zoning classification of TZ-1. This request is consistent to the intent of the City's transitional zoning. The applicant intends to develop the property as multi-family with no commercial component to the project. Given the very close proximity of a half a dozen or more multi-family properties, this rezoning and use would provide a good transition from the B-2B General Business and D-2 in the Downtown Birmingham Overlay to the north and east and not change the character of the neighborhood.

Applicant:

ARJA Holding, LLC

Signature of Applicant:

Print Name:

John Shekerjian, its agent

Name of Owner:

er: Saverio R. Bitonti

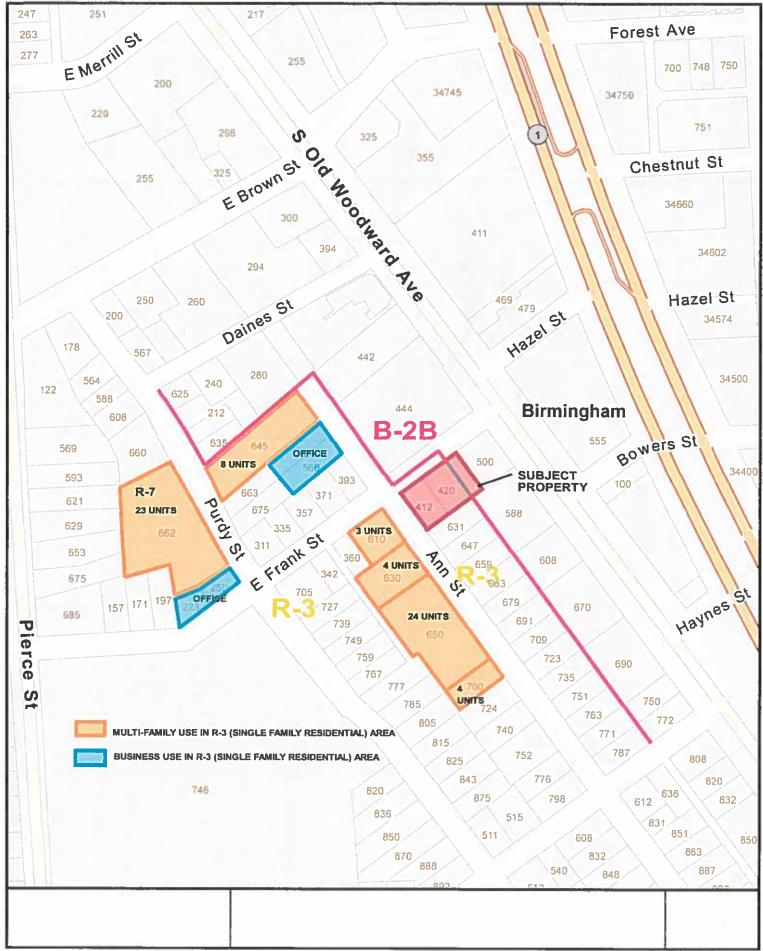
Applicant Address:

Applicant Telephone #:

390 Baldwin, Birmingham, MI 48009

(248) 885-1153

## SIMILAR "IN CONTEXT" DEVELOPMENTS/ZONING PLAN



#### AGREEMENT FOR PURCHASE AND SALE

THIS AGREEMENT FOR PURCHASE AND SALE ("<u>Agreement</u>") is made and effective as of the later of the Seller Execution Date or Purchaser Execution Date set forth on the signature page(s) of this Agreement (such date hereinafter referred to as the "<u>Contract Date</u>"), by Bitonti, Inc., a Michigan corporation, and Saverio R. Bitonti, as Trustee of the Saverio R. Bitonti Trust Under Agreement Amended and Restated October 7, 2009 ("<u>Sellers</u>"), and ARJA Holding, LLC, a Michigan limited liability company, or its assign ("<u>Purchaser</u>").

#### WITNESSETH:

In consideration of the promises hereinafter contained, the purchase price stated in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **PROPERTY.** Upon and subject to the following terms, covenants and conditions, Seller agrees to sell and convey to Purchaser, and Purchaser agrees to buy from Seller, the following (hereafter referred to collectively as the "**Property**"):

1.1 Land. All those certain tracts or parcels of land located in the City of Birmingham, Oakland County, Michigan, commonly known as 412 E. Frank (Tax ID 19-36-253-001, 420 E. Frank (Tax ID 19-36-253-002) and a vacant parcel identified by Tax ID 19-36-253-003, a legal description of which is attached as <u>Exhibit "A"</u> hereto (the "Land").

1.2 <u>Improvements</u>. The building(s) on the Land (the "<u>Building</u>"), and all fixtures, structures and improvements of every kind, nature and description now situated on the Land (the "<u>Improvements</u>").

1.3 Other Rights. All right, title and interest of Seller in and to (a) any strips and gores adjoining or adjacent to the Land and in and to any land lying in the bed of any street, road, avenue, way or boulevard, open or proposed, in front of or adjoining the Land, whether or not described in Exhibit "A", (b) any award for damage to the Land or the Improvements by reason of any change of grade in any street, road, avenue, way or boulevard, (c) any pending or future award made in condemnation or in lieu thereof, (d) all insurance proceeds payable with respect to any casualty which occurs to the Property prior to the Closing Date (as hereinafter defined); and (e) all rights, easements and interests, water, air and mineral rights, streets, public ways or rights-of-way, privileges, tenements, hereditaments, improvements, licenses, appurtenances and other rights and benefits belonging or in any way related or appurtenant to the Land or Improvements; and (f) the rights to make all divisions or redivisions available pursuant to Section 108 of the Land Division Act. Act No. 288 of the Public Acts of 1967, as amended, it being the intention of the parties that Seller shall not retain the right to make any divisions with respect to the Property herein described or any retained parcels. If the Land consists of more than one parcel there shall be no intervening strips, gaps, gores or lands to which any legal, equitable or beneficial interest are owned by others.

1.4 <u>Approvals</u>. All transferable occupancy certificates, consents, authorizations, variances, waivers, licenses, permits, franchises and approvals from or issued by any governmental or quasigovernmental agency, department, board, commission, bureau and any guarantees thereof or other entity or instrumentality in respect of the Property and/or relating to the use, development, maintenance or operation of the Property traffic and zoning (collectively, the "<u>Approvals</u>") heretofore or hereafter held by or granted to Seller.

Detroit\_5748929\_1

IN WITNESS WHEREOF, the parties have hereto executed this Agreement as of the date first above written.

#### SELLERS:

Bitonti, Inc. By:

Name: Saverio Bitonti Its: President

Saverio R. Bitonti, as Trustee of the Saverio R. Bitonti Trust Under Agreement Amended and Restated October 7, 2009

By: Name: Saverio Bitonti Its: Trustee Seller Execution Date 2016

PURCHASER:

ARJA Holding, LLC

By: and Name: Janet Shekerjian

Its: Member

Purchaser Execution Date: July 7, 2016

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### **Rezoning Request**

1 message

**bonnie fry** <bonniecfry@aol.com> To: jecker@bhamgov.org Wed, Feb 24, 2016 at 4:40 PM

412 E Frank Street (Frank Street Bakery) I may not be able to attend the meeting tonight. My Husband has a severe virus and our son is having spinal surgery first thing in

the morning and because of the heavy snow, I cannot get out of my Garage.I am the Manager and an owner of 610-612 Ann Street (corner of Ann and Frank) This is residential

and should remain residential.We are owners of A&F Associates LLC 610-612- Ann Street 48009 Birmingham Michigan We do not want a business within 300 feet of

our property.Please do not change the zoning it is not correct . Thank you, Bonnie Fry, Marshall Fry and Ronald Fry 248-645-5133



Jana Ecker <jecker@bhamgov.org>

## Frank St. rezoning

1 message

**Eric Wolfe** <elwolfe1@comcast.net> To: Jana Ecker <jecker@bhamgov.org> Wed, Oct 26, 2016 at 3:09 PM

Dear Planning Board:

I am a neighbor directly affected by the proposed rezoning of the Frank St. parcels (412. E. Frank St., 420 E. Frank St., and vacant parcel east of 420 E. Frank St.). We urge you to deny this proposal primarily as a violation of the long standing goals of the City with respect to this neighborhood, which is preserve and restore single family residential. In addition, the impacts related to this proposed arbitrary rezoning would have a deleterious effect on our home including the appearance of the surrounding area, traffic and parking issues, and property values.

Eric and Tracey Wolfe

393 E. Frank St.

### Memorandum Pertaining to Application For Zoning Change

TO:	City of Birmingham Planning Commission	
FROM:	ARJA Holding, LLC, Applicant & Alexander V. Bogaerts & Associates PC, Architect	
DATE:	November 28, 2016	
REGARDING:	E. Frank Street Rezoning Request – Supplementary Information	

The following information is provided to supplement and clarify our application to request a rezoning of the R-3 site at 412 E. Frank St, the B-1 site at 420 E. Frank St and the adjoining B2B site, resulting in an overall downzoning to TZ1 (Transition Zone) District. We include a SUMMARY and three Addendums which provide more detailed information.

A central question framed by the Planning Commission is whether the existing R-3 lot at 412 E. Frank St is appropriately zoned, and what the impact would be on the neighborhood if that lot, together with the two contiguous commercial lots to the east were rezoned to TZ1.

#### SUMMARY:

- Per the request of the Commission we provide an analysis of the development potential of the two commercial lots, B-1 and B2B. We show that development of the B-1 site on its own, and a combined B-1 and B2B project, are both viable. For details, see attached Addendum 1 Analysis of Commercial Use of the B2B and B-1 Sites, together with Site Studies 1 4.
- Per the request of the Commission we provide an analysis of the development potential and appropriateness
  of the R-3 Single Family Lot. For details, see attached Addendum 2 Analysis of R-3 Single Family Lot,
  together with Site Studies 5 & 6. We analyze a design with both attached and detached garages and
  concluded:
  - New homes built in this immediate area are of an approximate average size of 3400 sf. Older homes in the neighborhood will likely be redeveloped through renovation and expansion, or be torn down for the lot value, resulting in a new home of an approximate average of 3400 sf. Our analysis concludes that due to ordinance proscribed setbacks and requirements, a home with an attached garage would not be viable in this area for the following reasons:
    - At a 763 sf foot print, the home would not have space for first floor bedrooms, likely
      precluding empty nesters, thus limiting the buyer to families. The total potential home size
      is not consistent with the local market for new homes, especially for families.
    - The limited footprint would not allow for many of the features families desire in a new home in this area.
    - Due to the position of the attached garage, the back yard has a minimal view and access from windows in the home which families would want in order to safely watch and interact with children playing in the yard.
  - A home with a detached garage would be faced with the following undesirable constraints:
    - Even though a home with a foot print of approx. 1218 sf can be designed, there still would not be adequate space to accommodate first floor bedrooms and would not allow for enough of the features that family buyers would want in a new home in this area.
    - The total potential size of the home is not consistent with the local market for new homes.
    - The detached garage precludes an adequate back yard limiting the area for a yard at the side of the home directly on Ann Street.

- Negative impact resulting from development of the B-1 property immediately adjacent to the east:
  - Two story office building up to 30' high could be built right along the east property line negatively impacting the desirability, functionality & value.
  - No transition the commercial district would continue down along Frank right to the east property line leaving this very small home standing alone facing E. Frank St, with CVS and its parking lot directly across the street.
  - Traffic from the commercial uses and parking in the street causing additional traffic/parking
    pressure especially on this lot and the surrounding neighborhood.
- R-3 zoning of this lot is inappropriate and inconsistent with the other R-3 lots in the immediate neighborhood for a variety of reasons (See, page 13 "412 E. Frank St Birds Eye Aerial"; and; page 14 "Similar in Context Developments/Zoning Plan", both found in Addendum 2 attached):
  - As a single family lot, this lot is an anomaly as compared to the other R-3 lots on the east side of Ann St.
    - Only R-3 lot with the front yard **not facing Ann St**.
    - Only R-3 lot with front yard facing large commercial 65 car CVS parking lot.
    - Only R-3 lot that is not 120 feet deep (limiting development consistent with area).
    - Only R-3 lot with **commercial property abutting its side yard**.
    - Only R-3 lot not able to have a detached garage as a buffer to the commercial.
  - The building on this lot has historically had an operating business use which continues to this day.
- **Five buildings** on the **west side** of Ann directly across the street running south from Frank. are all of multifamily use and the only other house on Ann facing the CVS parking lot operates a business use.
- Considering the planning, zoning and architectural issues impacting this site, it is very improbable that someone would build a single family home on this lot.
- TZ1 is an appropriate zoning for these sites (See attached, Addendum 3 Analysis of Requested Re-Zoning to TZ1, together with Site Study 7):
  - The character of these 3 sites, with the specific conditions cited, conform to the stated intent of transitional development TZ1, (see attached Addendum 3).
  - $\circ$  ~ TZ1 provides appropriate transition from the commercial properties.
  - Less stress on parking and traffic impacting the residential neighborhood.
  - Area will be enhanced by an overall downzoning that restricts the three properties to residential use.
  - TZ1 can protect and enhance the values of the area.
- Our Proposed Project (see attached Site Study 7):
  - Five unit for-sale residential condominium with adequate on-site parking for residents and guests.
  - Traffic and parking contained and separated from residential neighborhood with driveway entrance to parking restricted to Frank Street.
  - Brick & stone design with a variety of architectural details and recessed elements creating an interesting streetscape elevation along Frank & Ann which is compatible with the area and respects the scale, architecture and values of the adjacent single family homes.
  - Large recessed terraces facing the single family homes to the south.
  - Large setback from single family homes at south property line.
  - Intended product/use would respect and conform with the TZ1 District Development Standard and provide a **reasonable and orderly transition and buffer** between commercial and single family area.
- We would voluntarily offer in writing that we would build a residential building of the size and design we are proposing as a condition to rezoning.

#### Addendum 1 - Analysis of Commercial Use of the B2B & B-1 Sites:

**See Site Studies 1 – 4** - (Note that the Planning and Building Departments reviewed our studies and confirmed that they are accurate with regards to setbacks and bulk.)

#### **B2B Site**

The B2B site is 32' wide by 100' deep. Site Study #1 shows a one story 720 sq ft commercial building. Parking spaces for 3 cars, based on a 1 car per 300 sq ft of floor area standard, are provided as required in the rear of the site. A required 20' wide access drive serves the parking. Even though we have provided parking and the access aisle, maneuvering in the rear parking area will be very difficult if not problematic. The remaining area on the site, once the parking and drive access aisle are designed to accommodate the building, only allows for a 12' wide by 60' deep commercial building. When you consider the building design/footprint from an architectural and construction standpoint; once you take out essential building components such as: lobby areas, men's and women's toilet rooms, janitorial rooms, mechanical rooms, and corridors, there is not enough space left to have an architecturally or commercially viable building, and it is very improbable that someone would initiate such a building.

#### B-1 Site – 420 E. Frank St.

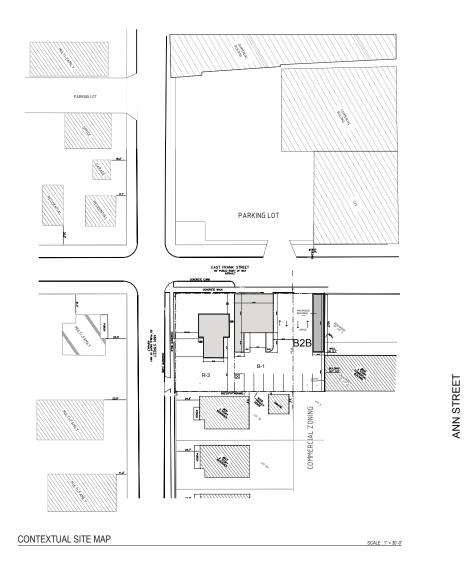
**The B-1 site is 60' wide by 100' deep. Site Study #2** shows a one story 1,800 sq ft commercial building. Parking spaces for 6 cars, based on a 1 car per 300 sq ft of floor area standard, are provided as required in the rear of the site. A required 20' wide access drive serves the parking. Unlike the B2B parcel, when you consider the building design/footprint from an architectural and construction standpoint there would be enough space left on the B-1 Site to have a modest architecturally viable building.

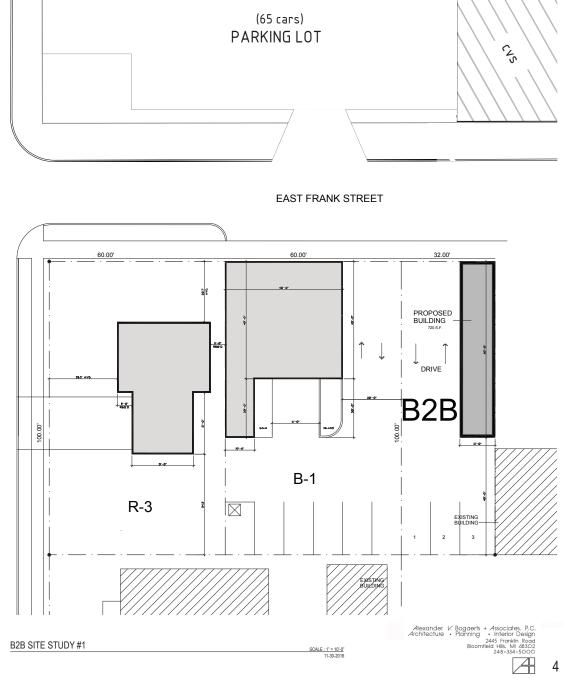
#### B-1 & B2B Sites (combined)

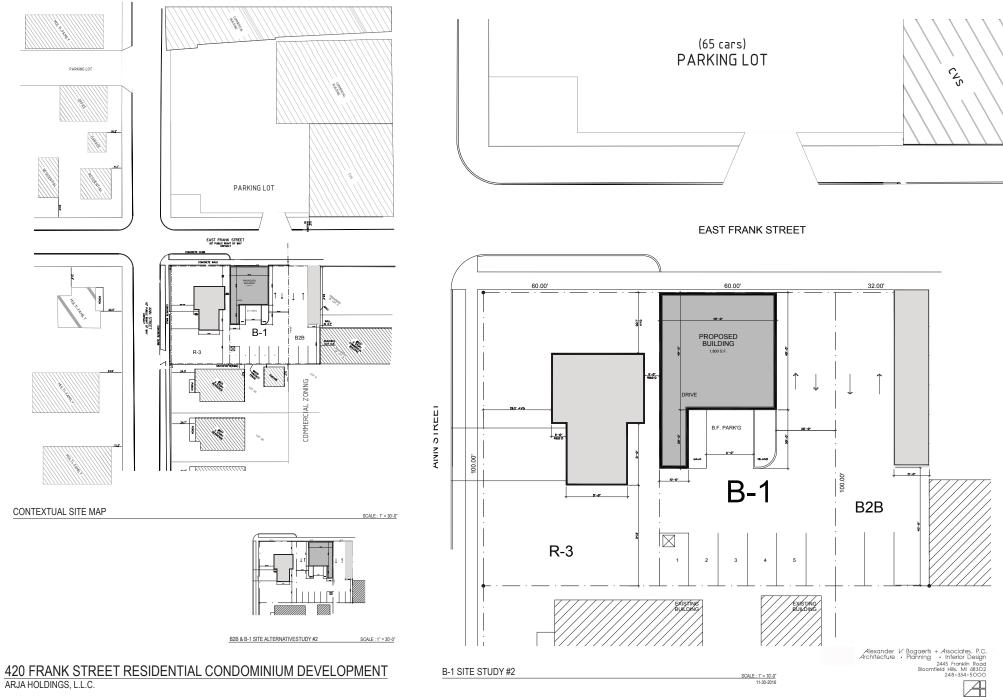
**The combined B-1 and B2B sites are 92' wide by 100' deep. Site study # 3** shows a one story 2,950 sq ft commercial building. Parking spaces for 10 cars, based on a 1 car per 300 sq ft of floor area standard, are provided as required in the rear of the site. A required 20' wide access drive serves the parking. As with the B-1 site alone, an architecturally viable building can be built on the combined site.

**Site Study # 4** shows a **2 story** 6,000 sq ft office building. Parking spaces for 20 cars, based on a 1 car per 300 sq ft of the floor area standard, are provided as required in the rear of the site. A 20' wide access drive serves the parking. In order to maximize the size of a potential building and to have the required parking, the building would be designed with some of the parking lot under the second floor. The study shows a building with the windows facing a central courtyard. The building would be designed to avoid windows on the east elevation because the B2B property to the east could be redeveloped in such a way as to block those windows. Any windows on the west and east elevations would have to be fire-rated abutting the property line. Either in this courtyard configuration or with a smaller more conventionally shaped two story building, the combined site can be developed effectively.

Aside from architectural issues, **traffic and parking** are major concerns as a result of developing these sites with commercial uses as compared to other options. Even though we are providing the required number of parking spaces on site, it is probable that the uses/tenants that may occupy this type of a building would end up parking in the street along Frank and Ann **causing additional traffic and parking pressure on the surrounding neighborhood**.

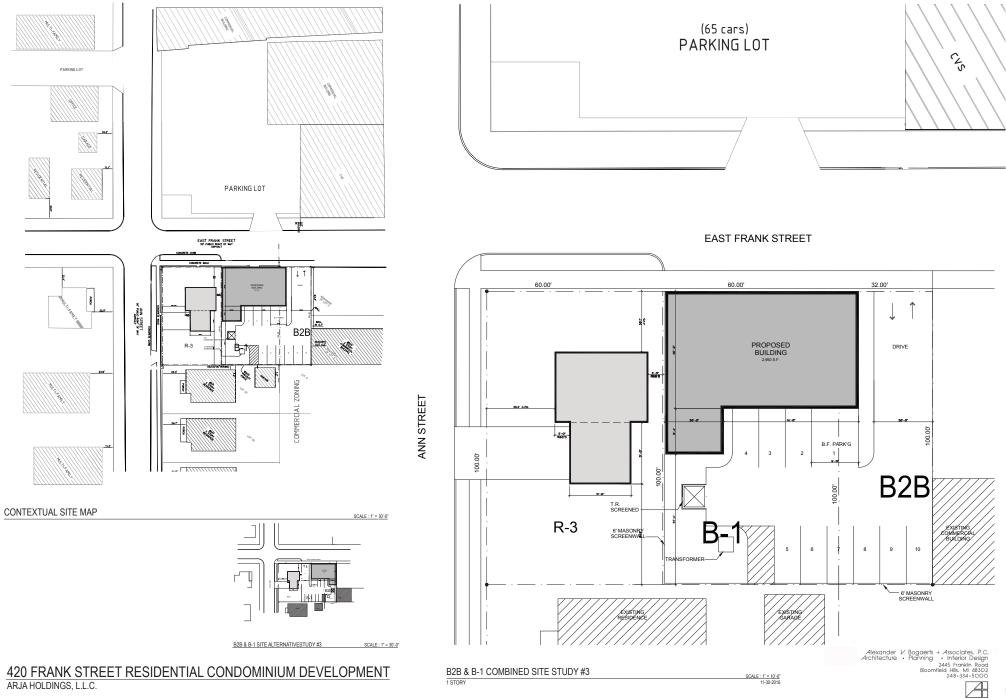


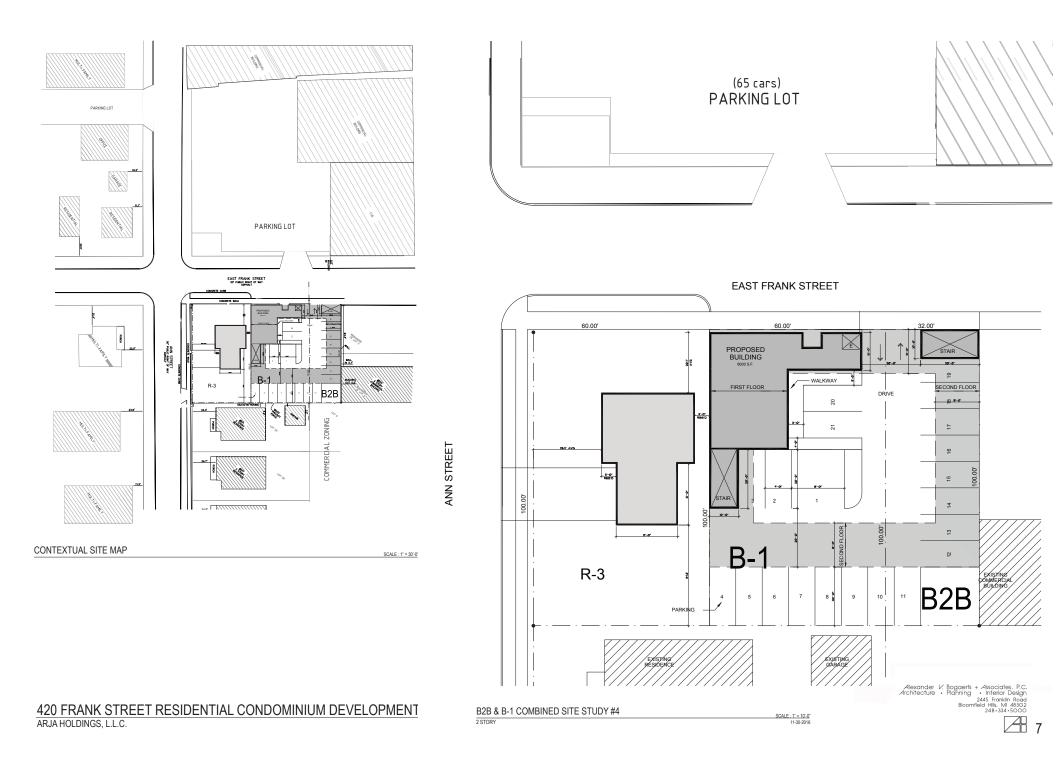




ARJA HOLDINGS, L.L.C.

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#### Addendum 2 - Analysis of R-3 Single Family Lot – 412 E. Frank St

**See Site Study 5 & 6;** (Note that we had our plans reviewed by the Planning and Building Department and they confirmed that the buildable areas we define conform with the zoning requirements.)

There are two conventional manners within the ordinances in which to develop the R-3 parcel at 412 E. Frank St. One would be to build a single family home with an attached garage and the other would be to build a single family home with a detached garage. We have analyzed the viability of developing this lot both ways.

#### R-3 Single Family Lot - Home with Attached Garage

Site Study # 5 shows a 2 story single family home with an attached garage.

Because this is a corner lot, we are required to average the front yards along Ann St. & E. Frank St. The minimum front and rear yard total is 55', and this total is based on a minimum front yard average setback of 20.7' and minimum rear yard of 34.3'. The average setback along Ann St. is 23.2' and the minimum side yard on the east property line is 5'.

## Once you account for the average front yards, the required side and rear yards, and add the attached garage, you end up with an architecturally improbable first floor footprint.

When you consider the first floor design/footprint from a potential user's standpoint, there is not enough space for all of the rooms that would normally be found on the first floor of a 2 story home. This maximum allowable footprint for this home would not provide the adequate amount of first floor size to accommodate first floor bedrooms, which likely precludes designing a home on this lot for the empty nester buyer. Therefore families would be the primary market for a home on this lot, and the family buyer for new homes in this area have an expectation for certain design features, including at least some of the following spaces: foyer, front hall coats closet, back hall mud room, storage lockers, changing bench and coats closet, laundry room, kitchen, nook, mini office/command center, sitting/hearth room, dining room, living room or great room, library or den, powder room; and open stairs accessing both the lower level and second floor. With a 763 sq ft first floor foot print a design cannot incorporate enough of these features, and is **not architecturally viable to meet current market demands**. It is very improbable that someone would initiate such a house, especially at the values of the neighborhood.

By attaching the garage, we do end up with a reasonable back yard that families house are looking for, however, due to the position of the attached garage, the back yard has a minimal view and access from windows in the home which the families would want in order to safely watch and interact with children playing in the yard. Additionally, the rear yard would be bordered by Ann Street to the west and a commercial building and its parking lot abutting the east property line which is not a desirable design.

#### R-3 Single Family lot - Home with Detached Garage

Site Study # 6 shows a 2 story single family home with a detached garage.

Because this is a corner lot we are required to average the front yards along Ann St. & E. Frank St. The average setback along E. Frank St. is +- 20.7'; the average setback along Ann St. is +- 23.2'; the minimum side yard on the east property line is 5'. The detached garage has a required minimum set back of 25% of the lot width (60 x.25) or 15' from the house to the south; further it is required to be a minimum of 10 feet from the house.

After you take off the average front yards along Ann St. & E. Frank St; the required minimum 15' setback between the garage and house to the south; the required minimum 10' setback between the detached garage and the house; and the remaining 5' side yard; you end up with a house/site design with a first floor potential of 1218 sf, that may reasonably be constructed, but would **not be consistent either in size or value with the newer homes built in the neighborhood, particularly as compared with the three homes adjacent along Ann Street.** 

The limitations of the maximum potential footprint makes it unlikely that a design could have bedrooms on the first floor, which would again restrict the market for a home on this lot to families. But, there is another major factor which precludes this house and site design from being marketable to a potential family purchaser. Due to the garage being detached, we end up with **virtually no back yard**, which families desire and/or require. There are many R-3 properties in Birmingham that have small rear yards. However, not only does this R-3 lot have very minimal back yard space, it becomes more unreasonable in that the minimal yard area is directly on Ann Street, where other homes would have the outdoor space in a more protected area at the rear. **Based on this major design shortfall, it is very improbable that someone would initiate such a house.** 

#### **Other Considerations:**

New homes built in this immediate area are at least 3400 sf. Older homes will likely be redeveloped through renovation and expansion or be torn down for the lot value for a new home of at least 3400 sf. The ordinance setback requirements would limit a home built on this site to well under 3400sf.

Aside from the aforementioned architectural constraints, there are other important considerations which would impact the viability of developing a single family home on this site.

The potential development of the B-1 zoned property immediately adjacent to the east, would **significantly impact this R-3 parcel**:

- A 2 story office building 30' high could be built right along and to the east property line which would negatively impact the desirability, functionality and value.
- There will be no transition in this instance from the commercial development on Old Woodward; the commercial district would continue down along Frank right to the east property line leaving this very small home standing alone on E. Frank St, with CVS and its parking lot directly across the street.
- Traffic from the commercial uses could end up parking in the street causing additional traffic/parking pressure on the surrounding neighborhood, and most especially, this lot.

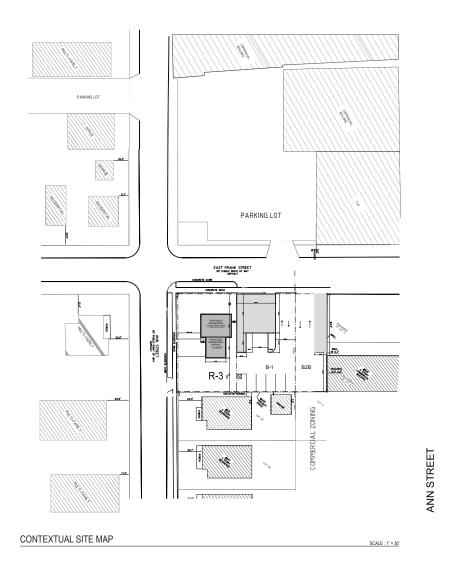
Additionally, the R-3 zoning of 412 E. Frank St is **inappropriate and inconsistent** with the other R-3 lots in the immediate neighborhood for a variety of reasons. Significantly, as a single family lot, this lot is an **anomaly as compared to the other R-3 lots** on the **east side** of Ann Street (See attached - 412 E. Frank St Birds Eye Aerial; and, Similar in Context – Developments/Zoning Plan):

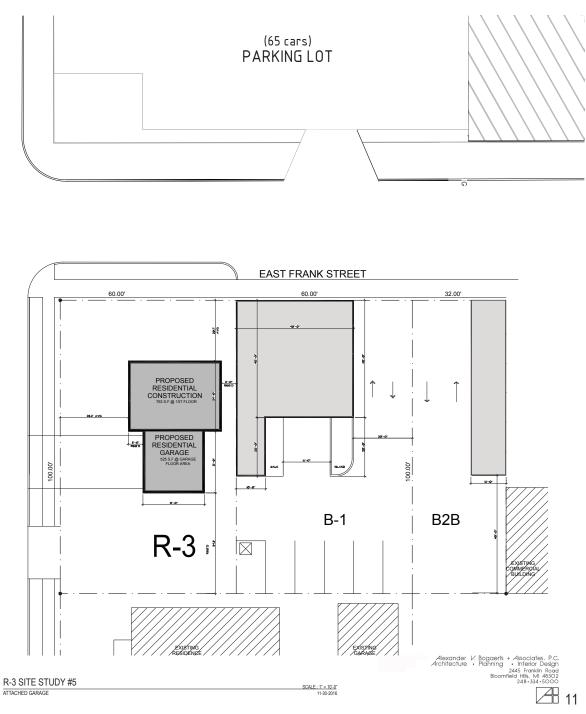
- 412 E. Frank St is the only R-3 lot with the front yard **not facing Ann St**.
- 412 E. Frank St is the only R-3 lot with the front yard facing a large commercial 65 car parking lot.
- 412 E. Frank St is the only R-3 lot that is not 120 feet deep which impacts its development in comparison.
- 412 E. Frank St is the only R-3 lot which has a **commercial property abutting the full length of its side yard**.
- All the R-3 lots other than 412 E. Frank St have either a detached garage or opportunity for a detached garage at the rear of the property as a buffer to the commercial properties to the east.

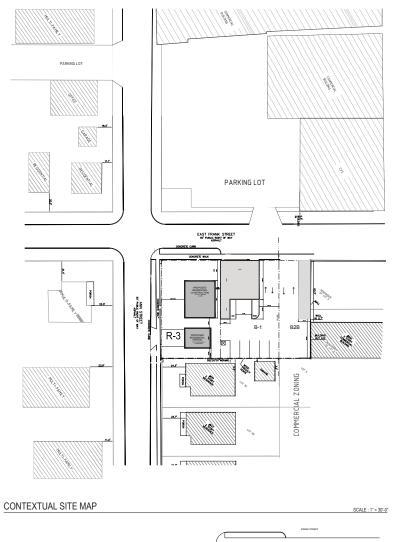
- If the lot were oriented with frontage on Ann St, as the others on Ann, and away from facing the 65 car parking lot, the ordinance proscribed setbacks together with the lot dimensions would preclude any possibility of a reasonable home design (see Site Study 6 inset sketch).
- Due to the many significant differences from the other R-3 lots along Ann St, the current zoning of 412 E. Frank St appears to be inappropriate. The building on this lot has historically had an operating business use which continues to this day.

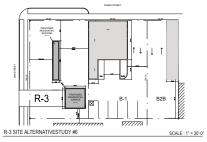
Further, the **5 buildings** on the **west side** of Ann directly across the street from this lot and running south from E. Frank St. are all of multifamily use. The only other house on Ann Street that faces the CVS parking lot functions as an operating business use.

When you take into consideration the many planning and zoning questions which impact this site, along with the architectural constraints and limitations, it is very improbable that someone would build a single family home on this lot.











412 E. FRANK ST. - BIRDS EYE AERIAL VIEW



Alexander I/. Bogaetts + Associates. P.C. Architecture · Planning · Interior Design 245 Frankin Road Bioomfield Hills. MI 48302 248-334-5000 13



Alexander I/ Bogaerts + Associates, P.C. Architecture • Planning • Interior Design 2445 Franklin Road Bioomfield Hills, MI 48302 248+334-5000 14

## Addendum 3 - Analysis of Requested Rezoning - Combining Parcels (R3, B1 & B2B) to Create a TZ1 (Transition Zone) District

#### See Site Study 7

We are requesting that the three parcels, B2B, B-1 and R-3, be combined with an **overall downzoning to TZ1** (Transition Zone) District, which will require the entire property to be **developed exclusively for residential use**. With TZ1, the two commercial lots would be downzoned to residential use and the R-3 lot would remain a residential use.

We have presented our review of the two commercial parcels as well as our review of the R-3 single family lot. Our analysis indicates that while it is less probable that the two individual commercial parcels would be developed separately, the B2B and B-1 sites can be combined to create a viable commercial development. However, it is highly improbable and impractical to develop a single family home on the R-3 site given the various factors outlined in Addendum 2. Even if the two commercial lots were rezoned to TZ1, it does not alleviate all of the significant considerations and issues with the potential development of the R-3 lot. The most prudent conclusion, taking into account all of the factors of the individual parcels and the surrounding conditions, is that these three sites on E. Frank Street between the Old Woodward commercial district and the residential community to the west, are more suited for, and more aptly fit the goals of the TZ1 (Transition Zone) District. Paraphrasing the stated intent in the Ordinance, the TZ1 (Transition Zone) District is established to include:

- Providing for a reasonable and orderly transition from, and buffer between commercial uses and predominantly single family residential area;
- Regulating building height and mass to achieve appropriate scale along streetscapes to ensure proper transition to nearby residential neighborhoods;
- Regulating site design to ensure compatibility with adjacent residential neighborhoods.
- Encouraging design that calms traffic and creates a distinction between less intense residential areas and more intense commercial areas.

We feel that the character of these sites, in this specific location and with the specific conditions associated with them, **conform to the above stated intent of transitional development**. Combined with the two commercial parcels, the R-3 site could be incorporated into a **single overall downzoned residential property** which would allow for a viable compatible development and provide the **appropriate transition from the commercial properties** to the north and east and the residential to the south and west. By rezoning this property for an exclusive residential use, it would encourage a design that will have **less impact on parking and traffic stresses** in the neighborhood than the current commercial zoning; **the character of the area will be enhanced by a change to a zoning that restricts the property to residential use**; and, this development will **protect and enhance the values of the area** as new residential homes developed on this site would be of a size and value that meets or exceeds the value of any of the homes in the immediate neighborhood.

The TZ1 zoning appears to be the most appropriate zoning for this site to address the aforementioned.

If we achieve the requested rezoning our intended product would respect and conform with this TZ1 District Development Standard.

Site Study # 7 shows an outline of our intended product, a for-sale residential condominium development.

A total of **5 residential units** are proposed, each having **2 interior garage parking spaces with 5 additional guest parking spaces for a total of 15 cars.** All of the garage and additional parking will be accessed off of **Frank St** which will **minimize traffic and parking impacts to the single family along Ann St.** Our plan indicates that the driveway off of Frank St be at the easterly end of the property, away from Ann St.

The building will be designed with a variety of interesting architectural details; the exterior façade will be masonry materials of stone and brick. The floor plans will have various recessed elements which will break up the façade creating an interesting streetscape elevation along E. Frank St and Ann St. Large recessed terraces are planned for the units at the second floor facing the single family to the south; these recessed terraces will continue the architectural interest on the elevations facing these homes; they will also create a very large setback from the building to the single family homes. Finally, even though the required TZ1 setback to the existing single family is only 20', we will propose the building be setback 31' from the single-family with a landscaping buffer at the property line. The residential homes to the immediate south of the property have a height to the ridge of approximately 31'. The TZ1 ordinance allows a maximum of 35'.

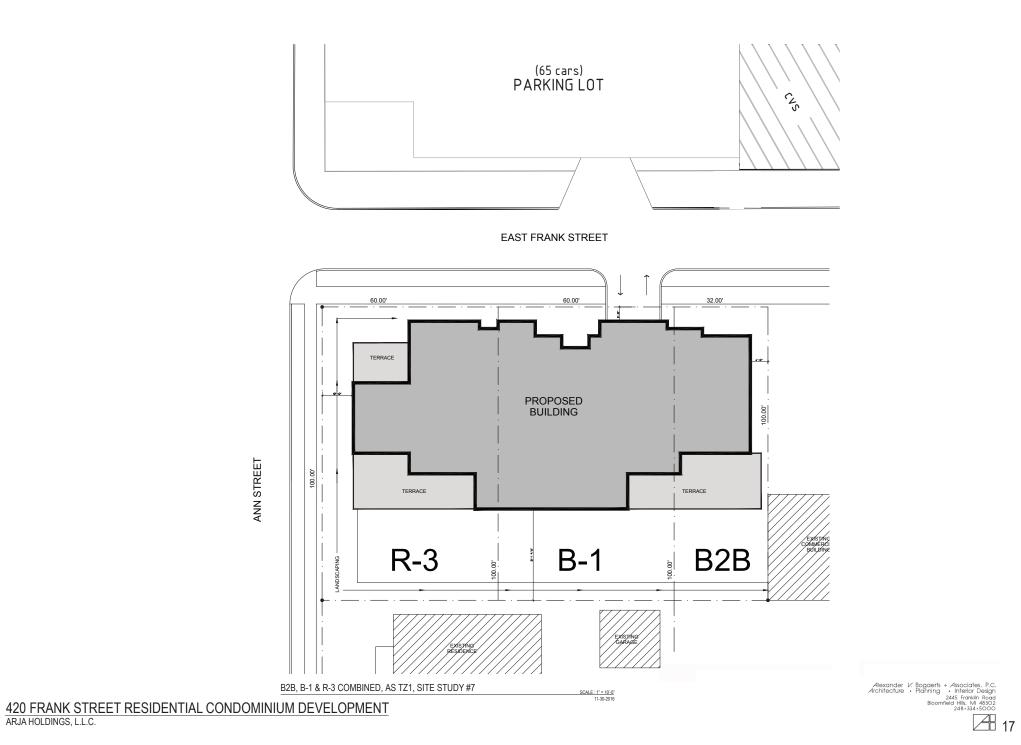
The end result will be a building which respects the scale, architecture and values of the adjacent single family homes. It is also consistent with the multi-family use in the five buildings along the west side of Ann Street.

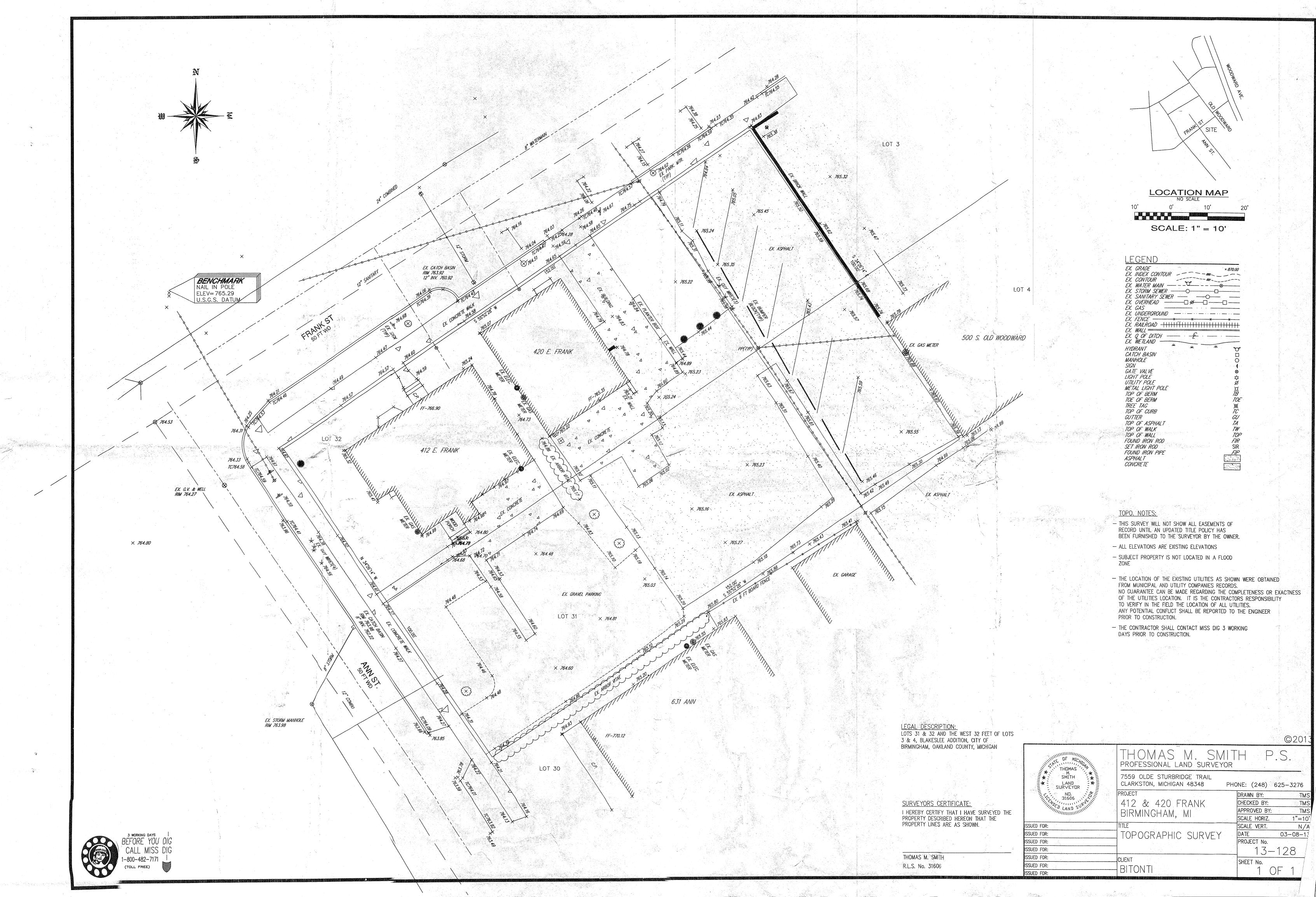
We believe that this proposed building would provide the type of **transition from the commercial properties on Old Woodward** which is a very important planning consideration for these 3 parcels and the adjacent existing residential uses.

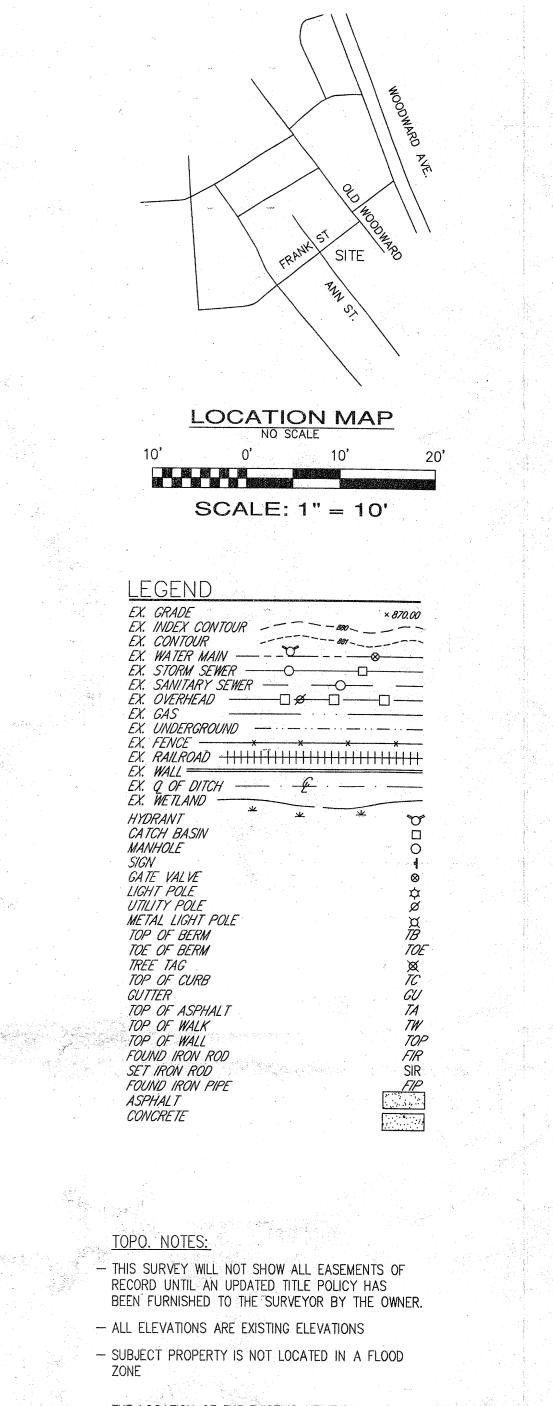
Traffic is also a concern if these parcels are not rezoned to a transitional use. As we have previously stated, developing these sites with commercial uses, it's probable that people would end up parking in the street causing additional traffic/parking pressure on the surrounding neighborhood. We believe that our design, with its parking on site contained in the building and with the access off Frank Street, is the correct approach relative to solving the traffic and parking concerns.

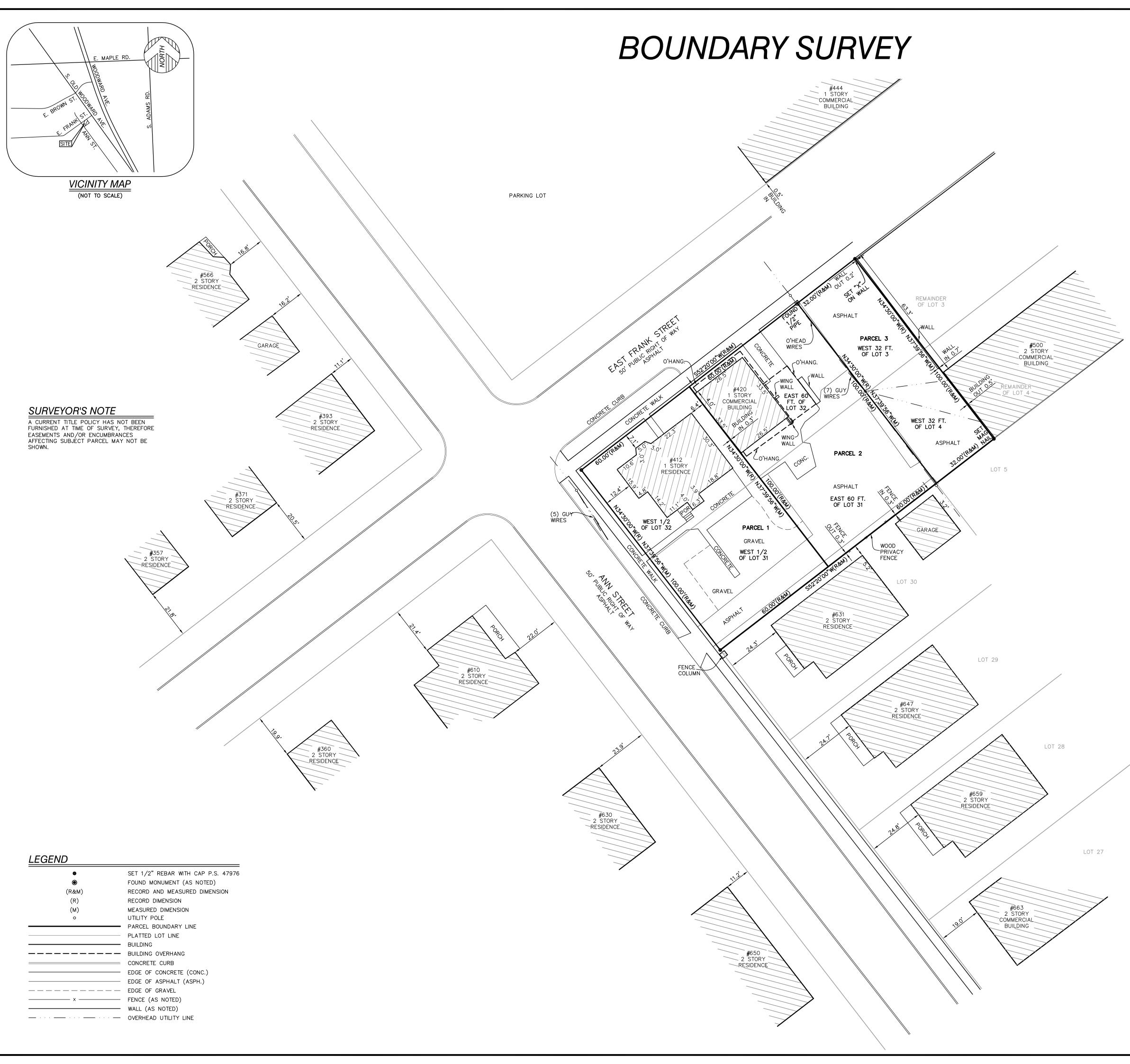
Therefore, considering all of the factors present, the TZ1 zoning appears to be the most appropriate zoning for the 3 parcels.

We would voluntarily offer in writing that we would build a residential building of the size and design we are proposing as a condition to rezoning.

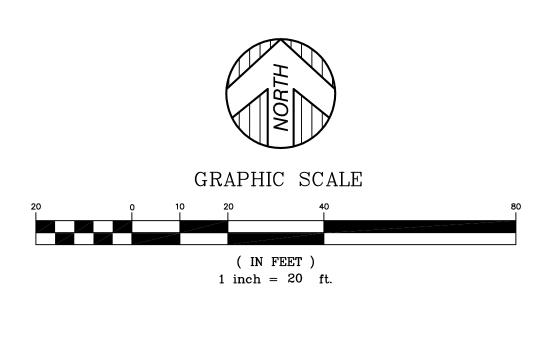








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# PROPERTY DESCRIPTION

LAND SITUATED IN THE CITY OF BIRMINGHAM, COUNTY OF OAKLAND, STATE OF MICHIGAN, DESCRIBED AS FOLLOWS:

**PARCEL 1:** WEST 1/2 OF LOTS 31 AND 32, OF PLAT OF BLAKESLEE'S ADDITION TO THE VILLAGE OF BIRMINGHAM, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 2 OF PLATS, PAGE 50, OAKLAND COUNTY RECORDS.

**PARCEL 2:** EAST 60 FEET OF LOTS 31 AND 32, OF PLAT OF BLAKESLEE'S ADDITION TO THE VILLAGE OF BIRMINGHAM, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 2 OF PLATS, PAGE 50, OAKLAND COUNTY RECORDS.

**PARCEL 3:** WEST 32 FEET OF LOTS 3 AND 4, OF PLAT OF BLAKESLEE'S ADDITION TO THE VILLAGE OF BIRMINGHAM, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 2 OF PLATS, PAGE 50, OAKLAND COUNTY RECORDS.

PARCEL AREA							
PARCEL 1:	±6,000	SQUARE FEET = $\pm 0.14$ ACRES					
PARCEL 2:	$\pm 6,000$	SQUARE FEET = $\pm 0.14$ ACRES					
PARCEL 3:	<u>±3,200</u>	SQUARE FEET = $\pm 0.07$ ACRES					
TOTAL:	±15,200	SQUARE FEET = $\pm 0.35$ ACRES					

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT I HAVE SURVEYED THE LAND HEREIN DESCRIBED AND THAT THIS MAP REPRESENTS THE RESULTS OF THE SURVEY.

ANTHONY T. SYCKO, JR., P.S. PROFESSIONAL SURVEYOR MICHIGAN LICENSE NO. 47976

	Ŕ	Pf	<b>EM-TE(</b> ROFESSIONAL SUH 22556 GRATIOT 36)772-2222 * (
CERTIFIED	TO:	ARJA	HOLDING, LLC.
DATE:	SE	ртеме	BER 01, 2016

FC & ASSOCIATES SURVEYORS – PROFESSIONAL ENGINEERS DT AVE \* EASTPOINTE, MICHIGAN 48021 \* (800)295–7222 \* FAX (586)772–4048

CERTIFIED TO: ARJA HOLDING, LLC.					
DATE: SEPTEMBER 01, 2016	JOB #: 16-03005				
SCALE: 1" = 20'	SHEET: 1 OF 1				
DRAWN BY: JL/JDM	REV.:				



## 412 - 420 E. Frank Street





## TZ1 District



#### 2.41 TZ1 (Transition Zone) District Intent, Permitted Uses, and Special Uses

#### **District Intent**

#### The TZ1 (Transition Zone) District is established to:

(a) Provide for a reasonable and orderly transition from, and buffer between commercial uses and predominantly singlefamily 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.

#### **Permitted Uses**

- Residential Permitted Uses
- dweiling attached single family
   dweiling multiple-family
- dweiling one-family(R3)

### **Other Use Regulations**

- 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

= Use Specific Standards in Section 5.14 Apply

- · independent hospice facility
- independent senior living
- skilled nursing facility

## **TZ1** District

#### 2.42 TZ1 (Transition Zone) District Development Standards



Minimum Lot Area Per Unit: • 3,000 sq ft Minimum Open Space: • n/a Maximum Lot Coverage: • n/a Minimum Front Yard Setback: • 0-5 feet

- Minimum Rear Yard Setback: • 10 feet
- \* 10 le
- 20 feet abutting single-family zoning district Minimum Combined Front and Rear Setback: • n/a
- Minimum Side Yard Setback:
- 0 feet from interior side lot line
- 10 feet from side street on corner lot
- 10 feet from side lot line abutting a single-family district

Minimum Floor Area Per Unit: • n/a Maximum Total Floor Area: • n/a

#### Accessory Building texampt Building Building Building Height Flat Roof Buildings from highest section of flat root) CO08, Bradley E. Johnson, AICP

#### **Maximum Building Height:**

- 35 feet
- 3 stories
- Minimum Building Height:
- 2 stories

## Additional Development Standards that Apply

Accessory Structure (AS)         · AS-01       Page 4-3         · AS-02       Page 4-3         · AS-03       Page 4-4         Essential Services (ES)         · ES-01       Page 4-7         Fences (FN)         · FN-01       Page 4-8         · FN-02       Page 4-8         · FN-01       Page 4-8         · FN-02       Page 4-9         Height (HT)       • H7-01         · HT-01       Page 4-12         · HT-03       Page 4-12         · LA-01       Page 4-14         Lighting (LT)       • LT-02         · LT-02       Page 4-18         · LT-02       Page 4-21	Loading (LD)       • LD-01       Page 4-22         Open Space (OS)       • OS-01       Page 4-25         Parking (PK)       • Page 4-30       • Pk-02       Page 4-32         • PK-02       Page 4-32       • Pk-03       Page 4-32         • PK-03       Page 4-36       Screening (SC)       • SC-01       Page 4-37         • SC-06       Page 4-39       Setback (SB)       • SB-01       Page 4-40         • SB-05       Page 4-41       Street (ST)       • ST-01       Page 4-44	Structure (SS) • SS-01 Page • SS-09 Page Temporary Use (TU) • TU-01 Page Vision Clearance (VC) • VC-01 Page
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Zoning Districts and Regulations 2-43

4-45

4-48

4-50

4-55

		Permitted Uses		
	412 Frank	420 Frank	420 Frank	
Zone	R3	B1	B-2B	TZ1
Residential Permitted Uses	adult foster care group home dwelling - one family single family cluster*		dwelling - multiple-family dwelling - one family dwelling - two family live/work unit	dwelling - multiple-family dwelling - one-family(R3) dwelling - attached single family
Institutional Permitted Uses	government Office school - public	church community center government office school - private school - public social club	church community center garage-public government office government use loading facility - off street parking facility - off street school - private school - public social club	
Recreational Permitted Uses	park	recreation club swimming pool - public, semiprivate	bowling alley outdoor amusement recreational club swimming pool - public and semiprivate	
Commercial Uses		bakery barber shop/beauty salon drugstore dry cleaning grocery store hardware store neighborhood convenience store office shoe store/shoe repair tailor	auto sales agencybakerybankbarber shop/beauty saloncateringchild care centerclothing storedelicatessendrugstoredry cleaningflower/gift shopfood or drink establishmentfurnituregreenhousegrocery storehardware storehoteljewelry storemotelneighborhood conveniencestoreofficepaintparty storeretail photocopyingschool-businessshow room ofelectricians/plumberstailortheater	

	412 Frank	420 Frank	420 Frank	
Zone	R3	B1	B-2B	TZ1
ccessory Permitted Uses	family day care home* garage - private greenhouse - private home occupation*	alcoholic beverage sales* kennel* laboratory - medical/dental* loading facility - off-street*	alcoholic beverage sales (off-premise consumption)* kennel* laboratory - medical/dental*	family day care home home occupation* parking facility-private off-stree parking - off street
	parking facility - private off street parking - public off street* renting of rooms* sign swimming pool - private any use customarily incidental to the permitted pricipal use	outdoor café parking facility - off street* sign	loading facility - off-street outdoor café* outdoor display of goods* outdoor sales* outdoor storage* parking facility - Off Street sign	
Ises Requiring a Special Land Use Permit	assisted living church continued care retirement community independent hospice facility independent senior living medical rehabilitation facility parking - public off street philanthropic use public utility building publicly owned building school - private skilled nursing facility	alcoholic beverage sales (off-premise consumption)* alcoholic beverage sales (on-premise consumption)* child care center continued care retirement community independent hospice facility drive-in facility* gasoline full service station* skilled nursing facility	signalcoholic beverage sales (on-premise consumption)*assisted living auto laundrybistro (only permitted in the Triangle District)*bus/train passenger station and waiting facilitycontinued care retirement communitydisplay of broadcast media devices (Only permitted in conjunction with a gasoline service station) drive-in facilitydisplay of broadcast media devices (Only permitted in conjunction with a gasoline service station) drive-in facilityestablishments operating with a liquor license obtained under Chapter 10, Alcoholic Liqours, Article II, Division 3, Licenses for Economic Development (only permitted on those parcels within the Triangle District identified on Exhibit	assisted living independent hospice facility independent senior living skilled nursing facility
			1; Appendix C) funeral home gasoline full service station* gasoline service station independent hospice facility independent senior living skilled nursing facility trailer camp	

#### CITY OF BIRMINGHAM

#### ORDINANCE NO. 557

#### AMENDMENT TO ORDINANCE NO. 527

AN ORDINANCE TO AMEND SECTION 3.3 OF. ORDI-NANCE NO. 527 OF THE ORDINANCES OF THE CITY OF BIRMINGHAM, AND THE ZONING MAP, BY ADDI-TION OF A SECTION TO BE KNOWN AS SECTION 3.3-13.

#### THE CITY OF BIRMINGHAM ORDAINS:

Section 1. That Section 3.3 of Article 3 of Ordinance No. 527, be amended by addition of a section to be known as Section 3.3-13, said Section to read as follows:

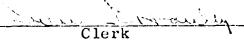
Section 3.3-13. Property located on the southeast corner of Ann and Frank Street, described as Lots 31 and 32, Blakeslee's Addition shall be changed from its present classification of R-6Multiple-Family Residential Zone District to B-1Non-Retail Business Zone District.

Section 2. The Zoning Map attached to Ordinance No. 527 shall be deemed modified to incorporate this change.

Ordained by the Commission of the City of Birmingham this 8th day of February, 1960, to be effective upon publication.

Karry M. Denyes, Jr. Mayort Clark Clark

I, Irene E. Hanley, Clerk of the City of Birmingham, hereby certify that the foregoing ordinance was duly passed by the Commission of the City of Birmingham at a regular meeting held Monday, February 8, 1960, and that the same was published in the Birmingham Eccentric on Thursday, February 18, 1960.



#### APPLICATION FOR ZONING MAP CHANGE

Birmingham. Michigan

#### Date September 3, 1959

TO THE CITY COMMISSION :

The undersigned hereby make application to the City Commission to: Change premises described as 412 East Frank (W 60 ft of Lot 31 also W 60 ft. of lot 32. Blakeslee's Addition from its present zoning classification of R-6 Multiple Family Residence to B-1 Non-Retail Business.

A plot plan showing 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. My property abuts B-3 Community Business on the east and is directly across the street from B-3 zouing. The development of the property across the street as an auto agency and used car lot with the accompanying noise, bright hights and traffic makes my property undesirable for residential use

> /s/ Frank Van Fleteren Signature of Applicant

Name of	Owner	Frank VanFleteren
Address	of Owner	412 E. Frank. Birmingham Tel. No. Mi 4-2222
		ority, or power of attorney, shall be attached in case le by a person other than the actual owner of the property.
Date Rec	eived	
Delivere	d by	andrennen (K. C. ). genaam (FEEE CONTENTION Contention of Co
Resoluti	on No	Disposition

September 8, 1959/bc

#### November 19, 1959

City Commission Birmingham, Michigan

SUBJECT: Zone Change Request - W 60' of lot 31 & W 60' of Lot 32, Blakeslee's Addition - 412 E. Frank St.

Gentlemen:

At the City Commission meeting of September 8, 1959, a zone change request was submitted by Mr. Frank VanFleteren dated September 3, 1959 requesting a zone change for the property described as follows:

The West 60' of Lot 31, and the West 60' of lot 32, Blakeslee's Addition, from the present R-6 Multiple Family Residential Zone District to B-1 Non-Retail Business Zone District (southeast corner of Ann and Frank).

The request was referred to the Planning Board for report and recommendation.

The Planning Board considered the zone change request at the regular meetings of Wednesday, October 21, 1959 and Wednesday, November 18, 1959.

The subject property is located on the southeast corner of Ann and Frank. The property is the westerly 1/2 of Lots 31 and 32 of Blakeslee's Addition. The easterly 1/2 of the platted lots #31 and #32 are presently vacant. East of the vacant parcel is a frame single family dwelling located on property presently zoned B-3 Community Busi ness Zone District. All of lots 31 and 32 are presently zoned R-6 Multiple Family Residential. To the north of the subject property across Frank Street is a Forbes Frinting Press and a frame single family residential building utilized for office-business use.

To the east of the Forbes Printing Press and frame office building is the Harold Turner Sales Agency and used car lot. The used car lot has expanded in a westerly direction during recent years and is almost directly across the street from Mr. VanEleteren's single family home. The Forbes Printing Press, frame office use and the Harold Turner sales agency uses are located on properties presently zoned B-3 Community Business Zone District.

West of the subject property across Ann Street are properties zoned R-6 Multiple Family Residential and utilized for one and two family dwelling purposes. The property on the east side of Ann Street south of the subject property is zoned R-6 Multiple Family Residential Zone District and utilized for one, two and multi-family dwelling units. The City of Birmingham recently replaced the concrete pavement on Frank Street from Woodward to Bates Street. The pavement width in front of the subject property has the normal business pavement width of 37 feet. West of Ann Street the pavement has the normal residential width of 29 feet.

The Planning Board recommends to the City Commission that the zone change request of Mr. Frank VanFleteren for rezoning the westerly 1/2 of Lots 31 and 32 from R-6 Multiple Family Residential Zone District to B-1 Non-Retail Business Zone District, be approved. The Planning Board considers the rezoning as reasonable based upon the undesirable factors created by the Harold Turner Sales Agency and used car lot. The lights from the used car lot create an undesirable influence upon single family residential development during the evening hours. The B-1 Non-Retail Business Zone District would provide a transition from the B-3 Community Business Zone District on Woodward to the R-6 Multiple Family Residential Zone District on the west side of Ann Street.

The Planning Board further recommends that the easterly 1/2 of Lots 31 and 32 be considered for rezoning from R-6 Multiple Family Residential Zone District to B-1 Non-Retail Business Zone District based on the consideration given to the subject zone change request.

Respectfully submitted,

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Eliot Robinson Vice-Chairman, Planning Board

HH/br

#### November 12, 1959

Planning Board Birmingham, Michigan

SUBJECT: Zone Change Request - West 60 ft. of Lot 31 and the West 60 ft. of Lot 32, Blakeslee's Addition -412 E. Frank St.

Gentlemen:

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At the City Commission meeting of September 8, 1959, a zone change request was submitted by Mr. Frank VanFleteren dated September 3, 1959 for a change of zoning described as follows:

The W 60 ft. of Lot 31 and the W 60 ft. of Lot 32, Blakeslee's Addition, from the present R-6 Multiple Family Residential Zone District to B-1 Non-Retail Business Zone District (SE corner of Ann and Frank).

The request was referred to the Planning Board for report and recommendation.

At the Planning Board regular meeting of Wednesday, October 21, 1959, the writer advised that Mr. VanFleteren was a personal friend and is the Plumbing Inspector of the City of Birmingham. For that reason, the writer advised that he would disqualify himself from any discussion or recommendation of this request. However, I further advised that I will present any information requested by the Planning Board or any other information regarding this request.

The Planning Board requested that the writer study the request and review the area to determine a recommendation regarding the subject request.

The property is located on the southeast corner of Ann and Frank. The property in question is the westerly 1/2 of Lots 31 and 32, Blakeslee's Addition. The easterly half of the subject lots are presently vacant. East of the vacant parcel is a frame single family dwelling on property presently zoned B-3 Community Business. All of lots 31 and 32 are presently zoned R-6 Multiple Family Residential. Across Frank Street and directly to the north is the Forbes Printing Press and a frame residential single family dwelling utilized for office business use.

To the east of the Forbes Printing Press and office use is the Harold Turner sales agency with its allied used car lot. The used car lot has been expanded during recent years and is almost directly across the street from Mr. VanFleteren's single family home. These uses are located on property presently zoned B-3 Community Business. Across Ann Street to the west are properties zoned R-6 Multiple Family Residential and utilized for 1 and 2 family dwelling units.

The property on the east side of Ann Street south of the subject property is zoned R-6 Multiple Family Residential and utilized for two family and multi-family dwelling units.

Generally speaking, Ann Street frontage suffers from its location abutting the B-3 Community Business zoned property on Woodward Avenue. Many of the homes and lawn areas are not maintained as well as other areas of comparable aged homes in the City of Birmingham.

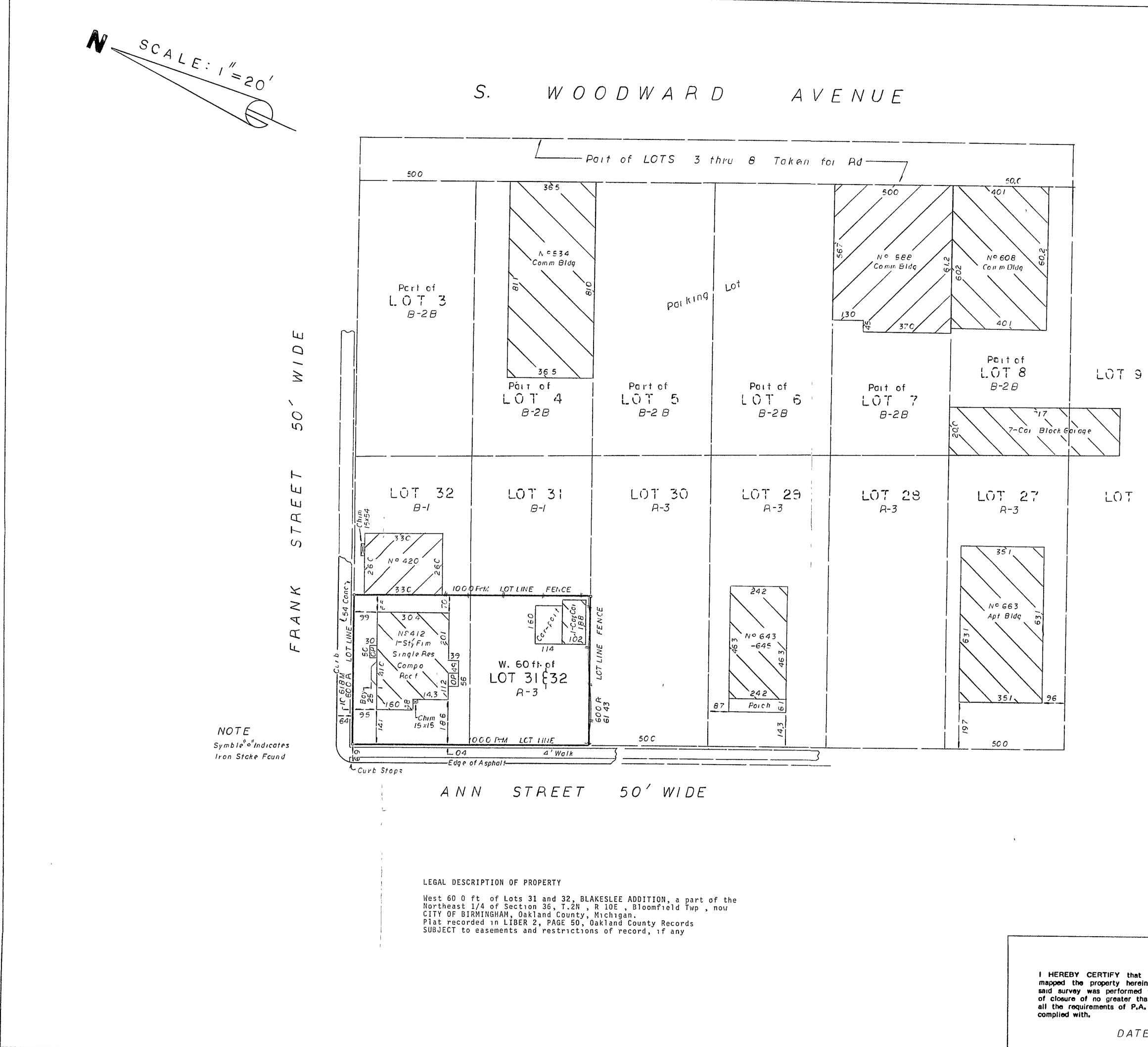
The City of Birmingham has just replaced the old concrete pavement with a new concrete pavement on Frank Street from Woodward to Bates Street. The pavement width in front of the subject property is the same as any normal business pavement width of 37 feet. West of Ann Street the new pavement width is 29 feet or the same as any residential street. The writer would recommend the rezoning from R-6 Multiple Family Residential Zone District of Lots 31 and 32 based solely upon the undesirable living factor created by the Harold Turner Sales Agency and allied used car lot. The lights from the used car lot causes an undesirable influence upon residence development during the evening hours. The B-1 Non-Retail Business would provide a transition from the B-3 Community Business Zone District on Woodward to the R-6 Multiple Family Residential Zone District on the west side of Ann Street.

The writer would also suggest that the B-1 Community Business Zone District might be studied for the east side of Ann from Frank to Landon. However, the writer would not recommend any additional change at this time without incorporating adequate parking for the B-3 and possible B-1 zoned areas of this area.

This matter will be considered by the Planning Board at the Regular Meeting of Wednesday, November 18, 1959 at 8:00 PM in Room 200 of the Municipal Building.

Respectfully submitted, Herbert Herzberg City Planner

HH/br cc: Mr. VanFleteren Abutting property owners



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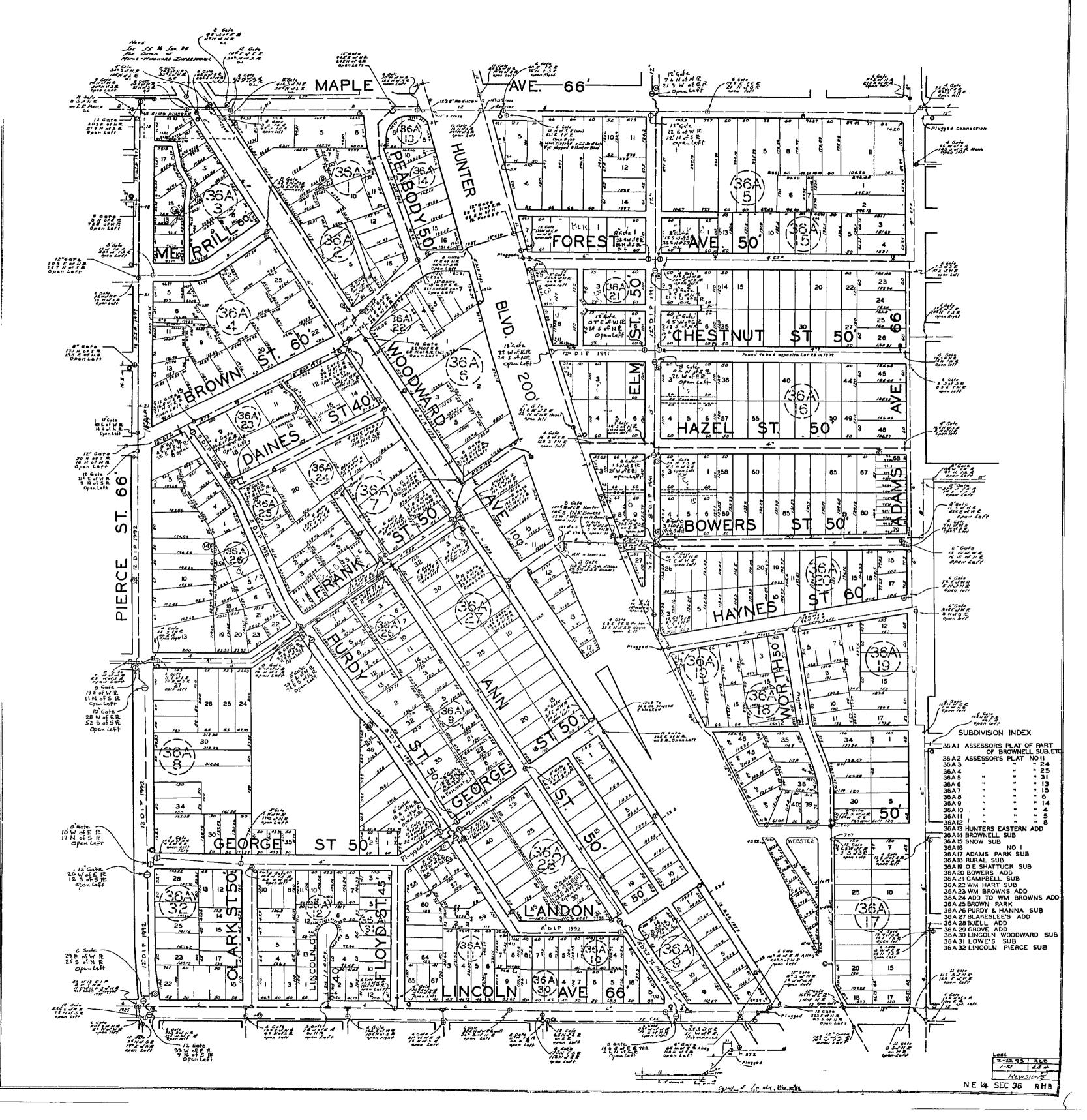
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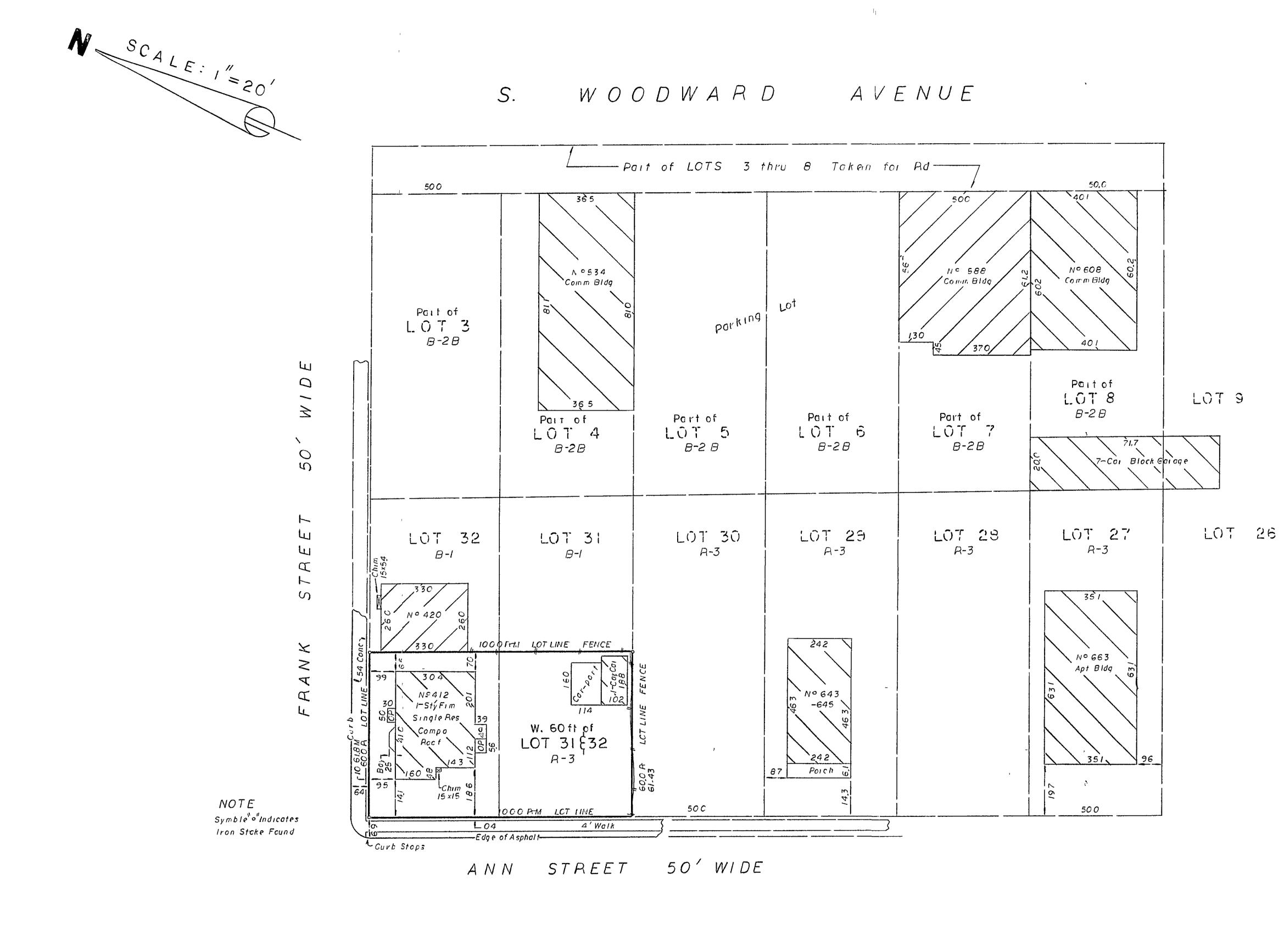
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	MAR 2 2 1995
1	REZONING APPLICATION
	Prepared For
	WARREN VANFLETEREN
	1-810-646-8745
have surveyed and lescribed; and that h a relative error 1 in 5000 and that 12, 1970 have been	GI ARANTY SURVEY CO. RIGISTIREDIANDSCRIFTORS 1029 SOUTH WASHINGTON DOVAL OAK MICHIGAN 48057
12   22   94	PETER G P TCHFORD A31545 17 7 LESTER G CHARLES FAX (3'3) 545 17 8



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NE 36



LEGAL DESCRIPTION OF PROPERTY:

Nest 60 0 ft of Lots 31 and 32, BLAKESLEE ADDITION, a part of the Northeast 1/4 of Section 36, T 2N , R 10E , Bloomfield Twp , now CITY OF BIRMINGHAM, Oakland County, Michigan Plat recorded in LIBER 2, PAGE 50, Oakland County Records SUBJECT to easements and restrictions of record, if any

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I HEREBY CERTIFY that I have surveyed and 'mapped the property herein described; and that said survey was performed with a relative error of closure of no greater than 1 in 5000 and that all the requirements of P.A. 132, 1970 have been complied with.

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DATE' 12/22/94

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REZONING APPLICATION

Prepared For. WARREN VANFLETEREN 1-810-646-0745

GUARANTY SURVEY CO. REGISTERED LAND SURVEYORS

1029 SOUTH WASHINGTON ROYAL OAK MICHIGAN 48057

PETER G P TCHFORD (317,545 1717 LESTER G CHARLES ' FAX (3 3) 545 17 8

MAR 2 2 1995

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JOB Nº 180062

City of Birmingham

151 Martin Street - P.O. Box 3001 Birmingham, Michigan 48012

January 31, 1989

#### MEMORANDUM

TO: Lawrence W. Ternan, City Attorney

Larry L. Bauman, City Planner FROM:

Van Fleteren Vs. City of Birmingham RE: Case No. 88-345562-CH (412 Frank Street)

Dear Mr. Ternan:

At the time of our recent deposition we were asked to provide information regarding: 1) the history of the B-1 Zoning District classification at 412 Frank Street (The subject parcel); 2) the date that the existing medical clinic at 420 Frank Street was developed; 3) the date of adoption of the Birmingham Future Land Use Plan; 4) a catalogue of Zoning Ordinance amendments put into place within the year following Future Land Use Plan adoption.

Our responses to these items follow:

The history of the B-1, Neighborhood Business Zoning classification at 412 Frank originated in 1960 when the site was rezoned to B-1 from a previous multiple family residential zone classification which had been established in 1935. The B-1, Neighborhood Business zoning has been maintained since 1960 to the present.

The adjacent site to the east at 420 Frank was also zoned Multiple-family residential until 1960, when it was rezoned to B-1 Neighborhood business. The existing medical clinic was developed in 1960.

The Future Land-Use Plan for the City of Birmingham was adopted by the Birmingham City Commission on March 24, 1980. The following ordinances were adopted within the year following the adoption of the Future Land-Use Plan:

<u> </u>	_Or	<u>dinance</u>		Action	
4-14-80		1092	Adopted defi	inition of "Fami	ly"
		Area	Code (313)		
eneral Information	644-1800	Assessor	644-3814	Lincoln Hills Golf Course	647-4468

General Information	644-1800	Assessor	644-3814	Lincoln Hills Golf Course	647-4468
Clerk	644-1800	Building Department	644-3869	Public Services	644-1807
Police Pusiness POLICE EMERGENCY	6 <i>44-3405</i> 644-3400	City Manager	646-6454	Springdale Golf Course	644-2254
FOLICE EMERGENCY	646-1127	Engineering/Planning	644-3865	Treasurer	644-3830
FIRE & E.M.S. EMERGENCY	644-1616	Ice Arena	645-0731	Water Department	644-3800

Page Two - Van Fleteren Vs. City of Birmingham

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5-5-80	1094 .	Adopted Cluster Housing Program in Single Family Residential zones.
8-11-80	1108	Changed zoning requirements for schools and churches in R-1 Single Family Zone District from being permitted principal uses formerly requiring BZA permit.
8-18-80	1109	Added 1219 Quarton to Zoning Map.
11-24-80	1125	Adopted definitions of "basement", "grade", "building height", and "story".
1-5-81	1133	Rezone Lots 12-22 Bird and Stanley Sub. from R-8, Single-Family (S. side of Brown between Southfield to East of Stanley) to R-2, Single- Family
	1134	Amend R-7 zone requirement for setbacks and landscaped open space. Establish R-8 Attached Single Family Residential Zone District.
2-9-81	1138	Adopted fence requirements in Zoning Ordinance.
2-17-81	1140	Lots 4-7, Torrey, Hood's, Smith's, Addition Sub. from R-8 Attached Single Family to R-2 Single Family (s. side of Brown St. west of Chester)
3-16-81	1142	Rezone Grand Trunk Depot from Industrial to B-2 General Business (245 S. Eton).

In addition to the responses above, we were asked to provide a copy of the analysis and recommendation relating to 412 Frank Street which we prepared earlier for the City of Birmingham City Commission.

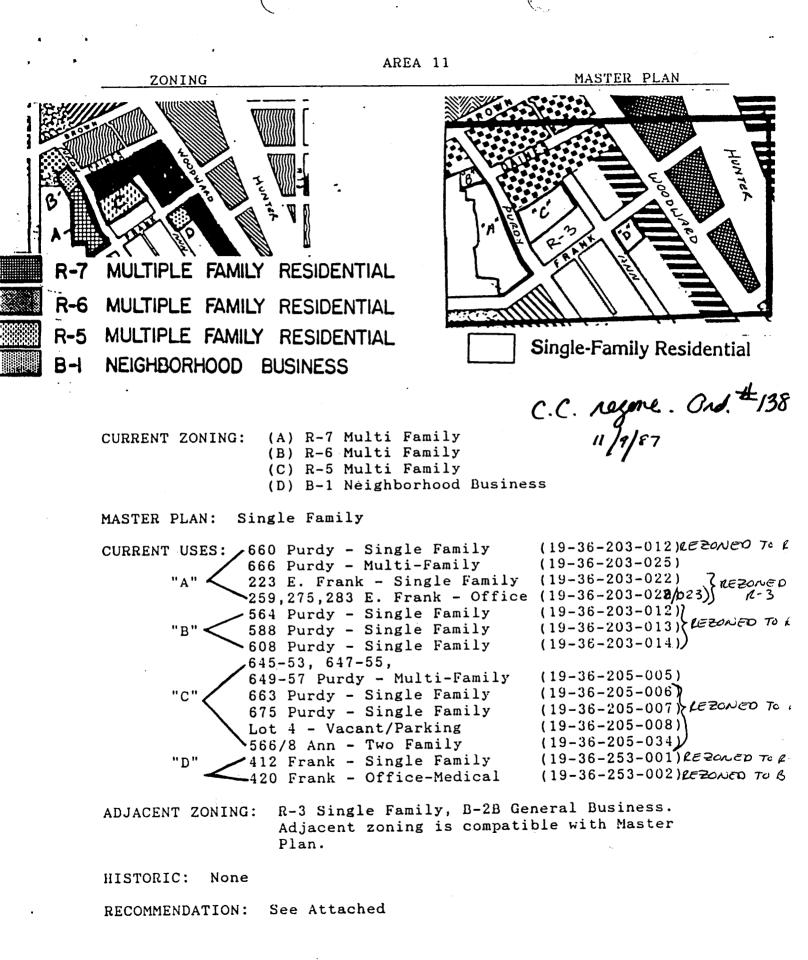
We trust that you will find the information provided sufficiently complete. However, should additional information be required, please call.

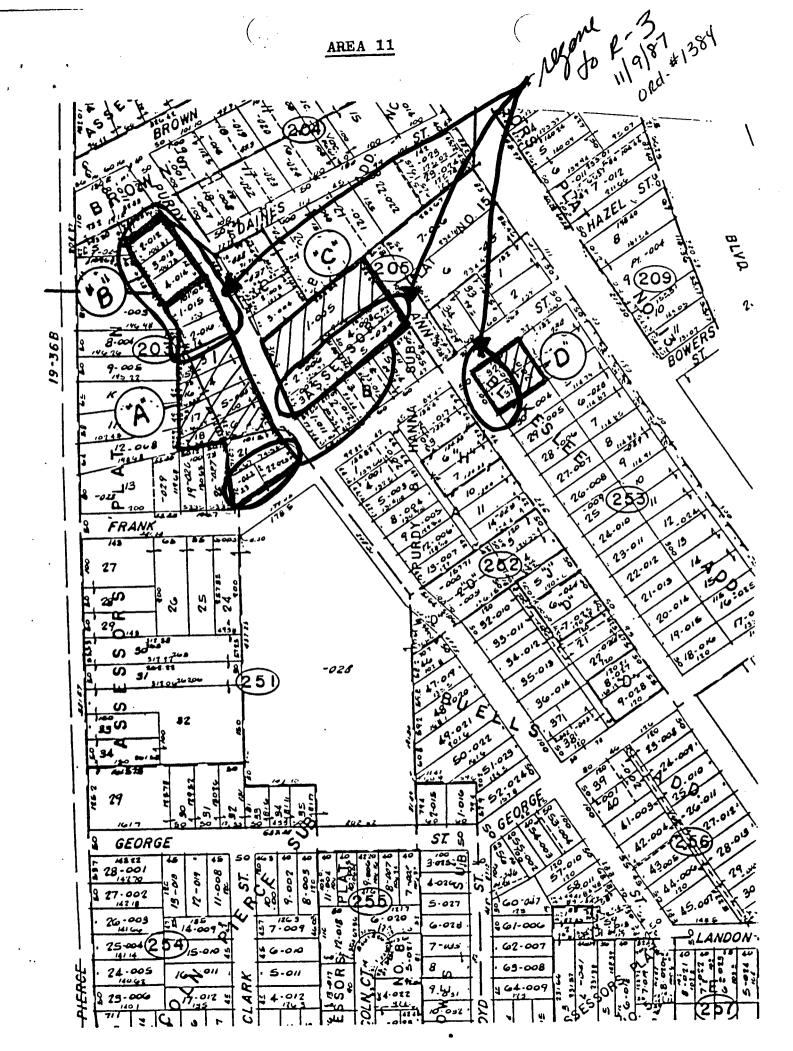
Respectfully submitted, CITY OF BIRMINGHAM

emy L. Ta

Larry L. Bauman City Planner

LLB/nn cc: R.S. Kenning, City Manager





	APPLICATION FOR ZONING MAP CHANGE ROCO DU
	Birmingham, Michigan
	Date 3 22 -95
	TO THE CITY COMMISSION:
	The undersigned hereby make application to the City Commission to:
	Change premises described as $\frac{412}{(N0.)}$ (Street)
	West 1/2 of Lots 31 and 32 Blakeslee's Addition (Legal Description)
	$t_{o}$ the Village of Birming (MAM) from its present zoning (Location)
	classification of $R-3$ to $B-1$
X	A sealed land survey showing location, size of lot and placement of building (if any) on the lot to scale must be attached.
A	Statements and reasons for request, or other data having a direct bearing on the request.
	See attached letter from Baymond L. King, Attorney at Law Dated Nov. 12, 1994 Signature of Applicant
	Mary M- King Print Name
	Name of Owner Mary M. King and F.W. VanFleteren Address of Owner 4256 Lakeside Dr. Tel No: (517) 345-1310 h
	Address of Owner 4256 Lakeside Dr_ Tel No: (517) 345-1310 h
	West Branch, Mi-48661 (SI) 345-5000 W 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 Received by
	Resolution No Approved/Denied
×	Application Fee: \$500.00 Receipt No:
L	12-17-91 3

**t** 

B	E G E I V E MAR 2 2 1995	and the second se
CONTRAUN	CITY OF BIRMINGHAM TY DEVELOPMENT DEPARTMENT	Service Street, Service Street, St
	Telephone	
	(517) 345-KING	
	(517) 345-5464	

FAX: CALL FOR NUMBER

RAYMOND L. KING

342 E. Houghton Ave. West Branch, MI 48661

November 12, 1994

Ms. Patricia McCullough City Planner City of Birmingham 151 Martin Street P.O. Box 3001 Birmingham, MI 48012-3001

RE: Rezoning request for 412 E. Frank

Dear Ms. McCullough:

Sorry that we were unable to make contact by phone but I do appreciate your attempts to return my several calls.

I am an attorney representing my wife, Mary Van Fleteren King and my brother-in-law, Warren Van Fleteren. Their mother, Marjorie Van Fleteren, is no longer able to afford the cost or bear the pressure of this conflict and has deeded her home over to my clients, her two children.

Perhaps some history of this property would be helpful. My client's mother and father, Marjorie Haven Van Fleteren, and Frank Van Fleteren were married on November 27, 1929. Frank Van Fleteren purchased the W 1/2 of Lots 31 and 32, Blakeslee Addition to the Village of Birmingham, from his Aunt and Uncle, Victor and Emma Van Fleteren, on a Land Contract dated March 16, 1931 although they had earlier rented the property from the sellers.

Put another way, the home at 412 E. Frank Street was the only house this couple ever had. Marjorie Van Fleteren is 86 at the present time. Both of her children, my clients, were born and grew up in this house and are very familiar with its history.

Mrs. Van Fleteren ran a custom drapery business from this property and, as you know, the property was always zoned B-1, Neighborhood Business, in modern time. Ms. Patricia McCullough November 12, 1994 Page Two.

The City of Birmingham, for reasons not clear to me, and against the advice of the PHDC Planning Consultant, on November 9, 1987, downzoned the property to R-3, Single Family Residential.

Mrs. Marjorie Van Fleteren, by then the widow of Frank Van Fleteren, a former City of Birmingham employee and pensioner, commenced an appeal in Oakland County Circuit Court. Unfortunately the strain was too much for her health and her pocketbook and, at her request, the suit was dismissed without prejudice on March 21, 1989.

It is not my desire to get into the merits of that appeal. I was not the attorney in that case and Mrs. Van Fleteren did not seek my advice about her appeal. If she had I think I would have advised her to take it all the way but I do understand how the elderly can have unfounded fears about their security and even their pensions.

I believe that regardless of the decision made in 1987 the nature of the neighborhood has changed greatly since that date. In 1987 directly to the North there was a quaint little antique shop and across Frank Street to the Northeast was a nine to five foreign car sales business.

The Antique shop is gone as is Estate Motors, the Mercedes Dealership. They were demolished in 1992 and replaced by Little Caesar's Pizza, Arbor Drug, Blockbuster Video and a dry cleaning business. These businesses are open all hours of the day and night and, I believe, the drug store is open 24 hours a day.

Major new construction is taking place on the Southwest corner of Frank Street and Woodward Avenue, the nature of which is probably known to you but not to me.

In the summer of 1992 the Birmingham Planning Board granted a Special Land Use Permit for the property just across Woodward Avenue from Frank Street at 555 S. Woodward to permit outdoor drinking and dining at the Old Woodward Grille.

All of these changes have greatly contributed to the noise and confusion in the area to the point that a good night's sleep becomes impossible. I know because I have tried to sleep there recently.

I should point out that the whole neighborhood, North, East, South and West from the subject property, has Ms. Patricia McCullough November 12, 1994 Page Three

not been used for single family residence purposes for a very long time. It has been multi-family or commercial in fact if not in zoning for many years.

The point is that the value of this piece of property, which was zoned B-1 prior to November 9, 1987, has been rendered almost useless for single family residential use since that date.

This change in value was appropriately recognized by the Birmingham City Assessor who dropped the S.E.V. on this property by \$7,700 from 1993 to 1994, an inadequate amount but clearly a step in the right direction.

Mr. Kelly Sweeney of Weir, Manuel, Snyder & Ranke, Inc. of Birmingham advised my client, Warren Van Fleteren, in a letter dated September 3, 1994,

> "I should point out to you that the subject property suffers from significant economic obsolescence due to its proximity to commercially zoned properties on two sides and overlooking a parking lot across the street. I would estimate that the property would be worth approximately fifty percent more than our estimate of value contained herein should the property be rezoned from its present classification of residential to commercial."

I am advised that Mr. Sweeney served as Birmingham City Assessor as well as having 19 years in the real estate profession.

My wife, Mary, in her conversation with you last week, advised me that you needed some background information concerning this property. I trust this is the type of information you need. We are going to be out of the State for a few weeks but we will try to call your office next week and see what else we need to do before asking the City Commission to rezone this property. I hereby make a formal request for a December Initial Hearing in this matter.

Sincerely,

Raymond L. King

cc: Mr. F. Warren Van Fleteren

### **BIRMINGHAM PLANNING BOARD PROCEEDINGS**

Minutes of the regular meeting of the City of Birmingham Planning Board held on April 26, 1995. Chairman Roger Gienapp convened the meeting at 7:30 p.m.

- Present: Chairman Roger Gienapp, Brian Blaesing, Sheila McEntee, William McMachan, Gary Rogers, Mary Steffy (arrived at 7:45 p.m.), Gordon Thorsby
- Absent: None

Administration: Ms. Alisa Duffey Rogers, Asst. City Planner Ms. Carole Salutes, Secretary

#### 04-36-95

#### Approval of Minutes of April 12, 1995

Mr. McMachan substituted "seems to be" for the word "only" in the second sentence at the top of page 9.

Ms. McEntee substituted the second sentence in the second to last paragraph at the bottom of page 9 for the following: "The Planning Board is supportive of residential development in downtown."

Motion by Mr. McMachan. Supported by Ms. McEntee to approve the Minutes from the meeting of April 12, 1995 as corrected this evening.

Motion carried, 4-0 Abstain: Mr. Rogers and Mr. Thorsby.

#### 04-37-95

Public Hearing

To consider an amendment to Chapter 126, the Zoning Ordinance of the Code of the City of Birmingham, by amending Section 126-48, the Zoning Map, to rezone the property described as: west 1/2 of lots 31 and 32 of Blakeslee's Addition from R-3 Single Family Residential to B-1 Neighborhood Business.

The Planning Department has received a request from the property owner to rezone the west 60 feet of Lots 31 and 32 of Blakeslee's Addition from R-3 Single Family Residential to B-1 Neighborhood Business. This parcel is also known as 412 E. Frank, located on the southeast corner of Frank and Ann Streets.

The parcel has a width of 60 ft. on Frank Street and a depth of 100 ft. on Ann Street for a total of 6,000 sq. ft. The minimum land area required for the R-3 Residential district is 4,500 sq. ft. The current land area and dimensional constraints with providing parking on the site will limit many of the uses identified as permitted uses in the B-1 district from being developed on this site.

The 1980 Future Land Use Plan, otherwise known as the Master Plan, calls for single family residences for the Frank/Ann/Purdy/ George block. This block is in an area defined by the Master Plan as a "sensitive residential area," which merits special attention with its proximity

to commercial uses and a major thoroughfare.

In 1987, the City Commission directed the Planning Board to review and evaluate the existing land uses in the City in comparison with the Master Plan recommendations. Fifteen areas were identified as being contrary to the recommendations. From 1987 to 1989, the Planning Board held a series of public hearings to consider the merits of retaining or rezoning the identified areas. The area of Frank and Ann Streets was reviewed at that time to consider rezoning to the single family residential classification as recommended. In 1987, the site in question and the adjacent medical office property to the east were zoned B-1 Neighborhood Business. After the Planning Board's review, the Board recommended to the City Commission retaining the medical office site at B-1 Neighborhood Business and rezoning the current single family residence to R-3 Single Family at the corner.

On June 14, 1993, the City Commission accepted a Planning Board conceptual plan for right-of-way design improvements on Frank Street between S. Woodward and Ann Street with several amendments. The plan incorporates landscaping, brick paving, pavement striping, signage and the elimination of on-street parking spaces as design modifications to the right-of-way. Specifically, the plan was amended by the City Commission to remove the two metered on-street parking spaces on Frank Street in front of the residential house on the southeast corner of Ann and Frank Streets and to extend the green space between the sidewalk and curb to match the proposed green space on the north side of Frank Street.

The Community Development Department has received four letters of objection from residents as well as a letter from the Central Birmingham Residents Association expressing their opposition to the rezoning. Two other letters in objection were received this evening.

Mr. Raymond King, attorney representing the owners of the property, offered a history of the parcel and the surrounding neighborhood. The neighborhood has changed considerably since 1987. The little antique shop on the north side of Frank Street is gone. Estate Motors is gone and was replaced by Little Caesar's Pizza, Arbor Drug, Blockbuster Video, and a dry cleaning business. Major new construction has taken place on the southwest corner of Frank Street and Woodward Ave. In 1992, a Special Land Use Permit was granted to permit outdoor drinking and dining at the Old Woodward Grill. All of these changes have altered the potential of this property to be a single-family residence. It is located just 6 ft. from the first step to the parking meters. Mr. King's realtor pointed out to him that the subject property suffers from significant obsolescence due to its proximity to commercially zoned properties on two sides and overlooking a parking lot across the street. The realtor estimated the property would be worth approximately 50 percent more, should it be rezoned from its present classification of Residential to Commercial. Mr. King opined the property would be ideal for a neighborhood type business such as a little yarn shop, an antique business, or a small professional office. As it is now, Mr. King described the property as a residential beachhead into a commercial area.

Ms. Duffy Rogers clarified the zoning history of the parcel. From 1929 until 1959 the property was zoned Multi-Family. In 1959 a change of zoning was made (effective in 1960) from R-6 Multi-Family Residential to B-1 Non-Retail Business.

Birmingham Planning Board Proceedings April 26, 1995

Mr. Blaesing noted the uses Mr. King mentioned as "neighborhood businesses" are things which would not be used solely by the surrounding neighborhood. He thought Mr. King's examples were more the types of businesses which would not be disruptive to a neighborhood, rather than neighborhood businesses.

Mr. Blaesing asked Mr. King to explain how the change he recommends would be in the best interests of Birmingham. Mr. King offered an example from his home town of West Branch. Converting old houses along the main street to offices and multi-family was economically viable, and so the properties were maintained and kept up. Now, what was a declining area looks very beautiful.

Chairman Gienapp opened the public discussion at 8:05 p.m.

Ms. Christa Wingrich stated that increasing the commercial properties will not help the rest of the block.

Ms. Maureen VanDine, president of the CBRA, spoke for the Association. They are concerned this is a symbol of what can happen to the whole residential neighborhood. There are attempted commercial encroachments all the time. We have to be ever vigilant. We cannot allow the economic problem of a single individual to justify modifying the Master Plan and changing the whole residential district to something other than what it was intended to be.

Ms. Susan Welsh, board member of the CBRA, thinks that a nice residential house could be built on that lot after Frank Street has been narrowed and given more of a neighborhood feeling. When they bought their house they did so because they knew the limits defined by the Master Plan. They put a lot of money into the property, believing the City Commission would abide by the limits that it set down. The line has been drawn, and she thinks that it should be kept.

Mr. Rodney Shackett, 870 Purdy, said that is truly a very poorly zoned corner. He feels the answer for that whole first block would be R-8 row houses with garages along the back. This zoning should increase the value of the property and be a good buffer between the commercial and the residential.

Mr. Sameer Eid said he owns the property next to Mr. King's. He has had it for sale for the last eight years. He has changed real estate agents, changed price, tried to sell it on his own. He has not, in all of that time, received one single offer. He agreed with Mr. Shackett that making that block R-8, Attached Single Family, would help the whole neighborhood.

Mr. Sal Bitonti, 709 Ann Street, said that street was always zoned for duplexes. Mr. Dave Conlin petitioned to change to single family because he was supposed to tear the houses down and build new homes. Instead, he just cosmetically painted them up and boosted the price.

Ms. Diane Kant, 864 Ann, said there are a lot of single-family dwellings on that street and she would say the majority of the single-family dwellings are owner occupied.

Mr. John Mehan from Chester Street said this is a very fragile area and he encouraged the board to stick to the Master Plan.

Ms. Ann Honhart, 197 E. Frank, sees it as a snowball effect if the City were to change the zoning on that piece of property to B-1. The people next door would feel their property is devalued because that property is B-1. They might request a change in their zoning too, and it would snowball on down the street. She is definitely opposed to the changing of that property to B-1. It was a long struggle back in 1987 to get the property rezoned to residential. This is a fragile neighborhood, and we do not need to have any commercial erosion. She hopes the board members will stand by the decision that was made by their predecessors in 1987. Two years ago the neighbors struggled long and hard to try to change the environment of that house. They felt very badly that lady had to be faced with two parking meters and a lot of concrete. That is one of the reasons they came before this Planning Board time and time again, to try to change that half of the street. The only hope of improving the situation at the end of the street is to add some green space, pull out the meters, get the cars away from that poor woman's house, and make it more of a residential neighborhood.

Mr. Shackett pointed out there are four single-family dwellings on the west side of Ann Street. There are five on the east side of Ann Street. Everything else is apartments and multiple. He feels the petitioners are entitled to B-1 if R-8 is not put in there.

Mr. Bitonti said he lived on Ann Street for 20 years. The street should be reconsidered. Duplexes would not create any more traffic than there is now.

Mr. King indicated the reason they are requesting B-1 zoning is because that is what it was prior to being changed. If the best use of the whole area is a buffer zone of multi-family, they would have no objection to that.

Chairman Gienapp noted the R-8 zoning they are talking about is Single-Family Attached; not Multiple-Family. Mr. King had no objection. He just would like to see something happen that would make that property marketable.

There being no further comments from the audience, Chairman Gienapp closed the public hearing at 8:30 p.m.

Mr. McMachan commented the City is about to embark on a whole new Master Plan. He personally would not be in favor of rezoning the street until the consultants which are hired come back with their report.

Chairman Gienapp explained the City will ask the planners, when they are hired, to look at the issue of separating the uses. Through their study, the planners will undoubtedly understand the nature of this neighborhood, and will have some recommendation for the use of this property. Ms. Duffey Rogers added the planning consultant should be on board by August and the study should be completed within 18-24 months. Mr. King was glad to hear of the long-range plans.

, \_\_\_\_\_\_

Mr. Rogers noted that very pleasing local uses for this property were described. However, what would stop a video arcade or a party store that sells liquor from moving in?

Ms. Duffey Rogers explained property is rezoned to a district, not a use.

Mr. Blaesing stated the area between residential and commercial is the hardest thing to deal with in any city. It's the transition zone where we always come to loggerheads. You need higher density residential to get the same value when it is abutting a business area than when you are further away. He liked the idea of R-8 zoning as a transition. In his mind, on this particular issue there is no other way to go but to keep this as a residential lot and not go back to commercial or business of any kind.

Moved by Mr. Blaesing.

Supported by Ms. McEntee that the request to rezone portions of lots 31 and 32 of Blakeslee's Addition at 412 E. Frank be denied due to the following:

- 1. Based on the Master Plan for the City.
- 2. Based on the desire of the City to strengthen and enhance the single-family nature of the area west of Woodward and south of Brown Street.
- 3. This change would not further the residential character of the neighborhood.

Ms. Mary King, petitioner, asked if it would be prudent to table her appeal in order to see what the new planner will come up with. Ms. King continued they have already spent \$1,000 to come here tonight. She would hate to think they would have to redo their appeal a year and a half from now.

Ms. Duffey Rogers explained that when the consultants look at the neighborhood and if they make a recommendation for anything other than detached, single family, that will be part of the recommendation that will ultimately be adopted by this board and the City Commission. Therefore, it will not cost the petitioner any more money.

Chairman Gienapp said that part of zoning the property into the R-3 district was to establish a direction for the district. What we are hoping to do through the Master Plan is to encourage a residential use. We feel that should be some form of residential use, as opposed to a business use. Given the petition was for a business use, Chairman Gienapp, personally, supports the motion. The impact of what we are proposing to do with narrowing Frank Street is somewhat of an unknown at this time. The condition that makes Ms. King's property unusable as a single family home in its present state may be, in fact, improved by the street improvement that should be done this summer. The issue of R-8 also has potential as well.

Vote on the motion:

Motion carried, 7-0.

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			ble Community =

# MEMORANDUM

**Planning Division** 

DATE:	January 3, 2017
то:	Joseph A. Valentine, City Manager
FROM:	Jana L. Ecker, Planning Director
SUBJECT:	Request to set a public hearing to consider amendments to Chapter 126, Zoning to clarify the boundaries of the Rail District, to allow bistros in the Rail District and/or add properties on which an Economic Development License may be utilized

On December 14, 2016 the Planning Board conducted a public hearing to consider Zoning Ordinance amendments that would allow the use of a Class C liquor license through either a Bistro license or an Economic Development license at 2100 E. Maple. The proposed draft ordinance amendments provide two possible changes. The first is to establish official rail district boundaries which would include the parcel at 2100 E. Maple. The second possible change would amend the Economic Development Map to add the parcel at 2100 E. Maple. 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.

The Planning Division requests that the City Commission set a public hearing date for **February 13**, **2017** to consider amendments to the Zoning Ordinance to clarify the boundaries of the Rail District, and to allow bistros within the Rail District and/or to amend the Zoning Ordinance to add properties on which an Economic Development license may be utilized.

#### Suggested Action:

To set a public hearing date for February 13, 2017 to consider the following amendments to Chapter 126, Zoning:

- (a) Article 02, section 2.29 (General Business), to allow bistros in the Rail District as a use requiring a Special Land Use Permit;
- (b) Article 02, section 2.31 (General Business), to allow bistros in the Rail District as a use requiring a Special Land Use Permit; and
- (c) Article 09, section 9.02 (Definitions), to add a definition for Rail District.

AND/OR

To set a public hearing date for February 13, 2017 to consider the following amendments to Chapter 126 Zoning:

- (a) To amend section 2.29, B2 (General Business) to amend the accessory permitted uses; and
- (b) To amend appendix C, Exhibit 1, Economic Development Licenses map.

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City o	of <b>B</b> irmingham
-	A Walkable Community

## **MEMORANDUM**

		<b>Planning Division</b>
DATE:	December 5, 2016	
то:	Planning Board Members	
FROM:	Matthew Baka, Senior Planner	
SUBJECT:	Public Hearing to consider allowing Bistro or Development license at 2100 E. Maple (Whole	

On November 9<sup>th</sup>, 2016 the Planning Board set a public hearing for December 14<sup>th</sup>, 2016 to consider Zoning Ordinance amendments that would allow the use of a Class C liquor license through either a Bistro license or an Economic Development license at 2100 E. Maple and make a recommendation to the City Commission. The proposed draft ordinance amendments provide two possible changes. The first is to establish official rail district boundaries which would include the parcel at 2100 E. Maple. The second possible change would amend the Economic Development Map to add the parcel at 2100 E. Maple. Attached is the draft ordinance language, staff report from the most recent study session, and relevant meeting minutes.

## Suggested Action:

To recommend APPROVAL to the City Commission the following amendments to Chapter 126 Zoning:

- i. Article 02, section 2.29 (General Business), to allow bistros in the Rail District as a use requiring a Special Land Use Permit;
- ii. Article 02, section 2.31 (General Business), to allow bistros in the Rail District as a use requiring a Special Land Use Permit;
- iii. Article 09, section 9.02 (Definitions), to add a definition for Rail District.

## AND/OR

To recommend APPROVAL to the City Commission the following amendments to Chapter 126 Zoning:

- (c) To amend section 2.29, B2 (General Business) to amend the accessory permitted uses;
- (d) To amend appendix C, Exhibit 1, Economic Development Licenses map.

### RAIL DISTRICT / BISTRO OPTION ORDINANCE NO.\_\_\_\_\_

#### THE CITY OF BIRMINGHAM ORDAINS:

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

TO AMEND SECTION 2.29, B2 (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.

#### Section 2.29 B2 (General Business) District Intent, Permitted Uses, and Special Uses

#### **Accessory Permitted Uses**

- Alcoholic beverage sales (off-premise consumption)\*
- Kennel\*
- Laboratory medical/dental\*
- Loading facility off-street
- Outdoor café\*
- Outdoor display
- Outdoor storage
- Parking facility off-street
- Retail fur sales cold storage facility
- Sign

## **Uses Requiring a Special Land Use Permit**

- alcoholic beverage sales (on-premise consumption)
- assisted living
- auto laundry
- auto sales agency
- bistro (only permitted in the Triangle District or <u>Rail District</u>)\*
- bus/train passenger station and waiting facility
- continued care retirement community
- display of broadcast media devices (only permitted in conjunction with a gasoline service station)
- drive-in facility
- establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 3, Licenses for Economic Development (only permitted on those parcels within the Triangle District and on Woodward Avenue identified on Exhibit 1; Appendix C)
- funeral home
- gasoline full service station\*
- gasoline service station
- independent hospice facility
- independent senior living
- skilled nursing facility
- trailer camp

## **Uses Requiring City Commission Approval**

\_\_\_\_\_

regulated uses\*

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

Mark Nickita, Mayor

Cheryl Arft, 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 SECTION 2.31, B2B (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT.

# Section 2.31 B2B (General Business) District Intent, Permitted Uses, and Special Uses

#### **Accessory Permitted Uses**

- Alcoholic beverage sales (off-premise consumption)\*
- Kennel\*
- Laboratory medical/dental\*
- Loading facility off-street
- Outdoor café\*
- Outdoor display
- Outdoor storage
- Parking facility off-street
- Sign

## Uses Requiring a Special Land Use Permit

- alcoholic beverage sales (on-premise consumption)
- assisted living
- auto laundry
- bistro (only permitted in the Triangle District or <u>Rail District</u>)\*
- bus/train passenger station and waiting facility
- continued care retirement community
- display of broadcast media devices (only permitted in conjunction with a gasoline service station)
- drive-in facility
- establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 3, Licenses for Economic Development (only permitted on those parcels within the Triangle District identified on Exhibit 1; Appendix C)
- funeral home
- gasoline full service station\*
- gasoline service station
- independent hospice facility
- independent senior living
- skilled nursing facility
- trailer camp

## **Uses Requiring City Commission Approval**

regulated uses\*

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

Mark Nickita, Mayor

\_\_\_\_\_

\_\_\_\_\_

Cheryl Arft, City Clerk

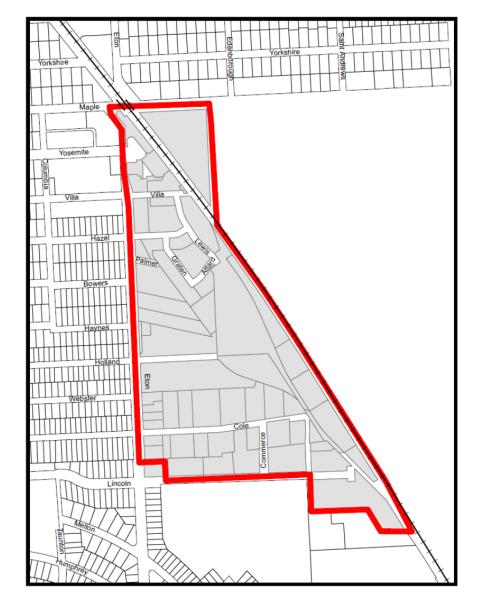
## THE CITY OF BIRMINGHAM ORDAINS:

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

TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS, TO ADD A DEFINITION FOR RAIL DISTRICT.

Article 9, Section 9.02

<u>Rail District</u>– All properties located within the boundary lines shown on the map below.



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

Mark Nickita, Mayor

Cheryl Arft, City Clerk

#### ECONOMIC DEVELOPMENT OPTION ORDINANCE NO.\_\_\_\_\_

#### THE CITY OF BIRMINGHAM ORDAINS:

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

#### TO AMEND SECTION 2.29, B2 (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE USES REQUIRING A SPECIAL LAND USE PERMIT.

### Section 2.29 B2 (General Business) District Intent, Permitted Uses, and Special Uses

#### **Accessory Permitted Uses**

- Alcoholic beverage sales (off-premise consumption)\*
- Kennel\*
- Laboratory medical/dental\*
- Loading facility off-street
- Outdoor café\*
- Outdoor display
- Outdoor storage
- Parking facility off-street
- Retail fur sales cold storage facility
- Sign

## Uses Requiring a Special Land Use Permit

- alcoholic beverage sales (on-premise consumption)
- assisted living
- auto laundry
- auto sales agency
- bistro (only permitted in the Triangle District)\*
- bus/train passenger station and waiting facility
- continued care retirement community
- display of broadcast media devices (only permitted in conjunction with a gasoline service station)
- drive-in facility
- establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 3, Licenses for Economic Development (only permitted on those parcels within the Triangle District and on Woodward Avenue identified on Exhibit 1; Appendix C)
- funeral home
- gasoline full service station\*
- gasoline service station
- independent hospice facility
- independent senior living
- skilled nursing facility
- trailer camp

# Uses Requiring City Commission Approval regulated uses\*

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

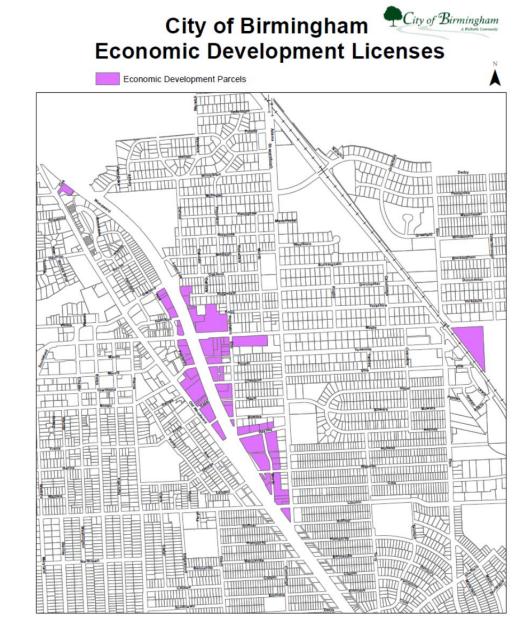
Mark Nickita, Mayor

Cheryl Arft, City Clerk

## THE CITY OF BIRMINGHAM ORDAINS:

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

TO AMEND APPENDIX C, EXHIBIT 1, ECONOMIC DEVELOPMENT LICENSES MAP.



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

Mark Nickita, Mayor

Cheryl Arft, City Clerk

C.	$\mathbf{C}\mathbf{P}$		1
Cit	y of ${}^{\mathcal{B}}$	ırmıng	rnam
		A Walkable	Community
652 J. 194			

## **MEMORANDUM**

**Planning Division** 

DATE:	November 3, 2016
TO:	Planning Board
FROM:	Jana L. Ecker, Planning Director
SUBJECT:	2100 E. Maple - Request to Clarify the Boundaries of the Rail
	District and to include 2100 E. Maple

On September 30, 2015 the Planning Board approved the final site plan for the Whole Foods Market, which is currently under construction at 2100 E. Maple. As a part of the development plan the owners of Whole Food Market are interested in pursuing a bistro license in order to establish a full service restaurant inside of the new store serving alcohol. To that end, the owners of Whole Foods submitted the required five (5) page Bistro concept summary by October 1<sup>st</sup> of this year in order to be considered for one of the two available licenses in 2017.

On October 10, 2016, the City Commission selected the Whole Foods Bistro concept to be considered by the Planning Board for a Special Land Use Permit that would permit the issuance of a liquor license for this purpose. However, the Whole Foods property is zoned B2 (General Business) and is not located within Triangle or Rail Districts, and thus does not currently permit bistros.

Accordingly, the developers of the Whole Foods have submitted a request for an amendment to clarify the boundaries of the Rail District to include the Whole Foods site and to permit bistros throughout the district. Currently, the MX (Mixed Use) zoning district allows bistros in what is commonly referred to as the "Rail District". Although there are several references to the Rail District throughout City documents, there are no specifically defined boundaries to the Rail District. In response to the request of the applicant, the Planning Division drafted ordinance language and amendments that would create a map defining the Rail District boundaries, as well as ordinance language to permit bistros within the boundaries of the Rail District.

On October 26, 2016, the Planning Board discussed the applicant's request to clarify the boundaries of the Rail District, and to include 2100 E. Maple within the district. Board members were in agreement that the boundaries of the Rail District should be defined, and codified in the Zoning Ordinance. Board members also stated that the map with the boundaries as presented that evening looked good. There was further discussion about the possibility of allowing the use of an economic development license at 2100 E. Maple, other locations along Maple and / or discussing allowing the use of economic development licenses throughout the City. The Planning Board indicated a desire to further discuss the use of economic development licenses as an option at 2100 E. Maple.

Accordingly, please find attached ordinance language to establish the boundaries of the Rail District, including the property at 2100 E. Maple and to allow bistros within the Rail District, as well as an updated map and ordinance language to expand the area in which economic development licenses may be utilized, including the property at 2100 E. Maple as per the direction of the Planning Board.

SUGGESTED ACTION

The Planning Division requests that the Planning Board review the proposed amendments as requested by the applicant and consider if it is appropriate to hold a public hearing on December 14, 2016 and make a formal recommendation to the City Commission.

## Planning Board Minutes October 26, 2016

#### 2100 E. Maple Rd. Whole Foods Request to amend Zoning Ordinance and/or Zoning Map to clarify the boundaries of the Rail District to include this site in the Rail District, and to allow bistro uses on parcels within the Rail District.

Ms. Ecker recalled that on September 30, 2015 the Planning Board approved the Final Site Plan for the Whole Foods Market, which is currently under construction at 2100 E. Maple Rd. As a part of the development plan the owners of Whole Foods Market are interested in pursuing a bistro license in order to establish a full service restaurant serving alcohol inside of the new store. To that end, the owners of Whole Foods submitted the required five (5) page Bistro concept summary by October 1st of this year in order to be considered for one of the two available licenses in 2017.

On October 10, 2016, the City Commission selected the Whole Foods Bistro concept to be considered by the Planning Board for a Special Land Use Permit ("SLUP") that would permit the issuance of a liquor license for this purpose. It is understood that bistros are permitted in the Rail District; however, the Whole Foods property is zoned B-2 (General Business) and does not currently permit bistros as a use.

Accordingly, the developers of the Whole Foods have submitted a request for an amendment to clarify the boundaries of the Rail District to include the Whole Foods site and to permit bistros throughout the District. Currently, the MX (Mixed Use) Zoning District allows bistros in what is commonly referred to as the "Rail District." Although there are several references to the Rail District throughout City documents, there are no specifically defined boundaries for the Rail District.

As a response to the request of the applicant, the Planning Division has drafted ordinance language and amendments that would create a map defining the Rail District boundaries, as well as ordinance language to permit bistros within the boundaries of the Rail District.

The Jet's Plaza could be included in the Rail District for the purpose of streetscape standards but still not allow bistros there.

Mr. Boyle asked if there is a reason to discuss how to extend the location of the Economic Development License to extend not just on Woodward Ave. but along Maple Rd. as well. Ms. Ecker responded that could be done.

Ms. Kelly Allen, Adkison, Need, Allen, & Rentrop, Attorney for Whole Foods, said that Whole Foods will meet the criteria for an Economic Development License, but they have no desire to put anything other than a small bistro type restaurant in their establishment. She does think it makes some sense to change the Economic Development Map that is attached to the Zoning Ordinance as opposed to changing the Zoning Ordinance throughout to define the Rail District.

But the bottom line is whether it is an Economic Development License or a Bistro License the use will be the same and in her view would qualify either way.

Ms. Whipple-Boyce expressed her opinion that the Economic Development License is more appropriate. Mr. Boyle thought this large market being built is a big piece of Economic Development and it makes sense that it has within it the appropriate license that goes with it instead of forcing a cozy, small scale bistro.

Ms. Allen reminded everyone that the stakes are really high to get an Economic Development License and for the most part properties up and down Maple Rd. other than Whole Foods will not be able to meet that requirement.

Ms. Ecker thought they should define the boundary for the Rail District. It makes sense then to look at the properties that abut the railroad tracks. It will be a harder sell to come all the way off Woodward Ave. to allow Economic Development Licenses.

Ms. Whipple-Boyce saw this more as an Economic Development License because it doesn't seem to fit the development of a bistro.

Chairman Clein wondered if the policy of an Economic Development License should be re-visited by the City Commission to not be restricted to any geographic location and subject to their approval.

#### Motion by Ms. Lazar Seconded by Mr. Jeffares to extend the meeting for 10 minutes to 11:15 p.m.

#### Motion carried, 7-0.

Board members were in agreement that they have to define the boundaries of the Rail District and figure out which properties to include.

Ms. Allen advised that Whole Foods will open in 2017 and clearly they would like to put in a bistro. Also she sees all the wisdom in the world for an Economic Development license in this case.

Chairman Clein said for the next meeting he is hearing that what he has been prepared so far on the rail approach on definition of the boundaries is a good, solid first step. Also there is discussion to be had about the ordinance language related to where Economic Development Licenses are allowed and how that might be applied elsewhere.

## Planning Board Minutes November 9, 2016

#### 2100 E. Maple Rd. Whole Foods Request to amend Zoning Ordinance and/or Zoning Map to clarify the boundaries of the Rail District to include this site in the Rail District, and to allow bistro uses on parcels within the Rail District. (continued from October 26, 2016)

Ms. Ecker recalled that on October 26, 2016, the Planning Board discussed the applicant's request to clarify the boundaries of the Rail District, and to consider including 2100 E. Maple Rd. within the boundaries of the Rail District. Board members were in agreement that the boundaries of the Rail District should be defined, and codified in the Zoning Ordinance. Board members also stated that the map with the boundaries as presented that evening looked good. There was further discussion about the possibility of allowing the use of an Economic Development License at 2100 E. Maple Rd., other locations along Maple and / or discussing allowing the use of Economic Development Licenses throughout the City. The Planning Board indicated a desire to further discuss the use of an Economic Development License as an option at 2100 E. Maple Rd.

Presented was ordinance language to establish the boundaries of the Rail District, including the property at 2100 E. Maple Rd. and to allow bistros within the Rail District, as well as an updated map and ordinance language to expand the area in which Economic Development Licenses may be utilized, including the property at 2100 E. Maple Rd. as per the direction of the Planning Board.

Ms. Whipple-Boyce announced that she thinks the Whole Foods site is part of the Rail District and a bistro there would be a cool idea. With a Bistro License the City would have more control over what goes on at Whole Foods with their alcohol adjacent to the

single-family neighborhood that is across the street. Mr. Boyle noted the compelling argument for him is control adjacent to a residential neighborhood.

Chairman Clein asked for members of the public to come forward and comment at 9:10 p.m.

Ms. Kelly Allen, Adkison, Need, Allen, & Rentrop, Attorney for Whole Foods, said that Whole Foods is in favor of the Economic Development option. They have been in touch with the Pembroke Association residents and they have no problem. The area that is being set aside inside of the grocery store looks like a bistro but it qualifies for an Economic Development License. Whole Foods would have a chance of getting that license sooner as opposed to competing with two or three other contenders for a Bistro License.

Answering Ms. Whipple-Boyce, Ms. Allen said the Economic Development License does not restrict hours of operation. However, Whole Foods will not keep their little restaurant open beyond their hours of operation. Additionally, this will be controlled by a Special Land Use Permit ("SLUP") the same as a Bistro License.

Chairman Clein asked that the parcels along Maple Rd. be removed from the Economic Development map. Just add the Whole Foods site.

Motion by Mr. Boyle

Seconded by Mr. Jeffares to hold a public hearing on December 14, 2016 for the requested Zoning Ordinance Amendment to clarify the boundaries of the Rail District to include the Whole Foods site in the Rail District, and to amend the Economic Development License map to include the Whole Foods site and the Zoning Ordinance Amendments that go with it.

There was no input on the motion from members of the audience at 9:17 p.m.

#### Motion carried, 7-0.

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

Ms. Ecker was requested to speak to the City Manager about ensuring that the public is notified about what is going on.

## DRAFT Planning Board Minutes December 14, 2016

# 3. To consider the following amendments to Chapter 126, Zoning, of the Code of the City of Birmingham:

TO AMEND ARTICLE 2, SECTION 2.29, B2 (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES TO ALLOW **BISTRO USES ON PARCELS WITHIN THE RAIL DISTRICT**.

TO AMEND ARTICLE 2, SECTION 2.31, B2B (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES TO ALLOW BISTRO USES ON PARCELS WITHIN THE RAIL DISTRICT.

TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS, TO ADD A DEFINITION FOR RAIL DISTRICT.

AND /OR

# To consider the following amendments to Chapter 126, Zoning, of the Code of the City of Birmingham:

TO AMEND ARTICLE 2, SECTION 2.29, B-2 (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES TO ALLOW THE USE OF ECONOMIC DEVELOPMENT LICENSES IN THIS ZONE DISTRICT.

TO AMEND APPENDIX C, EXHIBIT 1, ECONOMIC DEVELOPMENT LICENSES MAP.

Chairman Clein opened the public hearing at 8:07 p.m.

Mr. Baka advised that after several study sessions on this matter the Planning Board on November 9th, 2016 set a public hearing for December 14, 2016 to consider Zoning Ordinance amendments that would allow the use of a Class C Liquor License through either a Bistro License or an Economic Development License at 2100 E. Maple Rd. and make a recommendation to the City Commission. The proposed draft ordinance amendments provide two possible changes. The first is to establish official Rail District boundaries which would include the parcel at 2100 E. Maple Rd. The second possible change would amend the Economic Development Map to add the parcel at 2100 E. Maple Rd.

Ms. Kelly Allen, Adkison, Need, Allen, & Rentrop, Attorney for Whole Foods, said that Whole Foods is in favor of the Economic Development option because they feel they meet that criteria. However, they would like to see both options move to the City Commission. The area that is being set aside inside of the grocery store looks like a bistro but it qualifies for an Economic Development License. Whole Foods would have a chance of getting that license sooner as opposed to competing with two or three other contenders for a Bistro License.

No one from the public cared to join the discussion at 8:07 p.m.

Motion by Mr. Williams Seconded by Ms. Whipple-Boyce

To recommend approval to the City Commission the following amendments to Chapter 126 Zoning:

(a) Article 02, section 2.29 (General Business), to allow bistros in the Rail District as a use requiring a Special Land Use Permit;

(b) Article 02, section 2.31 (General Business), to allow bistros in the Rail District as a use requiring a Special Land Use Permit;

(c) Article 09, section 9.02 (Definitions), to add a definition for Rail District.

## AND

To recommend APPROVAL to the City Commission the following amendments to Chapter 126 Zoning:

(a) To amend section 2.29, B2 (General Business) to amend the accessory permitted uses;

(b) To amend appendix C, Exhibit 1, Economic Development Licenses map.

There were no comments on the motion from the public at 8:09 p.m.

#### Motion carried, 7-0.

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

The Chairman closed the public hearing at 8:10 p.m.



## LAW OFFICES

## ADKISON, NEED, ALLEN, & RENTROP

PROFESSIONAL LIMITED LIABILITY COMPANY

39572 Woodward, Suite 222 Bloomfield Hills, Michigan 48304 Telephone (248) 540-7400 Facsimile (248) 540-7401 www.ANAfirm.com OF COUNSEL: KEVIN M. CHUDLER SARAH J. GABIS LINDA S. MAYER

October 7, 2016

Via Electronic Mail

Mr. Joseph Valentine City Manager City of Birmingham 151 Martin St. Birmingham, MI 48012

Ms. Jana Ecker Planning Director City of Birmingham 151 Martin St. Birmingham, MI 48012

#### Re: Whole Foods Request to Be Included in Rail District/Ordinance or Zoning Map Change

Dear Mr. Valentine and Ms. Ecker:

Whole Foods, located at 2100 East Maple, appeared for extensive hearings before the Planning Board and the City Commission in 2016. As a result, Whole Foods is designated on the Zoning Map as B-2, Limited to Grocery Store Use. See Zoning Map attached as Exhibit 1. Whole Foods is directly adjacent to what is commonly known as the "Rail District."

Whole Foods has applied to operate a small Bistro under the City's Zoning Ordinance, Article 3, 3.04(10) and City Ordinance Chapter 10, Alcoholic Liquors, Article 11, Licenses, Division 4, Sections 10-80 to 10-87.

#### **BISTROS PERMISSIBLE IN RAIL DISTRICT – MX DISTRICT**

Pursuant to the current Zoning Ordinance, Bistros are permissible in the following locations:

Downtown Overlay District	(Section 3.04 of Zoning Code).
Triangle Overlay District	(Section 2.21 (O1), 2.23 (O2), 2.25 (P), 2.29 (B2), 2.31 (B2B) of Zoning Code).
Rail District – MX District	(Section 2.39 of Zoning Code).

PHILLIP G. ADKISON KELLY A. ALLEN SALAM F. ELIA GREGORY K. NEED G. HANS RENTROP Mr. Joseph Valentine and Mrs. Jana Ecker October 7, 2016 Page 2 of 3

The "Rail District" is denoted on an unofficial map used by the City to show where the Rail District is located. This unofficial map shows the Rail District in light yellow, attached as Exhibit 2. Section 2.39 MX (Mixed Use) of the Zoning Ordinance, which permits the Bistro use, does not include and does not define the Rail District. Section 2.39 MX (Mixed Use) of the Zoning Ordinance is attached as Exhibit 3.

The MX District is denoted on the Zoning Map in purple. The properties which appear to be outside of the MX District and the unofficial Rail District, yet adjacent to the railroad tracks, are the Whole Foods site and a small area designated B2B (General Business). See map attached as Exhibit 4.

Whole Foods is requesting that either: 1) the Zoning Ordinance be changed to define the Rail District, to include the properties adjacent to the railroad tracks (including Whole Foods); or 2) to change the Zoning Map to officially include the Rail District (including Whole Foods). Either of these proposed changes would clarify and/or define the Rail District, which would appear to be in the best interest of the City and the property owners in the area.

For some time, the City has desired more commercial activity in the Rail District, including Bistro establishments. In fact, in July of 2016 a proposal was brought forth from staff to accept only Bistro applications in the Rail and Triangle Overlay Districts. This proposal was not adopted; however, by amending the Zoning Map of the Zoning Ordinance to include the Whole Foods' property, the goal of establishing a Bistro in the Rail District would be accomplished.

#### **NO OBJECTION FROM NEIGHBORING RESIDENTS**

Prior to submitting this request, the undersigned, as counsel for Whole Foods, contacted Mrs. Dorothy Conrad, the representative of the Pembrook Manor Association. The Pembrook Manor Association encompasses the neighborhood closest to the Whole Foods property. Mrs. Conrad has been provided with information on Whole Foods' request for a Bistro License and this request as to the Zoning. Further, Mrs. Conrad has been provided with the following:

- A copy of Whole Foods' Bistro Submission;
- A copy of this Zoning Change Request; and
- A letter which sets for the benefits that Whole Foods Birmingham Bistro will bring to the area and the protections the City has in place to ensure that the use will not be changed.

Mrs. Conrad supports Whole Foods' requests.

Enclosed with this correspondence is an Application for Zoning Map or Ordinance Change and a check for the Application Fee in the amount of \$1,500.00.

Mr. Joseph Valentine and Mrs. Jana Ecker October 7, 2016 Page 3 of 3

On behalf of Whole Foods, thank you for your consideration. Please contact me should you have any questions or require any further information.

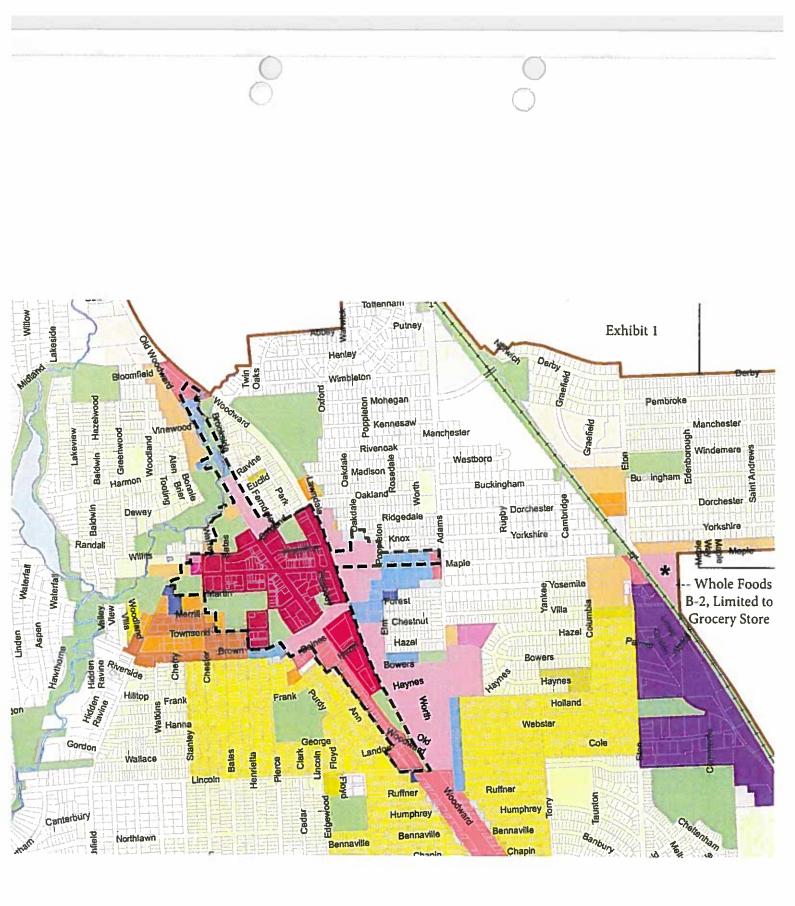
Very truly yours,

& RENTROP, PLLC **JKIS**C EED Kelly

KAA/kjf

**Ryan Bissett** cc: Linden Nelson

m: whole foods birmingham sdd & class c corres 2016-10-07 zoning request ltr to city.docx



#### APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE Birmingham, Michigan

#### TO THE CITY COMMISSION:

The undersigned hereby makes application to the City Commission to:

1. Zoning Map Change:

Change premises described as: 2100 East Maple Road

No. (see attached)	Street	
Legal	Description	
		from its present zoning
classification of B-2, Lin	nited to Grocery Store	inclusion in the MX orRail District

A sealed land survey showing location, size of lot and placement of building (if any) on the lot to scale must be attached. (On file with City.)

Statements and reason for request or other data have a direct bearing on the request. (See letter attached).

Change premises described as:

2100 East Maple Road

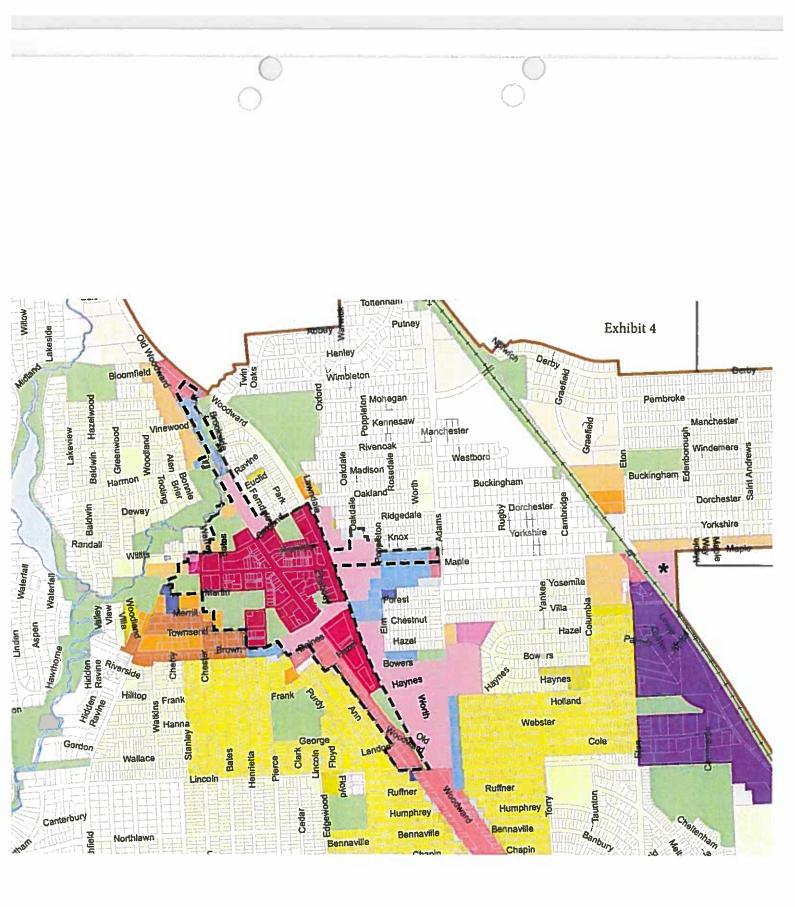
2.

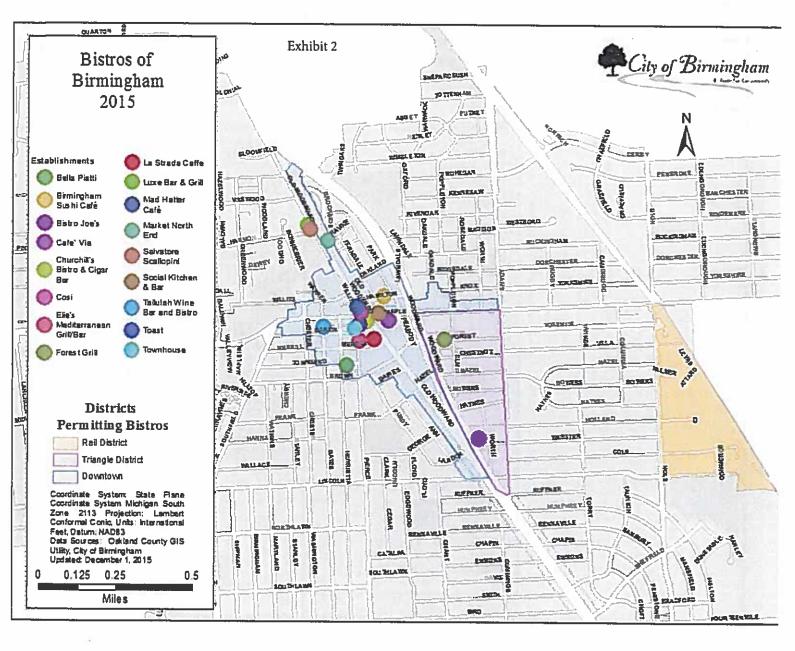
(see attached)	Street			
	Legal Description		from its present zoning	
classification of	B-2, Limited to Grocery Store	to	"Rail District"	

A sealed land survey showing location, size of lot and placement of building (if any) on the lot to scale must be attached. (On file with City.)

Statements and reasons for request or other-data have a direct bearing on the request.

Signature of Applicant:	the can
Print Name: 2017	SAVURBERRY
Name of Owner:	
Address and Telephone Number:_	2100 E Maple Rd, Suite 200
	Birmingham, MI 48009 (248) 822-9500





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Exhibit 3

Article

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## **MX** District

## 2.39 MX (Mixed Use) District Intent, Permitted Uses, and Special Uses

2-40 City of Birmingham, Michigan Zoning Ordinance

#### EXHIBIT C-1

## LEGAL DESCRIPTION OF DEMISED PREMISES

Land located in the City of Birmingham, Oakland County, Michigan, more particularly described as follows:

All that portion of Lots 22 to 51, inclusive, 100 to 105, inclusive, and part of Lots 16 to 21, inclusive, 52 to 55, inclusive, 96 to 99, inclusive, 106 to 108, inclusive, 162 and 163, and vacated streets and alleys, lying South of East Maple Road and East of Grand Trunk Railway, of BIRMINGHAM GARDENS SUBDIVISION, according to the plat thereof, as recorded in Liber 31 of Plats, page 38, Oakland County Records, EXCEPTING therefrom the North 17 feet of Lots 16 through 43, inclusive, taken for road as disclosed in instrument recorded in Liber 25922, page 99, Oakland County Records

Tax Parcel No. 20-31-202-001 Commonly known as: 2100 E. Maple Road, Birmingham, Michigan 48009

City	of Riv	rmingham
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		A Walkable Community

# **MEMORANDUM**

**Planning Division** 

SUBJECT:	Old Woodward and Maple Reconstruction Plans for 2017
FROM:	Jana L. Ecker, Planning Director Paul O'Meara, City Engineer
то:	Joseph A. Valentine, City Manager
DATE:	January 6, 2017

On December 12, 2016, the MKSK team presented their final plans and recommendations to the City Commission, including their recommended design elements, streetscape and furninshing materials and final striping and landscaping recommendations. After much discussion, the City Commission directed the MKSK team to further study and add mid-block pedestrian crossings on Old Woodward south of Maple, on E. Maple east of Old Woodward, and to add pedestrian safety islands or medians with landscaping at Hamilton and N. Old Woodward, Merrill and S. Old Woodward, and on W. Maple just west of Pierce. In addition, the City Commission noted that the corrections had not been made to the drawings to show the existing alley just west of Pierce on the north side of W. Maple. The MKSK team was requested to refine the plans based on the comments made, and to return to the City Commission on January 9, 2017 with the proposed changes.

Accordingly, MKSK has further studied each of the issues raised by the City Commission on December 12, 2017 and has prepared a refined plan for consideration. The revised plans have added a mid-block crossing on S. Old Woodward south of Maple, and on E. Maple east of Old Woodward as requested by the City Commission, and street views of each of these crossings have been provided. The MKSK team has further studied the issue of adding pedestrian safety islands or medians at the three other proposed locations, and their studies have shown that the installation of medians or crossing islands at each of the identified locations would interfere with truck turning movements, and thus they cannot recommend the addition of such islands or medians at Hamilton and N. Old Woodward, Merrill and S. Old Woodward or at Pierce and W. Maple. The MKSK team has also revised the design of W. Maple at Pierce to correctly show the one way entrance to the alley on the north side of W. Maple, and has updated the plans to show the use of flush curbs on only two corners of Maple and Old Woodward where acute angles are present. Granite bollards continue to be proposed on these two corners only.

Based on the input of the City Commission, staff will develop a bid package with two alternatives: one option including specifications for the use of the existing City standard materials in the proposed design; and a second set of alternate specifications for the use of enhanced materials as proposed. The project will then be bid out with both alternatives, and the City Commission will have the opportunity to select the appropriate materials and level of finish based on the actual costs for each option as submitted by respondents.

On January 9, 2017, MKSK will be present to further discuss their review of the issues and refinements raised at the December 12, 2016 City Commission meeting. Please find attached relevant meeting minutes, and the latest version of the plans as prepared by MKSK.

#### Suggested Action:

To accept the MKSK design for Old Woodward and Maple and direct City staff to prepare bid specifications for Phase 1 of the Old Woodward and Maple project utilizing the City's existing standards and solicit alternatives for the components of the enhanced plan in order to make any adjustments based on cost considerations at the time actual bids are received.

#### Multi-Modal Transportation Board Minutes November 21, 2016

#### OLD WOODWARD AVE. RECONSTRUCTION - WILLITS ST. TO BROWN ST.

Mr. O'Meara noted that as discussed at the last meeting, the City has hired a planning consultant, MKSK, to work with the City in devising the conceptual plan for the Old Woodward Ave. project. The effort has been fast tracked in order to allow for final design of the project to begin as soon as possible, with an anticipated spring 2017 construction start. The timeline includes a review by the Multi-Modal Transportation Board, followed immediately by a review by the City Commission.

The MMTB is asked to review and discuss the street design, including widths of street, sidewalks, and reverse angle versus head-in angle parking areas. The Board is also asked to consider the use of City standard materials, as compared to enhanced materials, particularly with respect to how the materials may alter the pedestrian experience.

Mr. O'Meara reviewed the infrastructure problems in that particular section, which is why the project has been undertaken. Ms. Ecker explained there are two different Master Plans that govern this area; the Downtown Birmingham 2016 Plan and the Multi-Modal Transportation Plan. She went on to outline many of their recommendations for improvements.

Mr. Brad Strader from MKSK was present along with Mr. Joe Marson, Traffic Engineer from Parsons Transportation, and Mr. Brian Kinzelman, Landscape Architect with MKSK. Mr. Strader took the board through the same PowerPoint that will be presented to the City Commission. Their goals are to make Maple Rd. and Old Woodward Ave. more walkable and consistent with the Multi-Modal Plan, but also to consider trucks, automobiles, bikes, and all of the different users. The project scope is in three phases. Tonight's concentration is on the segment of Old Woodward Ave. between Willits St. and Brown St.

In looking at road design, they considered safety for all users. Usable passable sidewalks along with improved lighting on Old Woodward Ave. will make it a vibrant, walkable space. A proposed road width of 66 ft. curb to curb strikes a balance between what is best for cars and parking maneuvering space and what is best for pedestrians and outdoor dining. With road travel lanes at 13 ft. and a left turn lane of 9 ft., the pedestrian right-of-way would be a minimum of 10 ft. wide. Back-in angle parking is safer for bikers which is consistent with the Multi-Modal Plan that calls for sharrows on Old Woodward Ave.

Considering Maple Rd., a little bit more room can be added for sidewalks but it makes the travel lane and the conflicts between parking vehicles and the through traffic tighter. The parallel parking allows a tighter travel lane for pulling out. Presently the sidewalks are 11 ft. in width but the passable area is more like 5 1/2 ft. in some spots.

Mr. Kinzelman noted curb extensions are introduced at the intersections to minimize the passage distance across the street. However, the large trucks and vehicles need to be accommodated as they make a turn. Therefore the curbs are dropped flush to the street so

large vehicles will not tear them up. The proposed cross-walk length of Old Woodward Ave. is two 13 ft. travel lanes and a 9 ft. center turn lane, or 35 ft. Currently it is 70 ft.

Mr. Strader advised that about half of the crashes recorded for this segment of Old Woodward Ave. are related to a parking maneuver. Back-in angle parking is much better for bikes and also allows safer loading of goods into the trunk which is adjacent to the sidewalk. It loses about one space per block over what presently exists.

Ms. Ecker said that the business community has submitted a letter saying they are not in favor of enhanced materials because it would cost more and they don't like back-in parking because people may be reluctant to park in front of the stores.

Ms. Slanga commented she does not love the idea of a non-uniformity of parking along Old Woodward Ave. because it seems confusing. When asked, Mr. O'Meara explained if the City wanted to change N. Old Woodward Ave. now to back-in angle parking there would be pavement markings to grind out and parking meters to move.

Mr. Strader advised that MDOT has recently taken the position that if angled parking is to be installed on a State road, it has to be reverse angle. The dimensions that are shown are recommended as a common standard for back-in parking.

Mr. Kinzelman reviewed the materials. He noted that Old Woodward Ave. is a very special place and a better quality of material such as granite curbs and brick pavers would be appropriate. Higher efficiency LED light sources are proposed for the signal mast arms so the pedestrian environment is illuminated at the intersections. A light fixture is suggested for Old Woodward Ave. that is different from the Birmingham Green lantern fixture. It directs the light down onto the sidewalk rather than throwing it out into the atmosphere.

Concern was expressed by Ms. Slanga that the middle turn lane along Old Woodward Ave. will become a passing lane. Ms. Edwards thought that traffic won't stop when someone is backing in if there is a middle turn lane. Mr. O'Meara noted the center lane could also be used as a truck unloading area. Mr. Kinzelman explained it would also be defacto storage space for police vehicles if needed. A different material could be used so that driving on the middle lane feels different, almost like a rumble strip.

Ms. Slanga did not know if this is a big enough change from what they are trying to get out of the downtown or whether it creates enough cafe space. Many proprietors want to put two rows of cafe outside of their business. She did not think this proposal that will last at least seventy years into the future is progressive enough for what they want to do in the downtown. Mr. Strader advised that by getting rid of angled parking and adding parallel, it would allow much wider sidewalks.

Further discussion concerned getting rid of the middle turn lane. However, when a car sweeps around as it is getting out of a parking space it will partially go into the center lane. So that lane cannot be completely eliminated or it will put cars into oncoming traffic when they leave a parking space.

Due to the need to finish the meeting, members of the Board felt that this matter needed further study and discussion. The problem of timing in order to have construction in 2017 puts a limit on these considerations. Ms. Ecker said that for this meeting they are looking to see if the board would agree on the 66 ft. cross section and front-in or reverse angle parking.

Mr. Kinzelman explained there would be two types of parking on Old Woodward Ave. until such time that the City wanted to go to N. Old Woodward Ave. and reverse that angle of parking. Then the whole street would be back-in angle parking.

#### Motion by Ms. Folberg

Seconded by Mr. Rontal that the Multi-Modal Transportation Board recommends that the City Commission authorize the 66 ft. wide street design as presented by MKSK for Old Woodward Ave., from Willits St. to Brown St., with the inclusion of back-in angled parking.

There was no discussion from the public at 7:28 p.m.

#### Motion carried, 4-3.

ROLLCALL VOTE Yeas: Folberg, Rontal, Adams, Surnow Nays: Edwards, Lawson, Slanga Absent: None

Dissenting board members discussed their motion. Ms. Slanga reiterated that this is Birmingham's signature street and it is not being given enough due process. She feels the board needs to hear more from the public. Ms. Edwards was not sure this proposal is a big enough gain for the City from a multi-modal perspective. Mr. Lawson did not know if it maximizes the pedestrian space. It is a long-term commitment.

#### DRAFT City Commission Minutes November 21, 2016

#### 11-351-16 ROAD DESIGN

Mayor Nickita noted that his firm Archive DS has teamed with MKSK to submit to the City of Detroit for a potential project. To date, the project has not been awarded, so there is no contract, but he wished to disclose the relationship with MKSK.

City Engineer O'Meara provided some historical background for the reasons this project is being undertaken, which includes the aging water and sewer system, and ADA accessibility issues.

Planning Director Ecker explained that this is not a new concept and was included in the 2016 plan from 1996. The conditions include the overly wide street which does not work well for pedestrians, pedestrians have difficulty crossing some intersections, sidewalks too narrow for cafes', general sidewalk conditions, outdated lighting, and street trees not thriving. This is something the city has been working on for 20 years with many having been addressed already. The last big area is Maple and Woodward. It is a difficult project to deal with, but should be done for many reasons, including the design elements.

In September 2016, a RFP was issued to review the preliminary plans for the reconstruction of segments of Old Woodward and Maple that are scheduled for construction in 2017. MKSK was awarded the contract by the City Commission in October 2016 after a selection panel met to review and discuss the proposals submitted by MKSK and McKenna Associates.

Ms. Ecker introduced Brad Strader of MKSK, Brian Kinzelman, MKSK, and Joe Marsden, Traffic Engineer from Parsons Transportation who are representing MKSK. It has been a very tight schedule. She suggested that since this a great deal of information to be presented and digested tonight, that the City Commission may want to focus on the cross section width and type of parking, since they are fundamental decisions that have to be made before the concepts can be refined for the whole area. The goal was to get this to go to bid over this winter and start construction in the spring.

Mr. Strader emphasized the main focus tonight includes the street section studies, type of parking, street character and materials. He said the goals are to create a more vibrant, walkable downtown, retain as much of the parking as possible, create a safe and efficient traffic flow, make the street safe for pedestrians, bikes and cars, accommodate trucks, and consider past plans. The idea is that Old Woodward and Maple is the signature street in Birmingham. The focus is on the first phase now.

The original plan that the city Engineering department came up with was 70 foot section which would keep the angled parking as it is and have a 9 foot wide center turn lane and 16.5 foot travel lanes in each direction, which is similar to N. Old Woodward but without the median. The Multi-Modal Transportation Board felt that it was too intense an area and activity for medians for this segment. It provided about the same number of parking spaces but did not do much to add pedestrian area or sidewalk space. The alternatives were to look at a 61 foot section so the sidewalks could be widened, but ended up with a sub-standard travel lane. A 12 foot travel lane is tight when you have head-in-in angled parking. They also considered the alternative of

parallel parking, or a combination of both, retaining the same number of parking spaces. Parallel parking eliminated too many spaces, so that is not an alternative.

They considered a 65 foot wide street, trying to strike a balance with a little wider sidewalk and more passable area. Currently there are places with pedestrian walking area of about 6.5 - 7 feet width. The goal is to have at least 10 feet for pedestrians so this gets us closer to that goal. The recommendation is for 66 feet.

They also looked at Maple, which is tighter, with 11 feet of sidewalk area with some of that taken up with lights. Parallel parking of 8 foot and a 14 foot lane exists. At the public open house, many said the sidewalk on Maple should be wider. They could potentially widen the sidewalk 2 feet on either side, then end up with a 12 foot travel lane. It becomes tight with parallel parking, and vehicles stopping in head-in of buildings to unload. So their recommendation is to move forward on Maple with 12 foot lanes and get a couple more feet of sidewalk.

Mr. Kinzelman added that as the street is being rebuilt, the double curb condition would be eliminated, planters which are tripping hazards replaced, which will capture more sidewalk space.

Mr. Strader summarized that MKSK's recommendations include a 66 foot section on Woodward, with back-in angled parking which gains a wider sidewalk area, a 13 foot travel lane and 9 foot center turn lane. One of the reasons for recommending back-in angled parking is the city plans call for this to be a bike-way with sharrows encouraging people to bike on it. Head-in angled parking is not a safe design when biking is trying to be promoted. They tried to decrease the width for pedestrians to cross by moving curb extensions or bump-outs which protects the parking area, extends the pedestrian out with flush curbs among other things to make it a shorter distance for pedestrians and also more aesthetic.

He said they also looked at turning dimensions for trucks, which led to some details on the intersection design and the radii. Mr. Kinzelman added there is an inherent conflict of trying to accommodate larger vehicles and the desire to have a shorter cross walk dimension. Mr. Kinzelman referred to a detail to illustrate that calls for a drop curb condition at these intersections with the pedestrians protected with a series of low bollards. The periodic large vehicle can drive over a flush curb condition, yet the pedestrian has the shorter walking distance with the change of pavement texture and marked crosswalks.

Mr. Strader explained the reason for recommending back-in angled parking. He noted that there are about 20 accidents a year with about half of those directly related to the maneuver of backing out of the space. So, it is sifter for vehicles, because the oncoming vehicles can be seen. It is less disruptive to traffic flow. The backing in maneuver is similar to parallel parking with drivers waiting while you back-in. The other reason is safety for bikers. Many communities that encourage bikes have gone to the back-in angled parking. MKSK has provided case study information and reviewed the numbers of accidents after changing to back-in angled parking.

The big downside is that people are not accustomed to it, so promotion would be important to emphasize the safety advantages. Their recommendation is for 9.5 foot space. He noted the

MDOT has issued their standard, and it opposed head-in angled parking because of the safety concerns.

Mr. Strader explained that the MMTB met prior to this meeting, and voted 4-3 in favor of backin angled parking with a 66 foot wide cross section. He felt the real debate was on the design of the street. The dissenting opinions questioned the need for a center turn lane and felt there should be wider sidewalks. He explained that MKSK looked at some of those alternatives, but they were all at the expense of parking, which was about a third to half of on-street parking.

Ms. Ecker added that the board felt it was not progressive enough for our main street. They felt we should take more from the vehicle traffic and give it to the pedestrians on the sidewalks. There were no negative comments about the back-in angled parking by the board.

Mayor Nickita confirmed with Mr. Strader that the 66 feet curb to curb can be done with head-in angled parking, using a 40 degree angled and 9 foot wide spaces. There is a little bit of a loss of parking with head-in method.

Mayor Nickita asked about the MMTB suggestion to eliminate the center turn lane in order to gain sidewalk area. Mr. Strader explained that the board suggested eliminating the center turn in some area of the street and extend the sidewalk by 4.5 feet on either side. He added that the spaces that are currently angled would then have to be parallel. The positive to that design that mid-block areas would gain more parking width, the downside is that about 20-25 % of the parking would be lost at the corners when going to parallel.

Commissioner Boutros asked if we remove the center lane, would be the travel lane be 12 feet. Mr. Strader said they could still maintain 13 feet of travel lane, and the gain of 4 feet of sidewalk.

Mr. Strader explained that the reason for center turn lanes is to accommodate left turns at an intersection. Continuing it through the mid-block is for consistency so the travel lane is straight instead of weaving in and out. In addition, it gives a bit of forgiveness zone where angled parking is present, and it is a place to store the snow until it can be removed later.

Mr. O'Meara clarified that today we have a 40 foot wide travel way which is enough room for 4 lanes, so when a vehicle is waiting to make a left turn, others have enough room to go around. Without a left turn lane, backups will be much greater. Also, the left turn lanes line up to each other which is safest and best for visibility.

Mayor Nickita added that if the left lane is removed, that changes the traffic pattern. He said there are long stretches of Woodward that never function as a left turn lane. For example, just in head-in of the Birmingham Theater, southbound the entire center lane is unused for left turns. Similarly, heading north at Hamilton is the same situation. It is quite a significant amount of area where the center turn lane has actually no use, other than the spillover uses we have discussed. He said that is why the discussion earlier whether part of that could become a median or not. He wondered if the amount of center turn lane that is required to create a proper queuing was studied.

Commissioner DeWeese said the center turn lane has a purpose other than turning. That is the place the city puts the snow when we have a heavy snow. When vehicles are pulling out, it

provides a safety zone. It may not be heavily used by cars or trucks, but emergency vehicles use it to access the scene. If it is considered in a more complete sense, rather than strictly the immediacy of travel, he thinks there is purpose to the center lane that goes above and beyond normal turning. It may not have to be as wide as regular lanes, and 9 feet is probably fine, but it does have value. It effectively provides a second more emergency type lane.

Mayor Nickita expressed concern about designing our streetscape based on the few times we have snow.

Mayor Pro Tem Harris questioned the MDOT standard for back-in parking and whether that is a standard which suggests that this type of project should use back-in parking,

Mr. Strader clarified that MDOT will not allow head-in angled parking on a state road which has been their position for some time. Where it exists now, it is grandfathered in.

Commissioner Bordman understands the city had back-in parking at one time and asked about that trial. City Manager Valentine said the trial occurred on North Old Woodward.

City Attorney Studt clarified that this took place on North Old Woodward, north of Harmon on the east side of the street and took place in 2002. He said signs were put up, the road restriped, and parking ambassadors were on hand to explain the change. The thought was it was safer for children emptying out of a vehicle towards the sidewalk. Also, loading is done from the sidewalk, and it is easier to see when exiting the space. Survey cards were passed out and 52% in favor, and 45% against. At the time, the road was not being redone. It was much safer to back-in and pull straight in. It did not go forward at that time, basically because it too much of a change and too much work. He added that it involved only five spaces.

Mayor Nickita clarified that the change City Attorney Studt referred to was the change throughout the city. The commission did not feel that based on the survey results, there was a mandate to make such a wholesale change in the city.

City Attorney Studt added that the survey was quite extensive. He said that one of the complaints received was that it was easy to back-into a meter or tree. He added there was no instance when a car backing in hit a car parked next to it.

Commissioner DeWeese clarified that the spacing then was 9 feet.

Commissioner Boutros noted that it appears the backing up or backing in is the problem. He said it is not a safety issue. City Attorney Studt said the safety issue is the backing up into the oncoming traffic.

Mayor Nickita asked about the idea of testing the back-in angled parking. Mr. Strader said that could be done, but the angled would have to be changed. The location of the meters may have to be changed also. Mr. Marsden added there is a possibility of using tape instead of paint to avoid the grinding off of paint. He estimated the tape could last a month or two.

Mr. Kinzelman addressed the fact that a 2 foot clear zone has been kept behind the curb, so that a meter could be hit in a very few situations.

Mayor Pro Tem Harris clarified if spaces would be lost if we maintain head-in angled parking with the 66 foot road. Mr. Strader confirmed they think it will remain the same number of spots. He added that either one may reduce the number of spaces that are available now because some of the parking now interferes with cross walks. He said they also want to meet the standards for on-street barrier-free parking, so that means some spaces will be wider for handicapped, so some spaces would be lost.

Commissioner Bordman said the commissioners received a letter from businesses and retailers that oppose back-in parking. She is concerned that if we go with back-in parking and because our retailers are opposed to it, it will negatively affect our retail environment both from empty stores, and attitude from shoppers. There is nowhere else in the metropolitan area that has back-in parking and she is very reluctant to experiment here which she thinks would be at the expense of the retailers.

Mr. Strader asked that the commission keep in mind that options considered were some or all of the angled parking was converted to parallel. The MMTB wanted wider sidewalks, by converting to parallel parking which results in a loss of parking spaces.

Commissioner Sherman said he is not sure it is an either/or situation. He recalls the discussion on Maple Road and there was a clear advantage to going from a 4 lane to 3 lanes. It could be easily seen and demonstrated. With this situation, there is no comparable community in the area, and he is reluctant to do this in our downtown. He thinks it will scare people. It may be safer, or may not be. People who cannot back out of the spots cannot back-into the spots. If he was going to consider this, he would designate a small area on one end of Woodward and try for four to five months to see if people would adapt to it. He considers it a toss-up, and on a toss-up, he would stay with what we have.

Mayor Pro Tem Harris referenced the letter from retailers opposing back-in angled parking, and asked if BSD has weighed in on this. He was advised it has not.

Commissioner DeWeese said he is uneasy proceeding with this with no comparable. He has heard from other people who are concerned. He is in consensus with Commissioner Bordman and Sherman. It may be potentially better, but it is not clearly better. He added that the issue of assessments and it is not a good situation that we are assessing the people who oppose this to help pay for what we are doing. Without more public support, clarity and definition, he thinks we are better with traditional head-in parking.

Commissioner Boutros understands the eagerness to move ahead with this. He thanked MKSK for their efforts thus far. He questioned the congestion a person might cause while trying to back-in to an angled space on Woodward.

Mr. Strader said that the impact on through traffic is a valid one, and there could be a delay similar to what is experienced in a parallel parking scenario when a driver is not comfortable with that maneuver. However, the driver has an option here in Birmingham of parking in a structure, or using the valet option if that is retained.

Mr. Strader said if the consensus is to go with head-in angled parking and keep generally the parking count, then he would recommend the city needs to remove the idea in the Multi-Modal Plan to have sharrows, because bikes should not be promoted on Old Woodward. If the option is to keep Old Woodward bike-able with head-in angled parking, then parallel parking should replace head-in parking. The sidewalks could be widened, and it would still be bike-able.

Craig Menuck, resident, was concerned about experimenting with parking. He is in favor of improving the sidewalks.

Gary Wachler, business owner, expressed concern about the back-in angled parking and thinks it may hinder the businesses.

Richard Greenstein, business owner, was concerned about experimenting with parking, and suggested the city wait to see the effect it has on other cities that decide to change to back-in parking.

Mr. Strader noted that Findlay, Ohio has started experimenting with side streets to gauge the effectiveness of back-in angled parking.

Mike Ceresnie, business owner, has received a negative reaction to the proposal from customers and business owners.

Mr. Strader clarified that the reported crash data is much higher with head-in angled parking than with back-in angled parking.

Mr. Ceresnie commented that he received notification only two weeks ago and understands the time constraints.

City Manager Valentine clarified that public notice of the public hearing was provided to all the members of the Birmingham Shopping District.

#### **MOTION:** Motion by DeWeese, seconded by Bordman:

To accept the recommended road design by MKSK and continue to refine the plan with head-in angled parking, preferably in such a way to be flexible in the future.

City Manager Valentine noted that the recommended road design refers to the 66 feet road width that is being proposed. Mayor Nickita added this proposal adds two feet to each side and a nine foot center lane to be utilized in some capacity to be determined.

Commissioner Boutros commented about the flexibility to change the parking in the future, and Commissioner DeWeese noted that his motion indicates a preference for flexibility to allow that in the future.

Bordman commented that the proposed motion excludes the possibility of further widening the sidewalks.

Mayor Nickita said the motion does solidify that and if there is a question on whether or not there is some variation then we have to adjust the motion remove that dimension.

Commissioner Sherman asked if the commissioners want to propose a motion strictly on the back-in angled parking

**MOTION:** Motion by DeWeese, seconded by Bordman:

To amend the motion on the table to refine the plan for head-in angled parking, preferably in such a way to be flexible in the future.

City Manager Valentine clarified that the motion amendment includes the caveat for the flexibility to allow for a change in the future.

Mayor Nickita commented he does not question the studies that show that back-in angled parking is a safer option. He said the commission has to balance the effect of the change on the public, retailers, and offices with the gain by doing the alternative. He said he is comfortable with moving forward with maintaining the consistency of what we have had, but allowing the flexibility to move forward with an alternative situation in the future as we may see fit.

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

Commissioner Bordman expressed interest in the concept of widening the sidewalk further. If we have doubts about the utility of the turn lane, then it would make sense to eliminate it or narrow it for some other purpose

City Manager Valentine said there has been discussion in terms of the 9 foot width and what that provides. He noted that when going from a 20 foot drive lane which we have currently to a 13 foot lane which is being proposed, the ability is lost for the vehicles to have anywhere to park and unload. The 9 foot drive lane provides a safe section of road that these vehicles can utilize on the street. We can see this used this way on the North Old Woodward side currently. That ability would not exist with a 13 foot drive lane. That was one of the key drivers for maintaining the turn lane throughout the area and not just at the intersections.

City Manager Valentine confirmed for Commissioner Bordman that the engineers said that is the minimum width for a lane of that nature.

City Engineer O'Meara explained for Commissioner DeWeese that 66 feet is the bare minimum according to the engineering team. He said that space is needed to back out of a parking space.

Mayor Nickita said the commission needs to identify if we have a comfort level with 66 feet or if there is an alternative that the commission would like them to move toward.

City Manager Valentine noted that if the commission wanted to go narrower, the commission would then have to consider a parallel parking situation.

City Manager Valentine added that part of the 12 foot drive lane excluding the gutter, allowed for the flexibility for turns into a space to occur.

Commissioner Bordman suggested that another benefit for the 9 foot lane is it can be used by pedestrians to use waiting for traffic to clear.

Commission Sherman commented that it makes sense to allow room for deliveries, and he is comfortable with it for that reason.

**MOTION:** Motion by Boutros, seconded by DeWeese: To accept the recommended road design by MKSK for 66 feet curb to curb.

Vote: Yeas, 6 Nays 0 Absent 1 (Hoff)

Mayor Nickita said the recommendation for Maple is to be narrowed a couple feet and having a 12 foot dimension which would allow for more sidewalk area.

Commissioner Sherman commented that the proposal looked at minimal parking loss where the bump-outs are proposed on Maple west of Old Woodward, and Mr. Strader confirmed. Commissioner Sherman's concern is that on the east side we would lose parking on both sides of Maple with the bump-outs. Mr. Kinzelman said exactly where the taper starts is going to be subject to final engineering.

Mayor Nickita said the general dimension of the road is the question and the team will come back with the tapers and bump-outs. He added that the commission must decide if 12 foot travel lanes and 8 foot parallel parking as it exists currently is acceptable.

Commissioner Sherman asked Mr. O'Meara for the width of lanes on Maple we just did. Mr. O'Meara said they are 12 feet.

Commissioner Sherman asked what the standard is for cars parked on the side and cars travelling next to them. Mr. Strader said 12 feet is normal and 13-14 feet is preferred. That is the trade-off for wider sidewalks. Mr. Strader noted that the MMTB recommended that engineering work with the 12 feet lane.

Mayor Pro Tem Harris asked about the MMTB vote on Maple. Mr. Strader said there was no vote, and it was the consensus for 12 feet in order to have wider sidewalks.

Commissioner Boutros asked if any problems are foreseen with large trucks using Maple. Mr. Strader said trucks and SMART prefer a wider lane because of the mirrors, and the MDOT standard is if there is a truck route, a 12 lane is needed.

Mr. Kinzelman noted that he has designed a number of streets that move trucks and buses with 11 foot lanes.

**MOTION:** Motion by Sherman, seconded by DeWeese:

To accept the recommended road design by MKSK for Maple Road for a 40 foot width curb to curb in a design to be determined.

Vote: Yeas, 6 Nays, 0 Absent, 1 (Hoff)

Mr. Kinzelman described Old Woodward as the city's main street. Maple and Old Woodward is a very important intersection. He feels that it has a special character and should have an upgrade in materials and quality. There will be capital costs associated with the enhanced materials.

Mr. Kinzelman said currently the curbs, street and sidewalks are cast in place concrete. He presented some suggestions for the improvements, using pavers in the intersection, left turn lane, crosswalks and sidewalks. Granite curb tree wells are also recommended, as well as new, energy efficient lighting and fixtures.

Mayor Nickita noted that the consultants are looking for tonight is some comments and direction to help them refine plans in accordance with what the commission comments are.

Commissioner Bordman understands the desirability of having different materials to delineate different areas of the street, and apparently, we are already over the budget by double for just concrete. Adding the brick would be more costly. She is interested to know what else we could do to keep the cost down, but still accomplish the goal of differentiating the areas. She suggested perhaps different color concrete, or a narrow, darker strip to separate the drive lane from the parking area.

Mr. Kinzelman recommended that the commission not use stamped or colored concrete, because it fades, is not as durable as normal cast in place concrete, and when needing patching, the color and texture will never match. He suggested using good quality concrete and use finishes and scoring. He said the stiffest concrete cast in place is 4000-4500 psi. Some of the brick materials are 12000-14000 psi material. He suggested the commission look for good value for the city to add a special character to portions of Old Woodward without turning this into something that is outside the value proposition.

Mayor Pro Tem Harris questioned the budget figures, since it was unclear that the figures Commissioner Bordman referenced represent the entire cost. City Engineer O'Meara stated that the budget of \$1.55 million is the entire cost. Parts of that could be assessed, but not a large part of it.

Commissioner DeWeese believes the reason the city used brushed concrete was to reduce slipping or tripping. Mayor Nickita stated that part of the 2016 plan defined specifically that the team recommended clean white concrete, scored finely in small increments. The goal was to not detract from what we wanted everyone to look at which was the storefronts. That was the concept behind the materials that we use, and for the differentiation of the functional vs. the walkable zone, we have the brown/tan aggregate.

One of the concerns Mayor Nickita has is whether or not we accommodate something different along Woodward and Maple, or if we deviate from what we have throughout the rest of the downtown. The question is do we want these to be different, or do we want them to be consistent with Pierce, Hamilton and with the other streets.

Mr. Kinzelman explained that they are proposing that only Old Woodward would become this special street. They suggest that maybe only the intersection of Old Woodward and Maple would have some special detail.

Commissioner DeWeese commented that everyone can agree on such as bigger trees, bigger spaces, plantings, but when it comes to the detailing of the streets, we question what the value is for the money.

Mr. Kinzelman suggested that the commission give the team the opportunity to come back with our recommendations and options.

Mayor Nickita said cost and durability are concerns. He said this is an opportunity for the commission to provide insight for the team to bring back a refined series of recommendations. He added that there is a lot of interest in breaking down the 66 feet, but without a significant cost. There is a reluctance to brick paving, and to a deviation from the existing conditions which are working well for us. Focus on the retail, and less focus on the street was a concern in the 2016 plan.

Commissioner Boutros added that we need to be clear on our directions to the team due to the timelines. Cost is very important but we need to be clear on whether we want standard options or enhanced options. He suggested that we are only doing this once and Birmingham needs to stand out. He is very aware of spending the tax dollars, but he is hearing mixed messages. He believes that we should go with enhanced options, but to get good value.

Mayor Nickita said we all would like the Rolls Royce of streetscapes, but it comes down to comparative analysis of costs vs. what we gain for that. We need to know more about the comparisons and what it will cost us.

Mr. Kinzelman stated that the direction given tonight is exactly what they wanted to generate. They want to make sure it is the right value-oriented clean-up of the corridor. The proof is in the bid documents which provide opportunity to look at bid alternates.

Mayor Nickita would like to add for further study and incorporation into the plan. We have a system of passageways and within the scope of work, we asked to see where the passageway system can we be incorporated. He would like to see serious consideration of crosswalk midblock to add more pedestrian access and emphasize the pedestrian via. Also, a similar situation exists on Maple, and taking out a few parking spaces can enhance the pedestrian network by utilizing the passageways. Regarding the taper issue on Maple that Commissioner Sherman talked about, Mayor Nickita suggested studying diminishing the taper and allowing additional parking there. He would also like to see the radius tightened a bit and he would like them to look at that situation. Mayor Nickita would like the team to err on the side of the pedestrians.

#### DRAFT Multi-Modal Transportation Board Minutes December 1, 2016

#### 7. OLD WOODWARD AVE. AND MAPLE RD. MATERIALS

Ms. Ecker recalled at their last meeting on November 21, the MMTB recommended that the City Commission authorize the 66 ft. wide street design as presented by MKSK for Old Woodward Ave., from Willits St. to Brown St., with the inclusion of back-in angled parking.

The City Commission voted to accept the plan with head in angle parking with the flexibility to change it in the future. The Commission also voted to approve the proposed width of 66 ft. from curb to curb along Old Woodward Ave. They also dealt with the width along Maple Rd. at 40 ft. They did not get into discussion about what materials should be used, so they have asked that consideration of the materials come back to the MMTB.

MKSK has proposed an alternate set of materials for the City Commission to consider. They have been advised that the City has developed and invested in a standard design and materials concept consisting of saw-cut brush finished concrete, combined with exposed aggregate accents installed between trees, placed typically on 40 ft. spacing. The recommendation is to extend this concept on Maple Rd., but that the Phase I project would be an opportunity to highlight the Old Woodward Ave. corridor with enhanced materials that could make it especially prominent and a special place that attracts residents and visitors alike.

The following are the recommended materials that are related to the multi-modal elements:

- Red/brown brick pavers in the main Maple Rd. intersection to delineate the left turn lane and the crosswalks in the other intersections. White pavers would be arranged in the crosswalk area. Brick pavers are also recommended in the sidewalk at each intersection. Brick band delineation between the parking area and the drive lanes.
- > Buff-washed concrete for all remaining sidewalks on Old Woodward Ave.
- Granite curb inlays installed at the Maple Rd. intersection, flush with the pavement. Granite bollards that make it clear where the pedestrian zone is.
- On Maple Rd., adjacent to the left turn lanes an exposed aggregate curb extending from just behind the street curb and then around each tree well. Plantings in the area between the trees and the street.

The MMTB is asked to consider the use of City standard materials, as compared to the enhanced materials, particularly from a multi-modal point of view. All sidewalk costs will be added up (including all pavements, trees, landscaping, etc.) and 75% of that construction cost will be charged to the adjacent property owners as a special assessment.

Mr. Surnow didn't really think this is a multi-modal issue. The people that will be impacted are those who will be subject to a special assessment. He feels remiss in spending other people's money without knowing how they feel about it. Mr. O'Meara said before the decision is finalized the business owners would be notified and a separate public hearing will be held.

Mr. Rontal stated that with the front-in parking the sidewalk isn't being widened that much. There is a lot of street and not a lot of sidewalk because the tree wells have been expanded. Ms. Edwards said the design has been constrained to accommodate angle parking and a turn lane, and as a result no gains have been made from a multi-modal perspective.

Ms. Ecker noted that the angle parking issue and the continuous turn lane issue has already been decided by the City Commission. The Commission also contemplated mid-block crossings at the Social Kitchen and Cafe Via passages.

Discussion considered installing bumpy brick pavers in the left turn lane to discourage people from using it to pass or to drive on. Mr. Labadie was not sure about how to incorporate the required yellow lines that delineate a left turn lane. It was discussed there are two different questions to consider: the legality and standardization, and also whether there are more accidents because people do not understand which lane they are supposed to be driving in.

Commander Grewe stated he cannot write a ticket for driving in the middle lane unless it is identified as a turn lane. Further, he doesn't know what the law requires as far as identifying a crosswalk (white lines or not).

It was thought that more than bollards are needed to identify where pedestrians can safely stand because large trucks and heavy vehicles will need to go over the flush curb.

#### Motion by Ms. Folberg

Seconded by Mr. Rontal that the MMTB is in favor of enhanced materials with the following concerns:

- The legality and understandability of the left turn lane. Investigate what type of striping is required for left turn lanes in order to enforce no driving in that lane;
- > The safety of pedestrians on the corners where there is a flush curb;
- Identify some way of changing the tactile/color experience in the non-left turn portion of the left turn lane;
- > Investigate the legality of delineating a crosswalk.

Mr. Rontal summarized if some of the brick pavers are removed where cars are queuing for the left turn lane and replaced with concrete, then everywhere where there are brick pavers cars either should not be driving or should be aware of pedestrians. The pavers in the middle lane should be a different color brick and should make it uncomfortable for people to drive on them.

#### Motion carried, 5-0.

VOICE VOTE Yeas: Folberg, Rontal, Adams, Edwards, Surnow Nays: None Absent: Lawson, Slanga

# **Old Woodward Ave & W Maple Road**

**Streetscape Design** Presentation | January 9, 2017







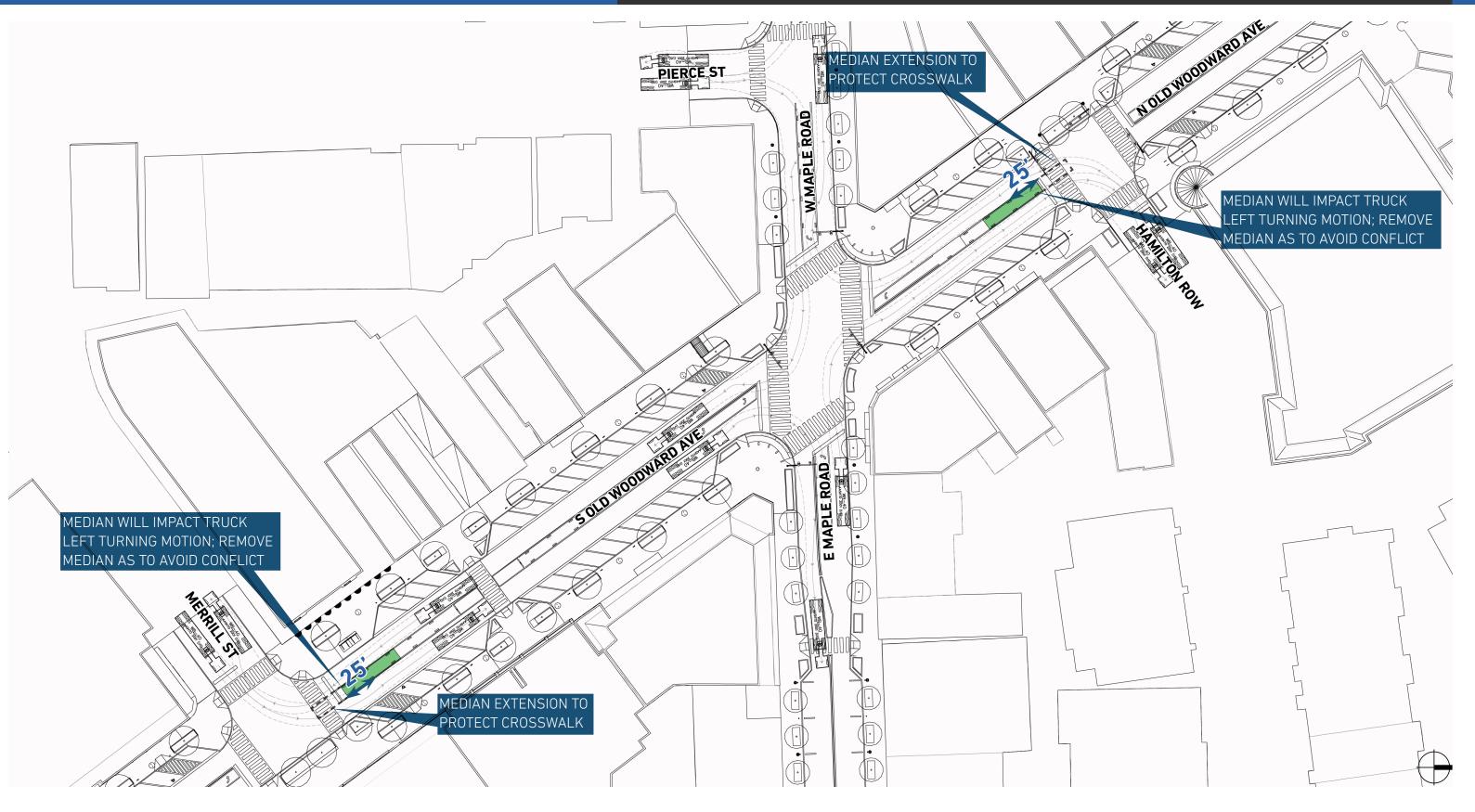
# Revisions To The Design Concept Per The City Commission

- Additional studies to add planted median **》** at center turn lane; Hamilton Row & Old Woodward Ave, Merrill Street & Old Woodward Ave
- Removed flush curbs except acute corners **》** (NW and SE at Old Woodward/Maple)
- Added median islands to help 3 pedestrian **>>** crossings at select locations
- Added a protected mid-block crossing along **》** Old Woodward between Maple and Merrill
- Revised design at Pierce pedestrian **>>** crossing and alley access
- Added mid-block pedestrian crossing at **>>** East Maple





Phase I | Center Medians I Old Woodward Ave





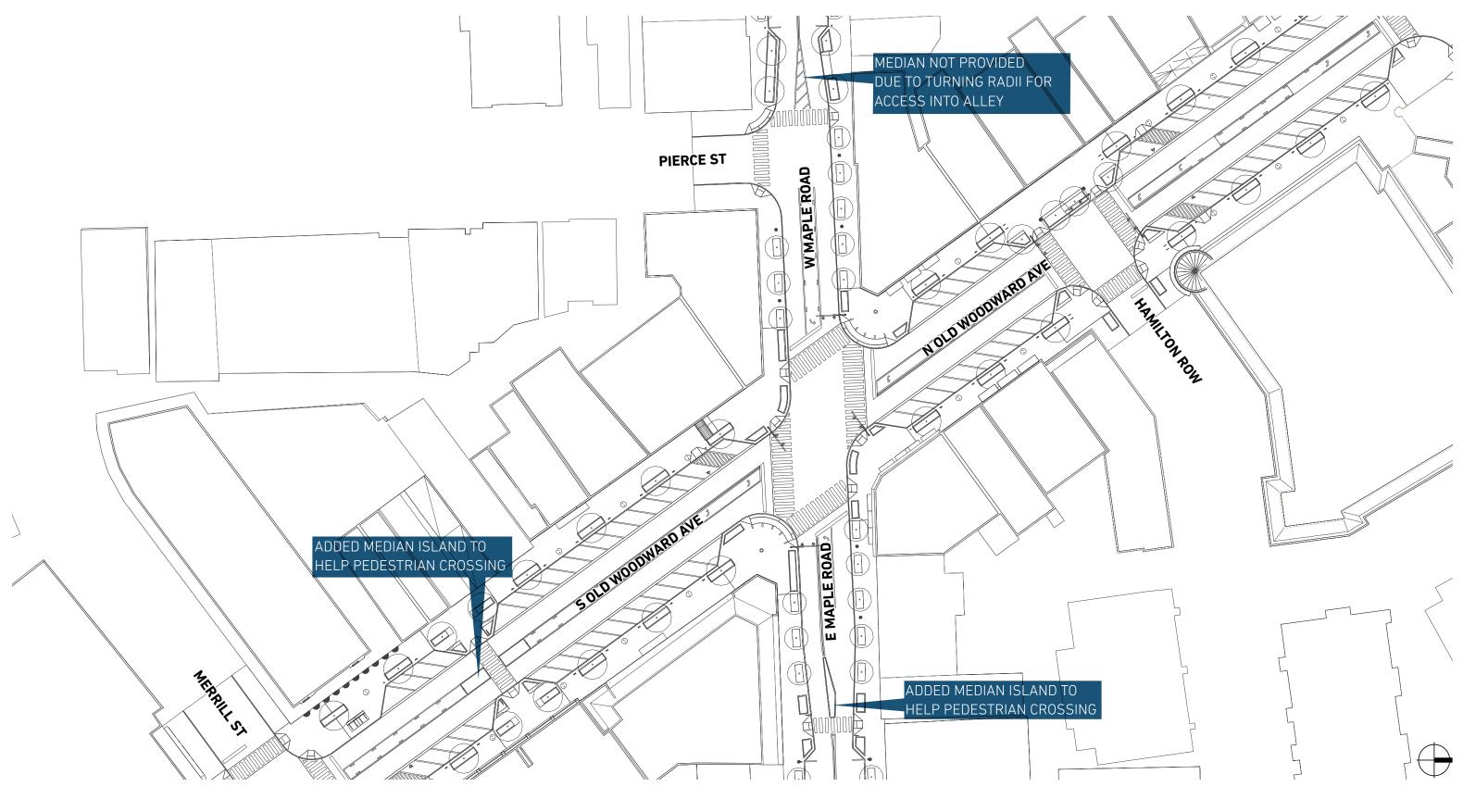


# Phase I | Flush Curb Locations I Old Woodward Ave & Maple Road



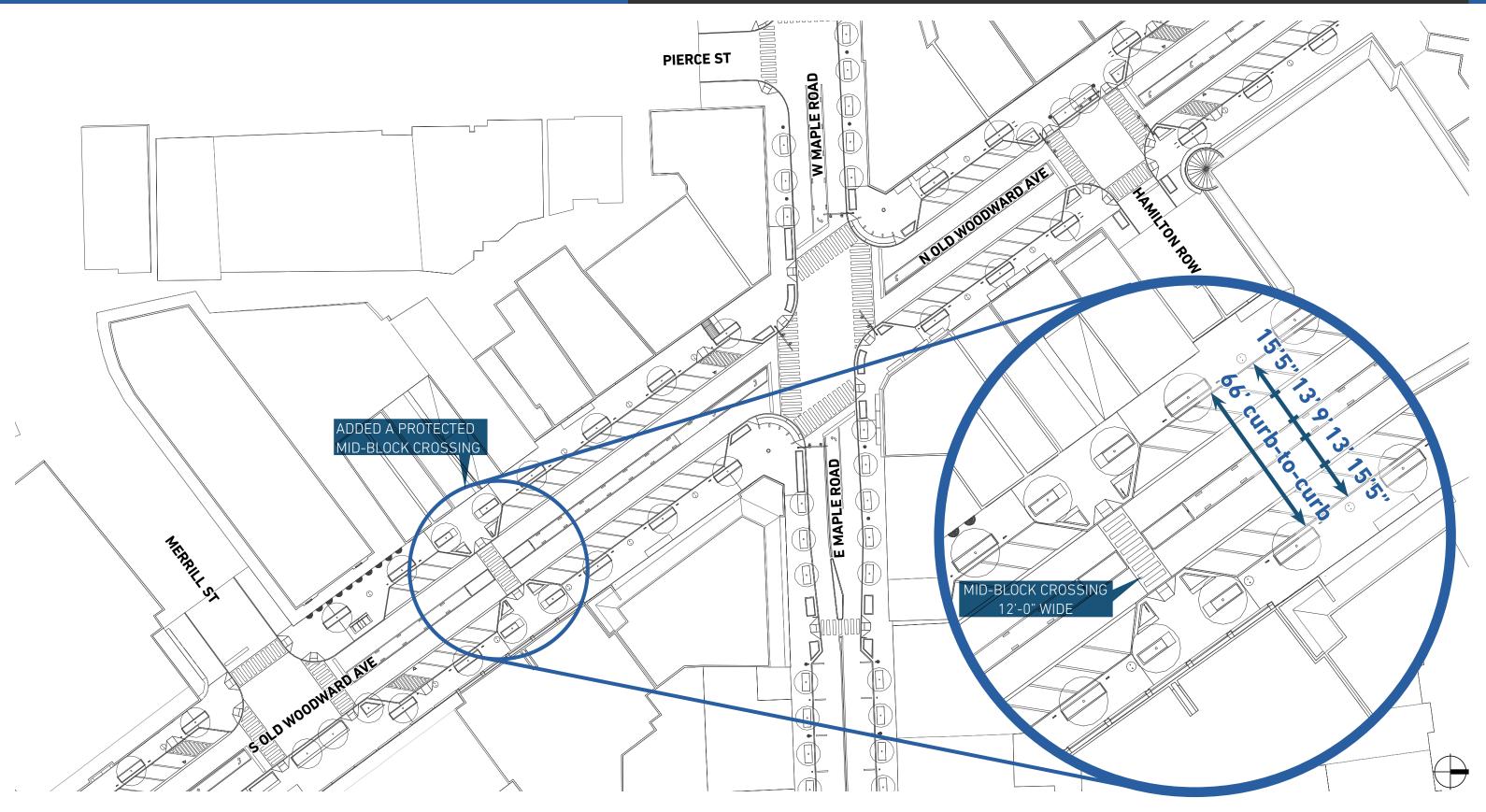


Phase I & II | Old Woodward Ave & Maple Road





Phase I | Mid Block Crossing I Old Woodward Ave



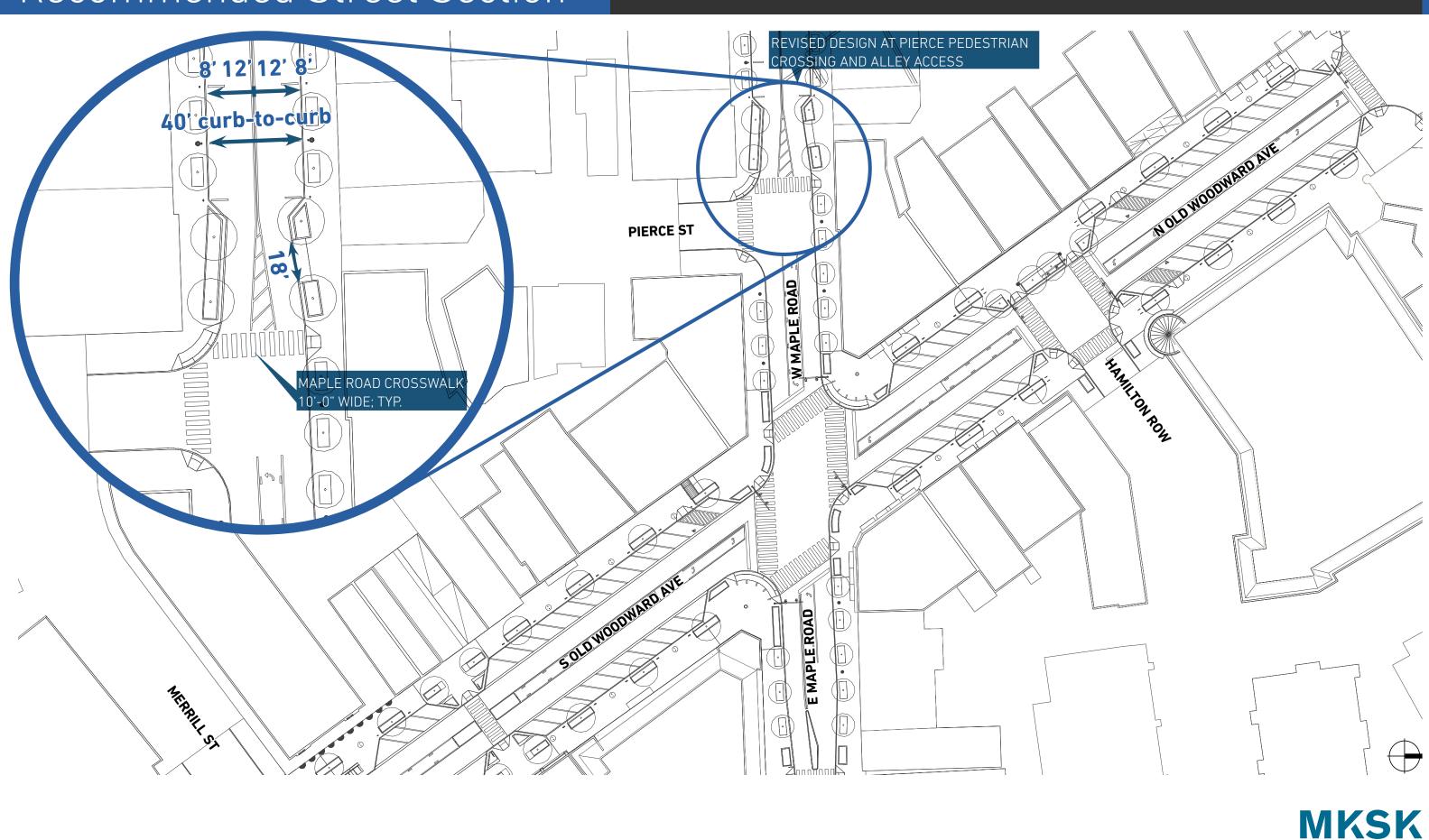


# Phase I | Mid Block Crossing I Old Woodward Ave





Phase II | Alley Access I Maple Road

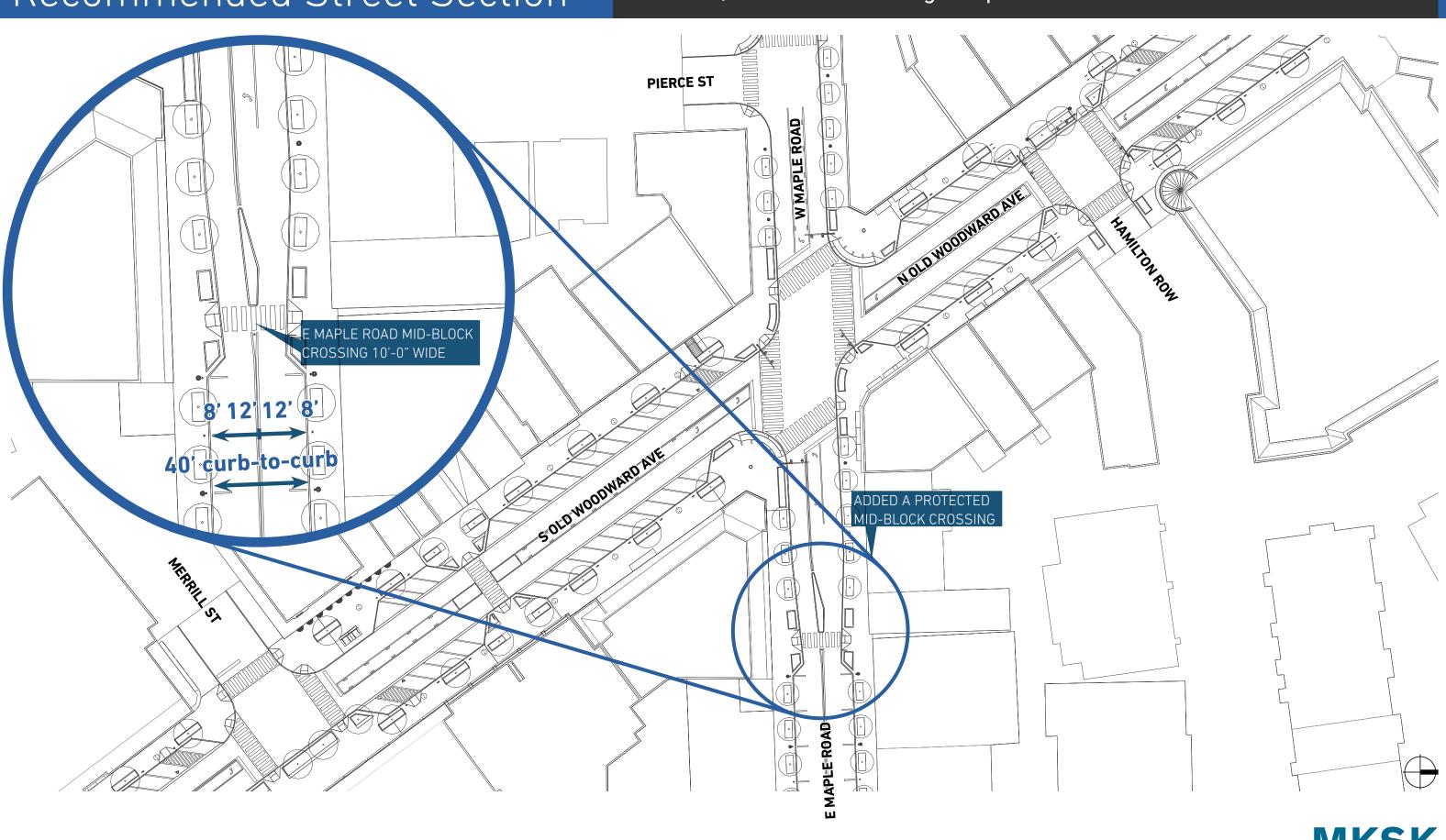


Phase II | Alley Access I Maple Road



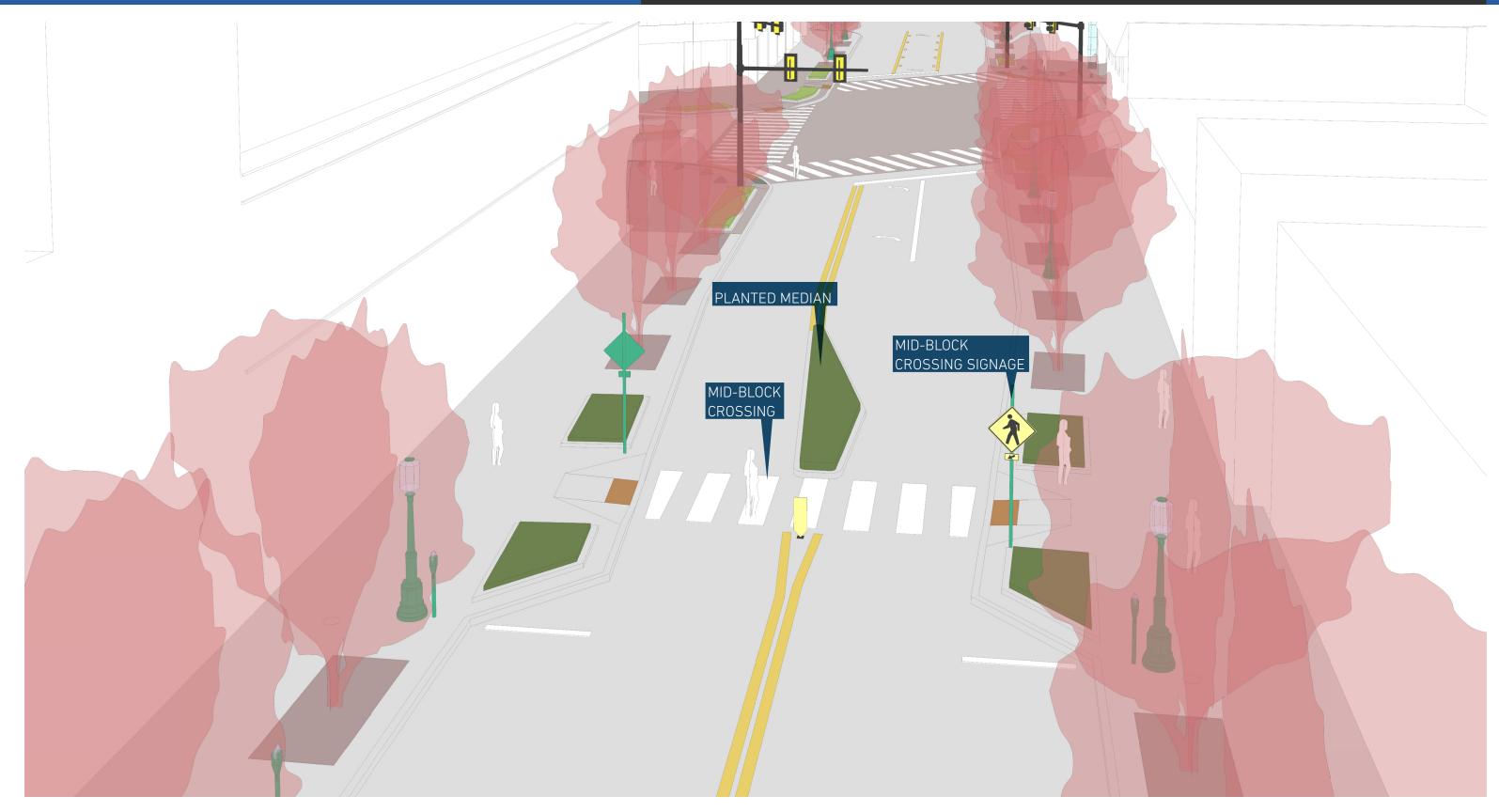


Phase II | Mid-Block Crossing | Maple Road



MKSK

# Phase II | Mid-Block Crossing I Maple Road





# Conclusion

- » Corridor Plan Design Study Complete
  - > Cross-section Established (e.i. roadway dimensions)
  - > Pedestrian Areas Enhanced
  - > Recommended Materials Established
  - > Parking Counts
    - 70' Street Section
      - Old Woodward Ave 262 Angle Spaces @ 9'-0" Wide Maple Road - 63 Parallel Spaces @ 7'-0" Wide
    - 66' Street Section (Recommended Plan)
      Old Woodward Ave 253 Angle Spaces @ 9'-6" Wide
      Maple Road 60 Parallel Spaces @ 8'-0" Wide



# Conclusion

- » Next Steps
  - > Design Study Directs Final Engineering Process
  - > Design Adjusted to accurate site survey, not changed
  - > Documentation for Bidding (with alternates) & construction
  - > "The Devil is in the Details" many fine-grain items still need to be resolved (e.i. paving markings, signage location, construction details & specifications)
  - > Many Landscape Architecture Elements to be Fully Developed (e.i. hardscape material selection & details, plant selection & soils, fine grading & site furniture locations)





# **MEMORANDUM**

**Planning Division** 

DATE: December 6, 2016

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

#### SUBJECT: Ad Hoc Rail District Review Committee's Final Report

On January 11, 2016, the City Commission established the Ad Hoc Rail District Committee to study existing and future conditions and to develop a recommended plan to address parking, planning and multi-modal issues in the Rail District and along S. Eton Road ("the Rail Plan"). The following resolution was adopted at that time by the City Commission to create the committee.

- Whereas, the City of Birmingham is desirous of studying the needs of the Rail District to develop an integrated approach to address parking capacity and demands while incorporating multi-modal and planning concepts in this district, and
- Whereas, over time the City of Birmingham has studied individual elements of the Rail District, however, a review of these various elements is now desired in order to integrate parking, planning and multi-modal efforts under a single coordinated approach; and
- Whereas, the <u>*Eton Road Corridor Plan*</u> contemplated a mixed use vision for this district, and
- Whereas, the <u>Multi-Modal Transportation Plan</u> contemplated a multi-modal approach, including a bike lane and enhanced pedestrian crossings along S. Eton Road, and
- Whereas, the City Commission wishes to establish an Ad Hoc Rail District Review Committee to provide a coordinated review of the Rail District while considering all of the elements and input needed to formalize an integrated approach to addressing parking, planning and multi-modal considerations within this mixed use district, including the S. Eton corridor.
- Now Therefore Be It Resolved that an Ad Hoc Rail District Review Committee is hereby established to develop a recommended plan for addressing parking, planning and multi-modal issues in the Rail District and along S. Eton Road, while considering capacity needs and various plan concepts as follows:

- 1. The Committee will be Ad Hoc. The term of the Committee shall continue through December 31, 2016 and the Committee will cease functioning unless otherwise directed by the Commission.
- 2. The City Commission hereby appoints a seven (7) member Ad Hoc Committee to be comprised of the following members. Each respective board shall recommend an appointee for consideration by the City Commission.
  - a) One member from the Advisory Parking Committee
  - b) One member from the Planning Board
  - c) One member from the Multi-Modal Board
  - d) One business owner in the Rail District

e) Three resident members from the general public; one living in the neighborhood adjoining S. Eton between Maple and Lincoln; one living in the neighborhood adjoining S. Eton between Lincoln and 14 Mile Road; and one living in the neighborhood adjoining N. Eton between Maple and Derby.

The City Commission also hereby appoints the Planning Director as an ex officio member of the committee and the City Manager may designate respective city staff members to serve as ex officio members of the committee to assist in providing information and assistance as may be required.

- 3. The scope of the Committee shall be to develop a recommended plan on how to best proceed in addressing the current and future parking demands, along with planning goals and multi-modal opportunities for this district in accordance with the following:
- a. Review the *Eton Road Corridor Plan, Multi-Modal Transportation Plan*, and previous findings of the Rail District Committee in order to identify and recommend how to best incorporate these elements into an integrated approach for this district.
- b. Calculate the long-term parking demands for both the north and south ends of the Rail District, while considering on-street and off-street parking, shared parking arrangements, use requirements and other zoning regulations which impact parking.
- c. Review planning and multi-modal objectives for the Rail District with the findings from the long-term parking calculations and develop recommendations to integrate planning and multi-modal elements with parking solutions. Recommendations should consider:
  - i. Considerations for on-street and off-street parking
  - ii. Road design initiatives
  - iii. Multi-modal uses
  - iii. Neighborhood input

iv. Existing plans and findings

#### d. Compile the committee's findings and recommendations into a single report to be presented to the City Commission by the end of the committee's term. (Emphasis added.)

Over the past eight months, the Ad Hoc Rail District Review Committee has worked to identify issues in the Rail District and along S. Eton, and to develop a plan with recommendations to address parking, planning and multi-modal issues in the Rail District, as directed by the City Commission. The Ad Hoc Rail District Review Committee requested funds to hire a consultant to review some of the intersection design concepts discussed by the Committee, and to conduct an analysis of parking in the study area.

Based on the Committee's direction, the findings outlined in the consultant's report, and the input of the public, a draft of the Ad Hoc Rail District Report requested by the City Commission has been prepared. On December 5, 2016, the Ad Hoc Rail District Review Committee held their final meeting to review and approve their final report. After much discussion, the Ad Hoc Rail District Review Committee voted to recommend approval of the final report to the City Commission, with minor changes. All of the requested changes have been made.

Consistent with the direction of the City Commission to complete their report prior to the end of 2016, please find attached the final draft of the Ad Hoc Rail District Report for your consideration.

The report from Fleis and Vandenbrink with the results of the parking study, and their review of the proposed intersection improvements at Bowers and S. Eton and Maple and S. Eton is also attached at the end of this package for your information.

#### Suggested Action:

To accept the final report of the Ad Hoc Rail District Review Committee, and forward same to the Multi-Modal Transportation Board for their consideration in finalizing the design of the S. Eton corridor;

#### AND

To forward the final report of the Ad Hoc Rail District Review Committee to the Planning Board, and to direct the Planning Board to add Recommendations 4 (Encourage Shared Parking ) and 5 (Add Wayfinding Signage) from the final report to their Action List for further study.

# Ad Hoc Rail District Report

# November 28, 2016

# **Table of Contents**

Executive Summary	3
Ad Hoc Rail District Committee	1
Goals and Objectives 4	1
Study Area 5	5
Review of Existing Plans	5
Zoning Analysis	3
Preliminary Assessment	)
Conceptual Improvements 1	14
Existing Parking1	17
Build-out Analysis	20
Recommendations	28



## **Executive Summary**

The Ad Hoc Rail District Committee was tasked with conducting research and analysis regarding parking, street design initiatives, and non-motorized safety to develop a plan with recommendations for the future of the Rail District along S. Eton. The Committee conducted a walking survey to assess the existing conditions of the Rail District. During this exercise, crosswalks issues, poor driver visibility at street corners, inconsistent sidewalks, and lack of bicycle facilities were noted. Based on the Committee's observations, several intersection and streetscape improvements were reviewed, a parking study was completed to review current parking demand, and a buildout analysis was conducted to calculate future parking needs. The Ad Hoc Rail District Committee's resulting findings include recommendations for intersection improvements to calm traffic and improve pedestrian comfort, exploring shared parking opportunities to more efficiently use off-street parking lots, and adding bicycle facilities to better accommodate bicyclists.



Newingham Dental – Completed 2014



District Lofts Phase 2 – Completed 2016



Irongate – Completed in 2016

# Ad Hoc Rail District Committee

# **Formation of the Committee**

On January 11, 2016, the City Commission unanimously passed a resolution to establish the Ad Hoc Rail District Committee. The Committee was tasked with developing a plan to address the current and future parking demands, along with planning goals and multi-modal opportunities for the district in accordance with the following:

- a) Review the Eton Road Corridor Plan, Multi-Modal Transportation Plan, and previous findings of the Rail District Committee in order to identify and recommend how to best incorporate these elements into an integrated approach for this district.
- b) Calculate the long-term parking demands for both the north and south ends of the Rail District, while considering on-street and off-street parking, shared parking arrangements, use requirements and other zoning regulations which impact parking.
- c) Review planning and multi-modal objectives for the Rail District with the findings from the long-term parking calculations and develop recommendations to integrate planning and multi-modal elements with parking solutions. Recommendations should consider:
  - i. Considerations for on-street and off-street parking
  - ii. Road design initiatives
  - iii. Multi-modal uses
  - iv. Neighborhood input
  - v. Existing plans and findings
- d) Compile the committee's findings and recommendations into a single report to be presented to the City Commission by the end of the committee's term (December 31, 2016).

# **Goals and Objectives of Committee**

The following goals and objectives were established by the Ad Hoc Rail District Committee to guide their discussions and recommendations for the future:

#### Goals

- i. Create an attractive and desirable streetscape that creates a walkable environment that is compatible with the adjacent residential neighborhoods.
- ii. Design the public right-of-way for the safety, comfort, convenience, and enjoyment for all modes of transportation throughout the corridor.
- iii. Facilitate vehicular traffic and parking without sacrificing the corridor's cycling and pedestrian experience.
- iv. Minimize the impacts of traffic on the existing residential neighborhoods.
- v. Recommend updates to the Rail District zoning regulations as needed to meet goals.

### Objectives

- i. Use creative planning to promote a high quality, cohesive right-of-way that is compatible with the existing uses in the corridor.
- ii. Implement "traffic calming" techniques, where appropriate, to reduce speeds and discourage cut-through traffic on residential streets.
- iii. Enhance pedestrian connectivity through the addition of crosswalks, sidewalks, and curb extensions.
- iv. Improve accommodations for bicycle infrastructure on Eton Road.
- v. Create a balance between multimodal accessibility and parking provisions.



# Study Area

# **Rail District Study Area**





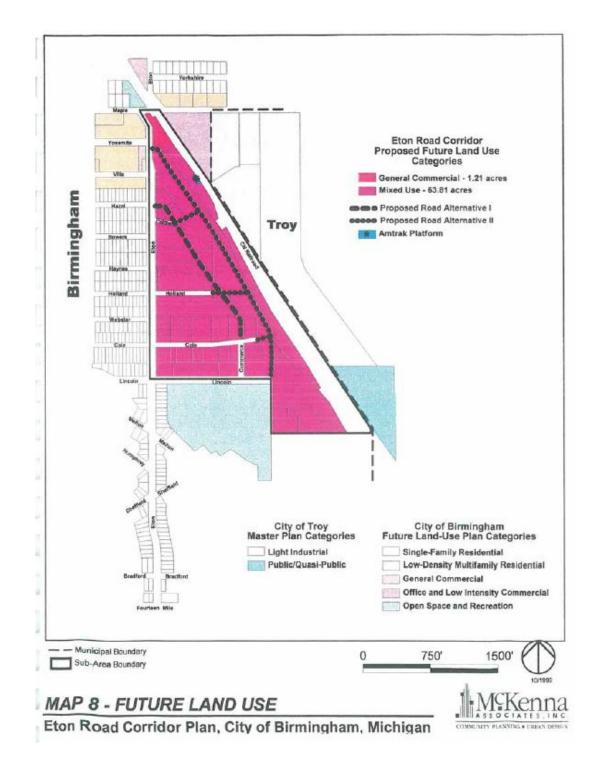
## **Eton Road Corridor Plan (1999)**

**Vision Statement:** "The Eton Road Corridor will be a mixed use corridor with a range of commercial, service, light industrial and residential uses that serve the needs of the residents of Birmingham. Creative site planning will be encouraged to promote high quality, cohesive development that is compatible with the existing uses in the corridor and adjacent single-family residential neighborhoods."

Much of the success that can be observed in the District today is owed to the recommendations contained in the Eton Road Corridor Plan (ERCP). Many of the recommendations have been implemented including the eastward extension of Villa and Hazel into the northern end of the District, the creation of the MX zoning classification, associated development regulations, and the addition of streetscape requirements.

However, many recommendations contained in the ERCP have not been fully implemented that specifically impact the circulation of vehicular, pedestrian, and bicycle traffic. These recommendations are as follows:

- A series of curb extensions and "chokers" at select intersections to create better visibility for pedestrians and to encourage lower speeds for motorists;
- To accommodate at least one protected bike lane, given that S. Eton is an important link in a regional bike system; and
- To discourage front parking and to place commercial and residential buildings closer to the road.





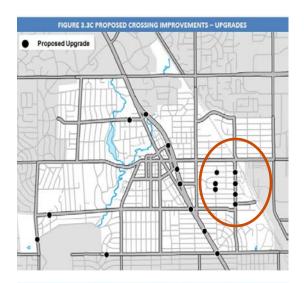
# **Multimodal Transportation Plan (2013)**

**Vision Statement:** "The City of Birmingham seeks to build upon its brand as a walkable community. The purpose of this plan is to provide a document that the Community may reference when contemplating future actions regarding infrastructure, policies and programs. It is envisioned that this plan will guide improvements designed to give people additional transportation choices, thereby enhancing the quality of life in the City of Birmingham."

Less than 3 years since its adoption, implementation of the Multimodal Transportation Plan ("MMTP") is already well underway. Many areas identified in the plan that have not yet been retrofitted are at least at the forefront of multimodal discussion in the city. The Eton Road Corridor has proven to be one of those areas.

As demonstrated in the MMTP, there is an expressed community desire for a transportation network that adequately responds to the needs of various users and trip types. In order to achieve this vision for the Rail District, the MMTP recommends the following physical improvements:

- Completing sidewalks along Cole St.;
- Installing curb extensions on S. Eton Rd. at Yosemite, Villa, Bowers, Holland, and Cole;
- Improving crossing areas at Villa, Bowers, Holland and Cole; and
- Striping bike lanes on S. Eton via parking consolidation: shared lane markings from E. Maple to Villa; buffered bike lane and shared lane markings from Villa to E. Lincoln.





S FTON ROAD

Add buffered bike lane on west side and add shared lane markings on east side with on-street parking

10

Travel Lane

with Shared

Lane Marking

10'

Travel

Lane

10'

Parallel

Parking



Curb Extension







7'

Lane

Bike Buffer



## **Zoning Analysis**

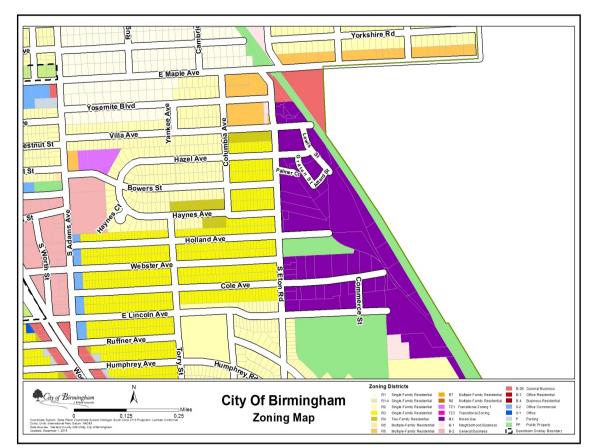
The majority of the S. Eton Corridor was zoned MX Mixed-Use, in accordance with the recommendation of the ERCP. The MX District was established with the intent to:

- a) Encourage and direct development within the boundaries of the Eton Road Mixed-Use District and implement the Eton Road Corridor Plan;
- b) Encourage residential and nonresidential uses that are compatible in scale within adjacent resident neighborhoods;
- c) Encourage the retention, improvement, and expansions of existing uses that help define the Eton Road Corridor;
- d) Allow mixed use developments including residential uses within the Eton Road Corridor; and
- e) Minimize the adverse effects of nonresidential traffic on the adjacent residential neighborhood.

With zero foot minimum front and side yard setback requirements, no required open space, and buildings permitted up to 4 stories in height, the MX District encourages a midrise, integrated urban form throughout the Corridor. However, a majority of the buildings in the district have not been developed to the new standards set forth in the current Zoning Ordinance. Many properties still contain single-use, one-story buildings that do not maximize their potential space.

The buildings that have been recently constructed are emblematic of the District's goal of creating appealing mixed-use buildings that complement the adjacent residential neighborhoods. The District Lofts, for example, demonstrate the potential of the District development standards with its well-fenestrated façades that abut the front and side lot lines, ground floor retail space and residential upper floors, and its sufficient parking facilities.

A fundamental goal of the Rail District is to "minimize the adverse effects of nonresidential traffic on the adjacent neighborhood," but the current road design does little to provide a buffer between the MX and residential zones. Traffic, parking, and safety issues still persist to this day. Actions are recommended for Eton Rd that ease the transition from the residential neighborhood to the mixed use zone and provide safe access to the area's amenities for all modes of transportation.





## **Preliminary Assessment: Public Perception and Identification of Issues**

Committee members reviewed and analyzed existing conditions in the Rail District. Discussion branched off into five main topics: *Rail District Design and Development, Pedestrian Safety/Amenities, Parking, Traffic,* and *Bicycles*. The committee's comments have been summarized into bullet points below.

<ul> <li>The committee members are pleased with new developments in the district. The development standards for the new buildings have created an overall appealing look.</li> <li>Parking in front of the older buildings is not favorable in the context of creating a more pedestrianized corridor.</li> <li>The Committee raised the point about how the Rail District ends at Lincoln. Members discussed extending the project area towards 14 Mile as the stretch south of Eton serves as a vital connection.</li> </ul>	The width of S. Eton is viewed as problematic, as it encourages cars to exceed the speed limit. Bump-out curbs are needed on S. Eton at necessary intersections between E. Maple and Sheffield as a way to narrow down the road, slow traffic, and make it easier to cross the street. This would create safer access to the parks, pool, and other amenities. The Committee proposed reviewing zoning uses and standards for the rail district. The recent improvements to W. Maple are also something the Committee wants to keep in mind as a good example when making recommendations for the Rail District.
<ul> <li>The Committee is displeased with the lack of pedestrian safety in the Rail District. Committee members emphasized the importance of safe and adequate pedestrian crossing throughout the District, especially along S. Eton Rd. The idea is to have a complete network of sidewalks and crossings that encourage people to walk through the District.</li> <li>The intersection at S. Eton and Maple is not amenable to pedestrians, especially when they are attempting to get from S. Eton to N. Eton.</li> <li>The intersection at S. Eton and Cole, especially on the commercial side, is not safe from a pedestrian or vehicle standpoint.</li> </ul>	<ul> <li>Parking was raised as a priority. The committee would like to see an evaluation of parking demand with respect to supply, and how to resolve the issue via structures, surface lots, and on-street locations.</li> <li>Parking along S. Eton, especially the southbound (west) side, was identified as a key focus of the committee. It was also mentioned that on street parking is an issue between Sheffield and 14 Mile.</li> <li>On-street parking spaces on S. Eton are seen as a problem as they inhibit the visibility of drivers and pedestrians and make it difficult for residents to back out of their driveways. Visibility should be considered in future parking studies.</li> </ul>
<ul> <li>Excessive speed heading southbound on S. Eton – especially from Lincoln to 14 Mile – was identified as an issue to be addressed moving forward.</li> <li>The Committee is concerned with the cut-through traffic that occurs on S. Eton</li> <li>The new Whole Foods is expected to increase the amount of traffic through the corridor, so the City should consider street designs that regulate speed and traffic, while ensuring a safe pedestrian experience.</li> </ul>	<ul> <li>More emphasis should be placed on non-motorized transportation in the study area. More specifically, S. Eton should be designed to be safer for bicyclists.</li> <li>The bike route transition from N. Eton to S. Eton should be improved; however, a continuous bike lane may not be a feasible means by which to do this.</li> <li>The committee would like to widen the pedestrian area at the southwest corner of E. Maple and S. Eton in order to improve bicycle and pedestrian safety and to ease traffic flowing in and out.</li> </ul>



Pedestrian Safety/Amenities

Traffic

## **Preliminary Assessment: Walking Survey**

Committee members conducted a walking survey and inventory of the S. Eton Corridor. Findings are outlined below and on the pages that follow.



First stop - under the bridge at S. Eton/Maple Rd.

- Viaduct has a "bunker" feel
- Not a good corner to cross
- Widening the sidewalk would help calm traffic
- Bump-out/plaza at corner would be effective, but difficult
- A pedestrian island would help at this intersection

City of Birmingham



- Second stop Yosemite/S. Eton
  Drivers are not fully aware of pedestrians around this stretch
- of S. Eton • A crosswalk is needed here
- Bump-out curbs may be
   necessary
- A bike lane could start around here
- The street begins to narrow down closer to beauty shop
- Bump-out and bike lane might contradict each other



- Third stop Villa/S. Eton
- Possible bump-out curbs here
  Visibility is very obstructed at this corner



Fourth stop – Hazel/S. Eton

- A crosswalk is needed at the Whistle Stop
- A crosswalk would help slow traffic
- S. Eton improvements must be consistent



Fifth stop - Bowers/S. Eton

- This is area is a destination and should receive a large crossing with different treatment, such as a plaza in the center
- This stop does not warrant a stop sign, but controls should be built to calm traffic speed
- People who come to eat at Griffin Claw don't know where to park



## Preliminary Assessment

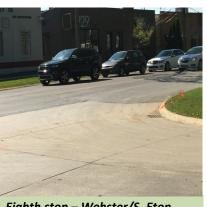
## **Preliminary Assessment: Walking Survey (Continued)**



Sixth stop – Haynes/S. Eton
It was noted that parking could occur along the dividing island at Bolyard Lumber

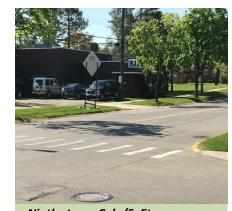


 Seventh stop – Holland/S. Eton
 A double crosswalk exists here but it is not a natural crossing spot



Eighth stop – Webster/S. Eton

- Curbs are terrible here
  Bump-out curbs are suggested for this location
- Yellow no parking lines may be too long next to driveways



Ninth stop – Cole/S. Eton
Bump-outs are recommended

on the four cornersMany interesting shops to the east



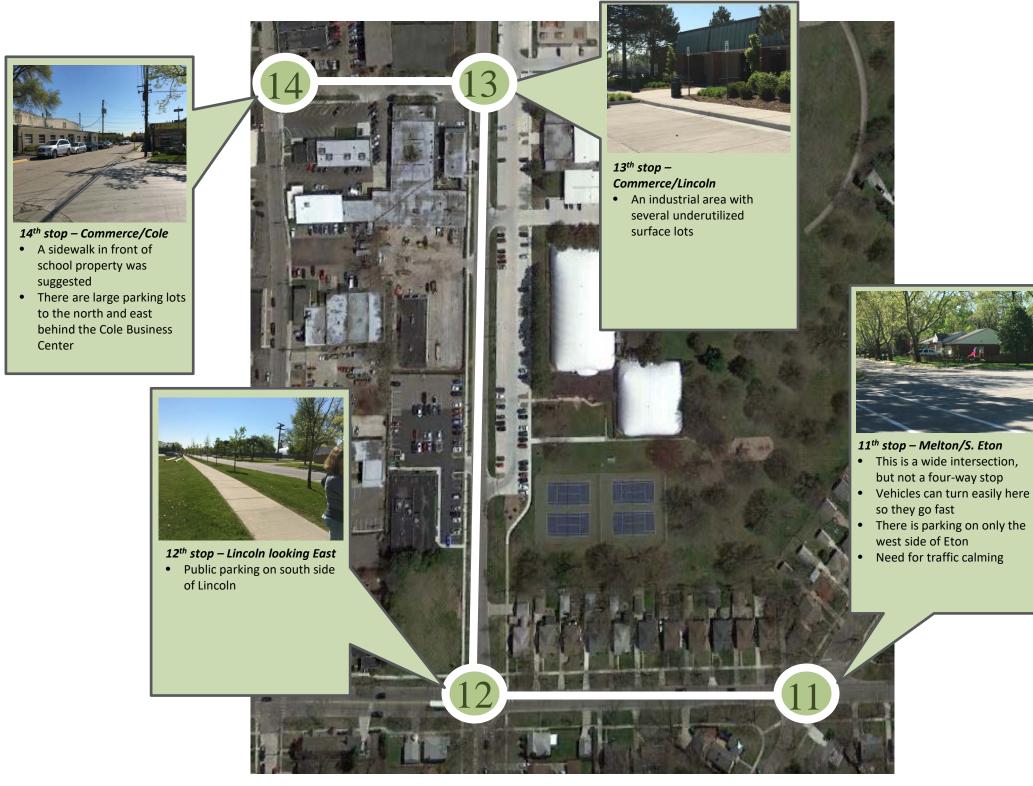
Tenth stop – Lincoln/S. Eton

- This is a prominent corner
- There should be something that demarcates commercial from residential
- Well defined crosswalks here
- Future streetscape improvements should be considered





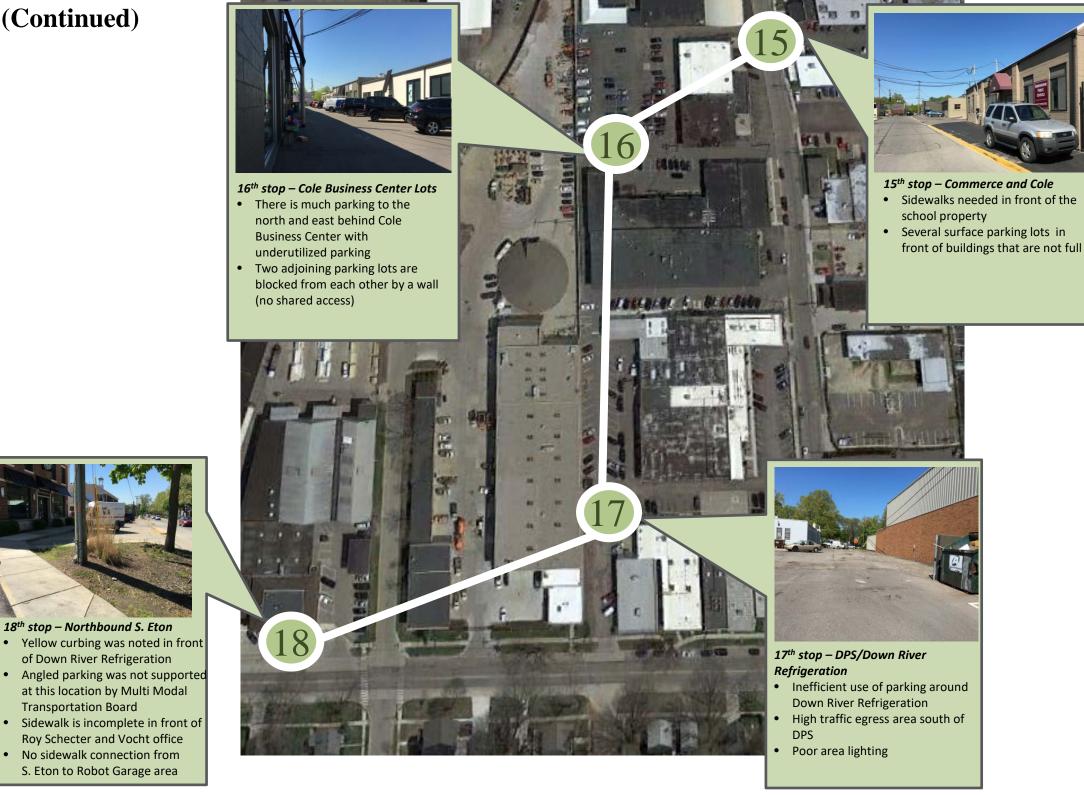
## **Preliminary Assessment: Walking Survey (Continued)**





## Preliminary Assessment

# Preliminary Assessment: Walking Survey (Continued)





## **Concepts Considered Within Study Area**

Based on the issues identified in the preliminary assessment of the study area and a review of the ERCP and MMTP, the Committee considered numerous improvements for the right of way at specific locations. In addition to the concepts illustrated below in the area of S. Eton and Maple, the Committee discussed purchasing property on the southwest corner of the intersection to widen the sidewalk and create a pedestrian plaza at the corner to enhance pedestrian safety and comfort. Additionally, the Committee talked about improving the viaduct underpass on E. Maple through the use of paint and lighting.

## **S. Eton and Maple Intersection**



#### **Design Concept 1**

At the southeast corner of S. Eton and Maple, there is a lot of activity but very little room to work with to make any drastic changes. As suggested during the walking tour, the pavement at this corner could be extended into the grass area to provide a more comfortable pedestrian space.

## **Conceptual Improvements**

### Existing



Proposed



Existing



Proposed



#### Design Concept 3

The Committee discussed constructing a pork chopshaped pedestrian island as an alternative to a bumpout. A pedestrian refuge could effectively channel drivers to slow down and gives pedestrians the ability to wait on it instead of having to rush across the street during a short traffic light interval.

The committee recommended hiring a consultant to evaluate traffic calming measures and pedestrian improvements at this complex intersection.

### **S. Eton Intersections**

City of Birmingham

Bump-out curbs were considered for the intersection of S. Eton and Yosemite (shown to the right) and could be coupled with striped crosswalks for additional safety. Having a bump-out at this intersection would help demarcate between the commercial area and residential area.

Additional bump out curbs and crosswalk improvements were also suggested along S. Eton at Villa Road, Hazel St, Webster St., Cole St, Lincoln, Melton, Sheffield and 14 Mile Road.

### **Conceptual Improvements**

# **S. Eton and Bowers Intersection**

Committee members recognized this area as being of significant importance as it marks the approximate center of the Rail District. Accent materials of different textures and/or colors could be added to intersection to remind people that it is a place for both pedestrians and cars. As shown in the suggested rendering, the concept is coupled with curb bump outs, benches, and on-street bike racks, as well as pedestrian crosswalk improvements to create a plaza condition. Alternatively, the east side of S. Eton at this intersection could be extended to narrow the street further and provide more space for street trees and plantings.

The committee recommended hiring a consultant to study possible improvements to this intersection.

## <u>S. Eton Corridor (Maple to</u> <u>Lincoln)</u>

Following the recommendation of the MMTP, the Committee discussed the option of adding bicycle facilities to S. Eton by adding sharrows for northbound bicycle traffic, eliminating parking on the west side (also recommended by the MMTP), and giving southbound traffic a 10 foot protected bike lane that includes a 3 foot buffer zone.

#### Existing



Proposed



Existing









## **Existing Parking**

### Figure 1

## **Parking Inventory and Study**

A Parking inventory was completed in the study area for a better understanding of when and where parking spaces are being utilized. A map of total spaces was created for private lots and on street parking. The results are illustrated in Figure 1, and show an existing parking count of 2,480 spaces in the study area and surrounding neighborhood.

A parking study was also completed to determine parking utilization in the study area. Parking counts were conducted by city staff at 4, 5, and 6pm on Friday September 23rd and Wednesday September 30th, and the data was then analyzed.

The consulting firm Fleis and Vandenbrink was contracted to create a report for the count studies and provide summary tables showing available spaces, occupied spaces, and percent occupancy rate for the north and south zones of the study area. An analysis and conclusion based upon the findings was then made for off street and on street parking situations in each of the zones.

Count data was then entered into a map for each day and time of the study. The maps on the following pages indicate the total counts for each hour of on street and off street parking spaces, and color code the percent occupancy rate in classes for 0, 1-33%, 34-66%, and 67-100%. These maps are shown side by side to visually illustrate the intensities of parking in the district, and how the parking occupancy rates change from 4-6pm in the study area.





# **Existing Parking**



#### S. Eton Rd

- 9 out of 60 spaces on the west side are used
- 16 out of 63 spaces on the east side are used

#### **Off Street Parking**

- Parking lots off of Cole Street at or near capacity
- Griffin Claw already above 66% capacity

#### **Residential Parking**

- Yosemite and Villa experience overflow throughout the evening.
- Villa stays between 33-66% occupancy rate throughout the Friday study.

### Friday Parking Count: 5:00 PM

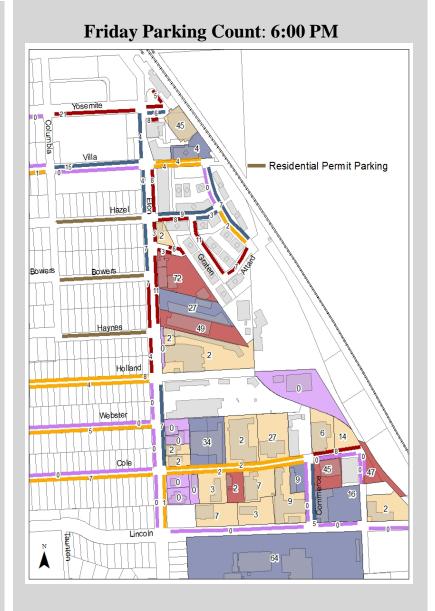


#### S. Eton Rd

- 16 out of 60 spaces on the west side are used
- 21 out of 63 spaces on the east side are used

#### **Off Street Parking**

- The lots off of Cole Street begin to clear out
- Two of the parcels above 66% are auto repair shops with outdoor vehicle storage.



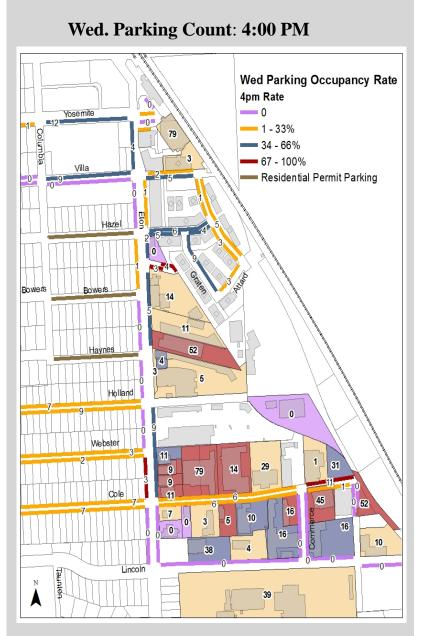
#### S. Eton Rd

- 26 out of 60 spaces on the west side are used
- 30 out of 63 spaces on the east side are used \*the highest occupancy throughout the study
- O spaces on west side, south of Holland are used the entire evening

### **Off Street Parking**

- Griffin Claw parking lot reaches capacity.
- Only 2 of 11 spaces are used in Whistle Stop.
- 0 spaces are used outside of Bolyard Lumber.
- Robot Garage/Watch Hill lot never exceeds 66%.





### S. Eton

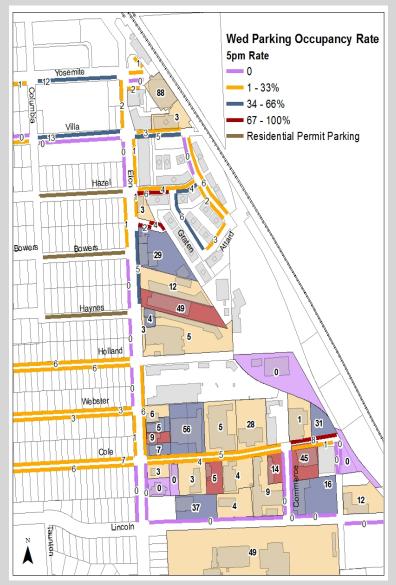
- 7 out of 60 spaces on the west side are used

- 17 out of 63 spaces on the east side are used

### **Off Street Parking**

- Cole Street's highest occupancy rate for off street lots occurs on weekday during regular business hours.

### Wed. Parking Count: 5:00 PM



### S. Eton

- 4 out of 60 spaces on the west side are used
- 13 out of 63 spaces on the east side are used \*lowest occupancy in the study

### **Off Street Parking**

- The majority of Cole Street parking lots clear out after 5 pm.

# **Existing Parking**

### Wed. Parking Count: 6:00 PM



#### S. Eton

- 8 out of 60 spaces on the west side are used
- 9 out of 63 spaces on the east side are used
   \*lowest occupancy in the study

### **Off Street Parking**

- Griffin Claw's peak parking hours increase during the evening while the rest of the parcels show a decrease in use.
- Shared Parking agreements work best when adjacent or nearby parcels have different peak parking times.



## **Existing Parking Analysis**

For the section north of Holland Road, the parking study by Fleis and Vandenbrink concluded:

- 1) Off street and on-street parking demand is high and the existing spill over parking is impacting Yosemite Boulevard and Villa Road.
- 2) The parking garage beside Big Rock and The Reserve is underutilized.
- 3) Griffin Claw had the most utilized parking lot in north zone.
- 4) The least occupied lots were Whistle Stop and Bolyard Lumber.
  - a) Together these two parcels contain 39 parking spaces, which could be an opportunity for shared parking agreement during nights and weekends.
- 5) During the peak hour there were no available spaces on Northbound Eton between Haynes and Palmer, or southbound Eton between Holland and Bowers.

For the section south of Holland Road, the parking study by Fleis and Vandenbrink concluded:

- 1) The highest parking demand in this area occurs during weekday daytime hours.
- 2) Many off street parking lots along Cole Street were near capacity at 4pm, then relatively vacant after 5pm.
  - a) This may be an opportunity for shared parking agreements to relieve some parking demand in the north zone.
- 3) On street parking is not significantly impacted by the commercial properties.
- 4) The residential neighborhood to the west is not significantly impacted by spillover parking from the Rail District.

The parcel in front of Bolyard Lumber between the street and the building contains 15 parking spaces and is considered public right of way. Based upon the data from the study, these spaces are underutilized. On Friday September 23<sup>rd</sup> at 6pm, 0 spaces in front of Bolyard Lumber were used, while the east and west side of S. Eton were at or near capacity north of Holland. Better signage could be used to inform drivers and direct them into these spaces to alleviate parking congestion elsewhere.

The parking lots adjacent to Griffin Claw are also considered underutilized at evening hours. During peak parking time, Whistle Stop on the north side utilized 2 of the 11 spaces at 6pm, while 27 out of 44 spaces were utilized in the Robot Garage/Watch Hill parking lot at 6pm. Both of these parking lots have signs indicating parking is for their business only. Whistle Stop, Robot Garage, and Watch Hill have different peak parking hours with Griffin Claw which could be an opportunity for a shared parking agreement.

The on street parking south of Holland is considered underutilized as well. Zero cars parked on the west side of S. Eton between Holland and Lincoln on Friday, while the Wednesday count maxed out at 3 cars. The east side of S. Eton between Holland and Lincoln also had low parking rates. This side had a number of counts with a value of 0, and its maximum occupancy rate never reached above 66%.

## Findings

The parking study shows that there is an abundance of parking throughout the study area. However, much of the parking is privately owned for a single use. Parking demand is high for restaurant uses in the evenings and weekends while the office uses have daytime peak parking periods. Shared parking arrangements throughout the study area should be encouraged to maximize the efficiency of existing parking in commercial areas and to eliminate spillover parking into residential areas.

The data from the parking study also supports the Multimodal Transportation Plan's recommendation to eliminate parking on the west side of Eton and use the space for a bike lane. The count data suggests that the study area has enough spaces to accommodate for the loss of parking on the west side of Eton. The highest count for this section was 26 on Friday, September 23<sup>rd</sup> at 6pm. If these spaces were removed, drivers could still find space in front of Bolyard Lumber and S.Eton between Holland and Lincoln. Available spaces could increase if adjacent businesses entered into shared parking agreements and removed 'business parking only' signs as well, as noted above.



### **Build-out Analysis**

### **Build-out Analysis**

A build-out analysis was conducted to determine the future parking needs of the Rail District. This study involved examining the current state of development in the Rail District and demonstrating which buildings were likely to be redeveloped to their maximum size per the MX (Mixed-Use) zoning district provisions. Recently developed buildings and businesses not likely to change within the next 20 years were highlighted in blue, while properties with the potential for redevelopment were highlighted in red. See Figure 2.

The ratio of developable parcel space vs actual building space was calculated for the properties highlighted in blue. This value is used as the Percent of Maximum Build-Out percentage. This build out rate was then used as a projection for the focus area highlighted in red. The assumption is that future buildings in the focus area will occupy a similar value of their total parcel space as those recently developed in blue.

The projected build-out square footage for the focus area was then used to calculate the additional number of parking spaces that would be required based on probable square footage and land uses.

A build-out analysis is predicated on many underlying assumptions. Presupposing the realistic and sometimes even most extreme conditions can generate a fairly accurate assessment of the issue at hand and help to envision future scenarios. The following assumptions were applied in the Rail District build-out analysis:

- All parcels in the focus area were assumed to be developed as four story, mixed use buildings, the maximum number allowed in the MX zone.
- All first floor uses were assumed to be retail/office, requiring one parking spot per 300 sq ft.
- Floors two, three, and four were assumed to be residential, requiring one parking space per 1000 sq ft of floor area.
- Percentage of Maximum Build Out = (Building Floor Area \* Number of Stories) / (Parcel Area \* 4 Stories)

### Figure 2: Identifying Parcels with Potential for Redevelopment





### **Build-out** Analysis

#### Figure 3

### **Build-out Analysis**

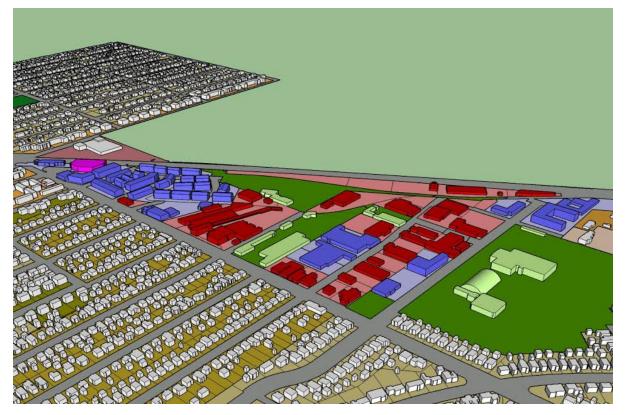
#### **Existing Condition:**

Figure 3 is a rendering of the Rail District's current build out. It also includes buildings approved for construction in the near future. The blue represents buildings that are unlikely to change within the next 20 years. Note that the northern section has a higher density of recent developments that occupy a larger portion of their parcel space than the older buildings in red. The restaurants and mixeduse structures in blue are clustered together with a combination of parking uses including a three story parking deck highlighted in pink, underground parking, on street parking, and private garages.

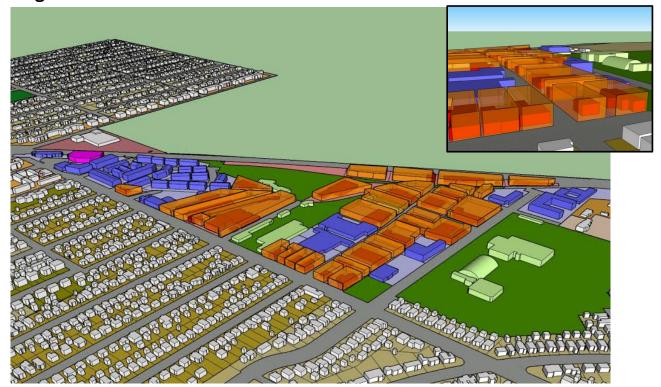
The red area indicates buildings that have not recently been redeveloped or undergone significant renovation and still fit the previous zoning category. They are predominantly one story industrial buildings with large surface parking lots. These sites have been identified as a focus area for potential re-development in the build out analysis.

#### **Future Buildout:**

The transparent orange space pictured in Figure 4 indicates the maximum build out space for properties likely to redevelop in the Rail District. The MX zone allows up to 4 stories, and the orange is meant to help visualize the difference between the current build out in red, and what is now possible within the MX zone. The percentage of current built out space vs maximum build out is included in Tables 1 and 2 as the Current Percent of Maximum Build Out value on the far right column.









### **Existing Build-out Analysis**

Based on development patterns over the past 15-20 years, it is rare for a landowner to use 100% of their developable space (highlighted in orange on Table 1). This is due to development standards such as side and rear setback requirements, access to parking and drop off space, required parking spaces, and right of way improvements. Table 1 compares the maximum build out values for different building uses, based on actual development that has occurred.

The addresses listed in Table 1 are properties not expected to significantly change within the next 20 years. They contain a mix of single story restaurants like Griffin Claw and The Reserve, single story industrial buildings converted into commercial uses such as the Cole Street multi-business spaces (as shown in white on Table 1), and multi-story, mixed used buildings including District Lofts and Crosswinds (as shown in blue on table 1). The build-out rates of properties not expected to significantly change within the next 20 years range from 6% to 62%, with an average of 26%.

Griffin Claw has a build out value of only 8% because it is a large parcel with 70% of its surface area dedicated to parking. The other 30% is occupied by a one story brewery and restaurant space. Because Griffin Claw is a restaurant, it also has a higher parking requirement than retail, office, and residential uses. Parcels with large surface lot parking areas and single story uses score lower percentage values in the maximum build out analysis.

The addresses highlighted in red on Table 2 correspond with the parcels shown in red on Figure 3, and those properties that have been identified as the focus area likely for redevelopment.

Business	Address	Parcel Sq. Ft.	1st Floor Building Sq. Ft.	# of Stories	% Building on Parcel	Total Building Sq. Ft	Max Build Out Space	Current % of Max Build Out
Assumptions					Footprint/ Parcel	Footprint * # of Stories	Parcel Area *4 Stories	Current Build Sq. Ft/ Max Build
Big Rock	245 S ETON ST	28,237	9,151	1	32%	9,151	112,948	8%
The Reserve	325 S ETON ST	13,404	9,305	1	69%	9,305	53,616	17%
Griffin Claw	575 S ETON ST	66,333	20,248	1	31%	20,248	265,332	8%
Cole St. Multi- Business	2211 COLE ST	62,872	36,800	1	59%	36,800	251,488	15%
Cole St. Multi- Business	2121 COLE ST	66,700	33,502	1	50%	33,502	266,800	13%
(Combined w/ 2121)	2099 COLE ST	-	-	-	-		-	-
Armstrong White	2125 E LINCOLN ST	38,454	9,739	1	25%	9,739	153,816	6%
Dentist & Doctor Office	2425 E LINCOLN ST	42,970	12,363	1	29%	12,363	171,880	7%
Sheridan Retirement	2400 E LINCOLN ST (W SIDE)	164,428	30,664	4	19%	149,322	657,712	23%
Sheridan Retirement	2400 E LINCOLN ST (E SIDE)	(Combined)	26,666	1	-	(East +West)	-	-
CrossWinds (16 Buildings)	GRATEN, LEWIS, & HAZEL ST	253,702	97,184	4	38%	388,736	1,014,808	38%
Future Mixed Use	2000 VILLA ST	12,837	8,004	4	62%	32,016	51,348	62%
District Lofts	375 S ETON ST	20,180	10,391	4	51%	41,564	80,720	51%
District Lofts	2051 VILLA RD # 101	27,316	12,171	4	45%	48,685	109,264	45%
Irongate	401 S ETON ST	31,045	15,000	2.5	48%	37,500	124,180	30%
Future Mixed Use	2159 E LINCOLN ST	35,226	16,577	4	47%	66,310	140,904	47%
Total		863,704	347,766	-	40%	895,241	3,454,816	26%

#### Table 1: Recent Development



Build-out Analysis Table 2: Focus Area with Potential for Redevelopment

Parcel Address	Parcel Sq. Footage	1st Floor Building Sq. Footage	% Building on Parcel	Est. Total Building Sq. Footage	Est. Max Build Out	Current % of Max Build Out
Assumptions		Building Floor Area	Floor Area / Parcel	Building Floor Area * # of Stories	Parcel Area * 4 Stories	Total Build Sq. Ft. / Max Build
501 S ETON	11,331	3,959	35%	3,959	45,326	9%
653 S ETON	54,444	24,705	45%	24,705	217,776	11%
677 S ETON	55,569	22,184	40%	22,184	222,275	10%
707 S ETON	7,335	2,602	35%	5,205	29,338	18%
953 S ETON	10,080	5,003	50%	5,003	40,320	12%
995 S ETON	11,200	4,263	38%	4,263	44,800	10%
925 S ETON	14,016	3,901	28%	3,901	56,062	7%
929 S ETON	11,104	7,146	64%	7,146	44,416	16%
757 S ETON	111,124	49,332	44%	55,640	444,496	13%
1041 S ETON	11,677	1,771	15%	1,771	46,706	4%
1081 S ETON	14,992	6,036	40%	6,036	59,968	10%
2203 HOLLAND	38,614	10,945	28%	10,945	154,456	7%
2200 HOLLAND	89,215	19,404	22%	19,404	356,860	5%
2275 COLE	55,729	14,241	26%	14,241	222,917	6%
2333 COLE	36,071	20,381	57%	20,381	144,285	14%
2330 COLE	36,451	13,057	36%	13,057	145,805	9%
2499 COLE	47,389	4,052	9%	4,052	189,554	2%
2388 COLE	33,531	Parking Lot	-	-	-	-
2182 COLE	20,754	2,816	14%	2,816	83,017	3%
2254 COLE	36,634	13,011	36%	13,011	146,536	9%
2300 COLE	17,196	5,682	33%	5,682	68,784	8%
2010 COLE	34,468	7,190	21%	7,190	137,871	5%
2006 COLE	10,877	3,185	29%	3,185	43,507	7%
2388 COLE	22,202	16,429	74%	16,429	88,807	19%
2400 COLE	62,645	19,461	31%	19,461	250,580	8%
2450 COLE	23,422	9,192	39%	9,192	93,687	10%
2295 E LINCOLN	53,994	33,402	62%	33,402	215,978	15%
2125 E LINCOLN	38,470	9,739	25%	9,739	153,879	6%
2335 E LINCOLN	61,009	15,992	26%	15,992	244,035	7%
Vacant	65,025	Vacant	-	-	-	-
Vacant	43,240	Vacant	-	-	-	-
Total	1,139,807	349,080	31%	357,991	3,992,042	9%



25

### Build-out Analysis

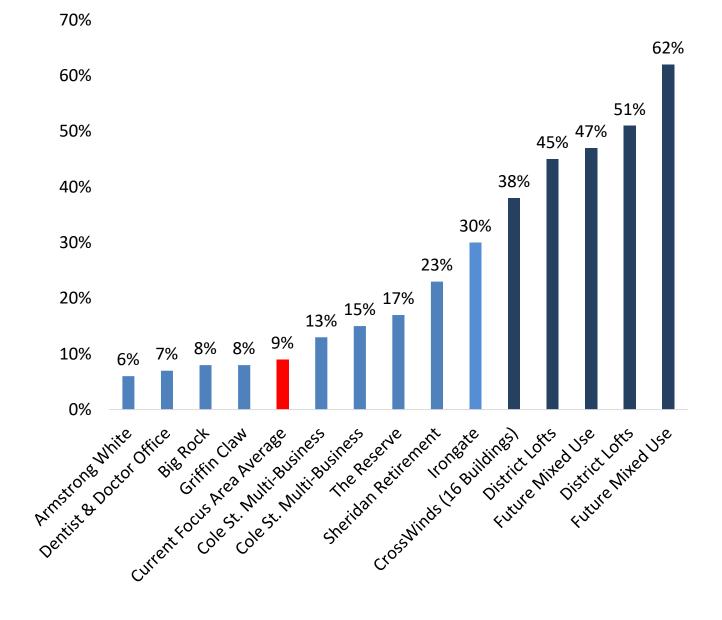
### **Determining Future Build-out**

Figure 5 illustrates the range of current build out within the study area. the light blue and dark blue columns represent buildings that are assumed to remain the same within the next 20 years. The light blue represents existing single use buildings. These buildings have lower values because most are one story in height, and do not maximize their square footage. The Sheridan Retirement home will be four stories, but has a large surface parking area throughout its parcel. Irongate ranges from two to three stories in height, and uses garage parking to maximize its space.

The dark blue columns in Figure 5 represent mixed-use buildings that are approved to be four stories in height, and they average a 49% build out rate. These buildings score higher values because they maximize their height and square footage, and contain enclosed parking with building area above.

The focus area's current build out rate ranges from 3% to 19% with an average of 9%, which is highlighted in the red column in Figure 5. All of the buildings in the focus area are one story with large surface parking lots. For future projections, it is important to determine how the Rail District would change if the buildings in the focus area were transformed from a 9% average build out to anywhere between 30-50%, similar to recent development projects in the study area.

#### Figure 5: Percent of Maximum Build Out





### **Future Build-out Analysis**

Table 3 illustrates the parking necessary for projected build-outs in the focus area. The three scenarios increase the focus area from its current 9% build-out to 30%, 40%, and 50% build out rates. These three values were selected by the committee based on recent development trends in the area with regards to size and mix of office/retail, restaurant, and residential uses.

Required parking spaces were then calculated from the floor area values at 30%, 40%, and 50% of maximum build out values. The first floor of the hypothetical build outs were assumed to be retail/office, requiring 1 space per 300 sq. ft, and floors 2-4 were assumed to be residential, requiring 1 parking space per 1000 sq ft. The total values are shown at the bottom of Table 3. The difference between these values and the existing number of parking spaces was then calculated to illustrate how many additional parking spaces would be required if the focus area developed at a 30%, 40%, and 50% build out rate (see Table 4).

### Table 3: Parking Projection

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Parcel Address	Current Parcel Sq.	Est. Max	Parking	Parking	Max Build Out Parking	Required	Required	Required
Parcel Address	Footage	Build Out	Requirement	Requirement	Requirement	Parking	Parking	Parking
	Tootage		Retail: 1st Floor	Residential:				
Assumptions		Parcel Area		Floors 2-4	100% Build	50% Build	40% Build	30% Build
		*4 Stories	1 per 300 sq. ft.	1 per 1000 sq. ft.	Out	Out	Out	Out
501 S ETON	11,331	45,326	38	34	72	36	29	22
653 S ETON	54,444	217,776	181	163	345	172	138	103
677 S ETON	55 <i>,</i> 569	222,275	185	167	352	176	141	106
707 S ETON	7,335	29,338	24	22	46	23	19	14
(Off Site)	65,025	-	-	-	-	-	-	-
757 S ETON	111,124	444,496	370	333	704	352	282	211
2203 HOLLAND	38,614	154,456	129	116	245	122	98	73
2200 HOLLAND	89,215	356,860	297	268	565	283	226	170
953 S ETON	10,080	40,320	34	30	64	32	26	19
995 S ETON	11,200	44,800	37	34	71	35	28	21
2275 COLE	55,729	222,917	186	167	353	176	141	106
2333 COLE	36,071	144,285	120	108	228	114	91	69
2330 COLE	36,451	145,805	122	109	231	115	92	69
925 S ETON	14,016	56,062	47	42	89	44	36	27
929 S ETON	11,104	44,416	37	33	70	35	28	21
2499 COLE	47,389	189,554	158	142	300	150	120	90
(Off Site)	43,240	-	-	-	-	-	-	-
2388 COLE	33,531	-	-	-	-	-	-	-
2182 COLE	20,754	83,017	69	62	131	66	53	39
2254 COLE	36,634	146,536	122	110	232	116	93	70
2300 COLE	17,196	68,784	57	52	109	54	44	33
2010 COLE	34,468	137,871	115	103	218	109	87	65
1041 S ETON	11,677	46,706	39	35	74	37	30	22
1081 S ETON	14,992	59,968	50	45	95	47	38	28
2006 COLE	10,877	43,507	36	33	69	34	28	21
2295 E LINCOLN	53,994	215,978	180	162	342	171	137	103
2125 E LINCOLN	38,470	153,879	128	115	244	122	97	73
2335 E LINCOLN	61,009	244,035	203	183	386	193	155	116
2388 COLE	22,202	88,807	74	67	141	70	56	42
2400 COLE	62,645	250,580	209	188	397	198	159	119
2450 COLE	23,422	93,687	78	70	148	74	59	45
Total	1,139,807	3,992,042	3,327	2,994	6,321	3,160	2,528	1,896
		*Not			*Not Probable			
		Probable						



### **Parking Requirement for Future Build-out**

Projecting future development is a complicated task. In this analysis, trends from recent developments in the Rail District are extrapolated into the focus area, and then basic assumptions are used to calculate how many extra parking spaces would be required. Although it is an inexact science, having a general idea of future parking needs is an important task. Doing so helps predict how many additional cars could be traveling through the district and how much parking is needed in the future. This can have an impact on traffic signals, road speeds, safety precautions, parking counts, and road design.

Detailed analysis of recent development trends show an average build-out of 26% within the study area. Based on these findings, the potential build out rates of 30%, 40%, and 50% were used, assuming that future developments will try to maximize available space and build four stories. The Ad Hoc Rail District Committee recommended reliance on the 30% build out rate for the buildout analysis to allow for a combination of mixed use, four story buildings which average around 50%, and single story office and restaurant uses which average around 10%, consistent with recent development trends.

There are currently 826 parking spaces in the parking lots within the focus area. Table 4 illustrates additional parking needed based on the build out projections, which range from an additional 1,070 parking spaces if the focus area is built out to 30%, 1702 spaces at 40%, and 2,334 spaces if the focus area is built out to 50% buildout.

If future development trends towards buildings with less of an upfront cost than 4 stories and underground parking, the additional parking spaces required would drop substantially. Also, the 1,070 additional parking spaces at 30% build out projection is based on an assumption that every parcel identified in red in Figure 3 and Table 2 is redeveloped. We have seen a large amount of repurposing in the Rail District, especially on Cole Street, and if future land owners choose repurposing of current buildings over redevelopment, the projected parking spaces would see a substantial drop as well.

Many of the parcels in the focus area do not have enough space to provide required parking for 4 stories of retail and residential uses unless they build an underground parking facility. Based on recent development trends in the area, this is unlikely to occur and thus, buildout rates will likely remain in the 20-30% range of maximum build-out, requiring less than 1,070 additional parking spaces in the study area. It is important to note that based on the current standards, all of these additional parking spaces must be provided by individual property owners and/or developers. Thus, the City need only focus on encouraging an efficient use of private parking facilities, and ensuring good right-of-way design to accommodate additional vehicle traffic and balance the needs of non-motorized users. The provision of additional public parking is not warranted now, nor in the near future.

### Table 4: Future Parking Needs

Focus Area Build Out Rate	Projected Parking Spaces	Projected Additional Spaces
Current	826	-
100%	6,321	5 <i>,</i> 495
50%	3,160	2,334
40%	2,528	1,702
30%	1,896	1,070

#### Figure 6



### Recommendations

The following recommendations are offered by the Ad Hoc Rail District Committee.

### Recommendation 1: Improve Pedestrian Crossings

**Issues:** Some crosswalks and intersections along S. Eton Road are dangerous due to the lack of visibility they create for pedestrians attempting to cross the street. Traffic is heavy and often exceeds the posted speed limit.

**Recommendation:** Construct bump-out curbs throughout the study area.

A bump-out curb is a traffic calming method in which a sidewalk is extended to reduce the crossing distance at intersection. In doing so, sight distance and sight lines for pedestrians are improved, vehicles are encouraged to slow down, and parked cars are prevented from obstructing crosswalk areas.

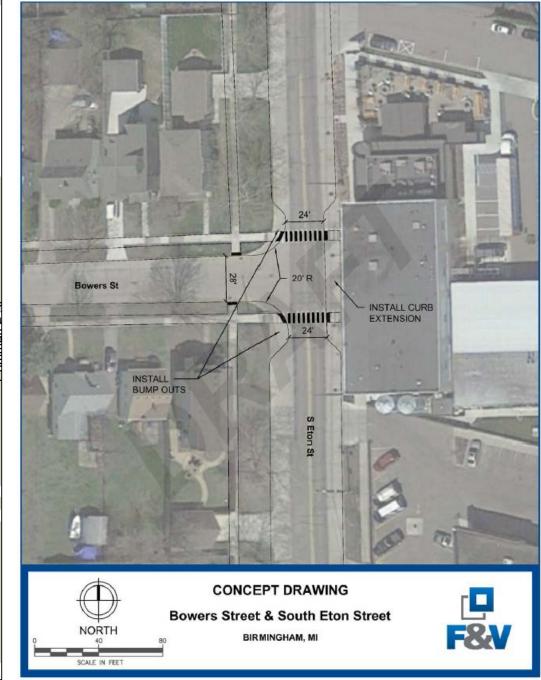
Building on the recommendations of the MMTP, the Committee identified additional intersections that appeared to be strong candidates for bump-out curbs. The map to the right illustrates the possible locations for bump-outs along S. Eton that were identified as priorities for further study. Intersections along S. Eton are as follows: Maple, Yosemite, Villa, Hazel, Bowers, Holland, Webster, Cole, Lincoln, Melton, Sheffield and 14 Mile Road.

Please also note the sample engineering drawing of proposed improved pedestrian crossings at Bowers and S. Eton. As demonstrated, the installation of two bump-out curbs and a curb extension at this intersection could provide a safer, more visible pedestrian crossing point without obstructing right and left turn accessibility for vehicles. The Committee further recommends the use of accent materials to create a plaza feel at this intersection. Benches, planters, and bicycle parking are also recommended.

### **Possible Bump-out Locations**



### Sample Engineering Drawing of Bump-out Curbs



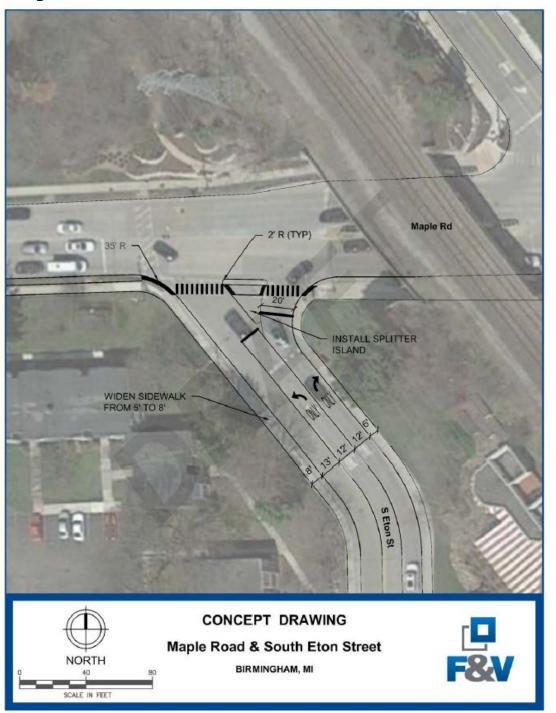
### Recommendation 2: Intersection Improvements at Maple & S. Eton

**Issues:** The intersection of E. Maple and S. Eton does not provide a safe pedestrian experience. With a crossing distance of 88 feet, pedestrians are expected to traverse a very wide street in a short amount of time. This intersection, especially at the southwest corner, exhibits visual barriers that make it difficult for vehicles turning right to detect a crossing pedestrian.

**Recommendations:** Install a splitter island at the crosswalk at S. Eton and Maple, widen the sidewalk on the west side of S. Eton, restripe S. Eton to realign lanes, and add enhanced crosswalk markings.

Elevated splitter islands are installed on roads with low visibility and high vehicle speeds as a way to call attention to an approaching intersection and to urge drivers to slow down. The splitter island also provides pedestrians with refuge for crossing traffic and provides greater detectability of the pedestrians by motorists.

### Sample Engineering Drawing of Proposed Improvements





### Recommendation 3: Accommodate Bicycling on S. Eton

**Issues:** There are a significant number of bicyclists who traverse along S. Eton Road. The current road conditions in the Rail District are not favorable to those travelling by bicycle because no demarcation exists between the parking lanes and the driving lanes. Additionally, the inconsistent pavement treatment (asphalt and concrete) along S. Eton creates a seam between the driving and parking lanes, presenting an obstacle for bicyclists. Suggestions have been made to organize the street in order to make conditions safer for cyclists.



As shown in the picture above, a bicyclist rides through a narrow stretch of S. Eton where cars are parked on both sides. Bicyclists in the Corridor currently share lanes with vehicle traffic.

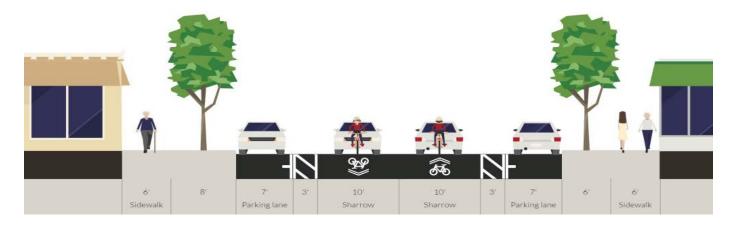
**Recommendations:** Add sharrows and buffers to S. Eton from Yosemite to 14 Mile. Maintain sharrows and accommodate parking south of Lincoln where possible. See illustration to the right for the preferred street design option.

While it is common to channel on-street bicyclists using a single line to divide the street lane, there are other alternatives such as a shared lane or "sharrow," which can comfortably accommodate bikes on the street without a designated lane.

The Committee reviewed several options for bike lanes along S. Eton, but recommended providing sharrow markings with 3' buffers. Unlike the other options that explored designated bike lanes, this design allows for comfortable bicyclist passage without the elimination of on-street parking, it works well given the current inconsistent pavement treatment along S. Eton, and allows for the addition of curb bump outs all along S. Eton.

City of Birmingham

### **Preferred Option: Use of Sharrows and Buffers**



• Mark 7' Parking Space – 3' Buffer – 2x10' Driving Lane – 3' Buffer – 7' Parking Space

### **Recommendation 4: Encourage Shared Parking**

**Issue:** Many properties are dominated by excessively large parking lots that are not being efficiently used. Vast parking lots in the district are vacated after peak business hours and remain empty throughout the evening because of restricted access, while other lots overflow around restaurants in the evenings.



Empty parking lots can be found throughout the study area.

Shared parking is a land use strategy that efficiently uses parking capacity by allowing adjacent and/or compatible land uses to share spaces, instead of providing separate spaces for separate uses. Often, a shared parking agreement is put in place between two or more property owners and the jurisdiction to ensure parking spaces on a site are made available for other uses at different times throughout the day.

**Recommendation:** Encourage shared parking in the district by providing the zoning incentives for properties and/or businesses that record a shared parking agreement. Incentives could include parking reductions, setback reductions, height bonuses, landscape credits, or similar offers.

Amend the shared parking provisions to simplify the calculations to determine required parking based on industry standards and eliminate the need to hire a consultant to prepare shared parking studies. See table to the right for an example of a shared parking calculation from Victoria Transport Policy Institute.

### Sample Shared Parking Occupancy Rates Table

This table defines the percent of the basic minimum needed during each time period for shared parking. (M-F = Monday to Friday)

Uses	M-F	M-F	M-F	Sat. & Sun.	Sat. & Sun.	Sat. & Sun.
	8am-5pm	6pm-12am	12am-6am	8am-5pm	6pm-12am	12am-6am
Residential	60%	100%	100%	80%	100%	100%
Office/ Warehouse /Industrial	100%	20%	5%	5%	5%	5%
Commercial	90%	80%	5%	100%	70%	5%
Hotel	70%	100%	100%	70%	100%	100%
Restaurant	70%	100%	10%	70%	100%	20%
Movie Theater	40%	80%	10%	80%	100%	10%
Entertainment	40%	100%	10%	80%	100%	50%
Conference/Convent ion	100%	100%	5%	100%	100%	5%
Institutional (non- church)	100%	20%	5%	10%	10%	5%
Institutional (church)	10%	5%	5%	100%	50%	5%

Courtesy of Victoria Transport Policy Institute

### Recommendations

### Recommendation 5: Add Wayfinding Signage

**Issue:** Currently, the Eton Rail District lacks any uniform signage to help navigate drivers, pedestrians, and bicyclists to their desired destination. Long dead-end streets such as Cole St. and Holland St. where many businesses are located do not have any signage along S. Eton, the main thoroughfare of the Rail District.

**Recommendation:** Install gateway signage at the north and south ends of the study area and install wayfinding signage throughout the Rail District to direct people to destinations and parking.

Wayfinding and signage are tools that provide information relating to direction, distance, and location. Signs have an important role in the public right of way and can enhance an area's sense of place. **Design Concept for Wayfinding Signage at S. Eton and Lincoln Entrance** 







# Memo

То:	Ms. Jana Ecker Planning Director City of Birmingham	
From:	Michael J. Labadie, PE Julie M. Kroll, PE, PTOE Lindsay Sagorski Munsell, PE Fleis & VandenBrink	
Date:	December 27, 2016	
Re:	City of Birmingham Rail District Birmingham, Michigan Parking Study & Pedestrian Improvement Analysis	

#### Introduction

This memorandum presents the results of a Parking Study and Pedestrian Improvement Analysis for the City of Birmingham Rail District. The Rail District is generally the area south of Maple Road, north of Lincoln Street, east of South Eton Street, and west of the railroad tracks.

On January 11, 2016, the Ad Hoc Rail District Commission was established and includes seven members. The members are tasked with developing a plan to address the current and future parking demands within the district that align with both the planning goals and multi-modal opportunities for the Rail District. This study was performed to assist in the development of this plan and achieving their goals.

The scope of this study was provided by the City of Birmingham Planning Department and the Ad Hoc Rail District Commission Ad Hoc Rail District Commission and includes an evaluation of the existing peak period parking demand within the Rail District and an evaluation of pedestrian improvements at intersections identified by the Commission for review.

#### **Data Collection**

Peak period parking occupancy data for both on-street and off-street parking areas within the Rail District was collected by the City of Birmingham personnel on Friday, September 23, 2016 and September 30, 2016, and Wednesday, September 28, 2016. Peak period parking occupancy counts were collected in 1-hour intervals during the PM peak period (4:00 PM to 7:00 PM). This data was used as a baseline to establish existing peak period parking occupancy. Additionally, F&V collected an inventory of pedestrian and vehicular facilities within the Rail District. The applicable data referenced in this memorandum are attached.

#### **Existing Parking Conditions**

Based on the peak period parking occupancy data, the Rail District was divided into two zones: North of Holland Street and South of Holland Street, as shown in the attached parking analysis zone map. Available parking spaces were studied in three different categories: off-street parking (private-parcel), on-street parking (non-residential), and on-street parking (residential). Residential on-street parking was defined as parking spaces in front of a residential land uses. These spaces were studied separately in order to determine the commercial

development impacts on neighborhood parking. The results of the study are summarized in Table 1 and the detailed parking analysis tables are attached.

		Wee	ekday 4-5	5PM	Wee	kday 5-6	РМ	We	ekday 6-	7PM	
		North Zone	South Zone	Total	North Zone	South Zone	Total	North Zone	South Zone	Total	
	Available	1,080	1,343	2,423	1,080	1,343	2,423	1,080	1,343	2,423	
Total	Occupied	270	535	805	289	413	702	327	434	761	
	Percent Occupancy	25%	40%	33%	27%	31%	29%	30%	32%	31%	
		Friday 4-5 PM			Fri	iday 5-6PI	М	Friday 6-7PM			
		North Zone	South Zone	Total	North Zone	South Zone	Total	North Zone	South Zone	Total	
	Available	1,080	1,343	2,423	1,080	1,343	2,423	1,080	1,343	2,423	
Total	Occupied	385	447	832	401	360	761	411	357	768	
	Percent Occupancy	36%	33%	34%	37%	27%	31%	38%	27%	32%	

#### **Table 1: Existing Parking Conditions**

#### Parking Analysis

#### North Zone

The north zone includes the area of the Rail District north of Holland Street and contains the Griffin Claw Brewing Company, Big Rock restaurant, and the Reserve event venue as well as the District Lofts apartments and townhomes and a few additional commercial businesses. South Eton Street runs north/south through the entire area and Maple Road borders to the north.

The north zone experiences its highest parking demand during nights and weekends (includes Friday). During the Friday PM peak period from 6-7PM, 44% of the off-street parking spaces, 61% of the on-street parking (non-residential), and 22% of the on-street (residential) spaces were occupied.

#### Off-Street Parking

The Griffin Claw Brewing Co., The Reserve and Big Rock are the biggest parking generators in the north zone. The Big Rock restaurant and the Reserve event venue owns the parking garage that is used for valet parking. The valet is free during lunch hours (11:00 AM to 4:00 PM) and costs \$5 after 4:00 PM. If a restaurant patron does not wish to valet their vehicle they must use the available on-street parking. Based on the data collected, the 272 space parking garage is underutilized.

The Griffin Claw Brewing Company had the most utilized parking lot in the north zone. This lot provides 77 self-park spaces, which was 94% occupied (72 vehicles) during the peak hour. The least occupied off-street parking lots in the area included the Bolyard Lumber Company and the Whistle Stop (closes at 3:00PM). Together, these two parcels contain 39 parking spaces, which could be an opportunity for a shared parking agreement during the nights and weekends.

#### On-Street Parking

On-street parking is also in high demand in the north zone. During the peak hour there were no available spaces on South Eton Street northbound between Haynes Street and Palmer Court, South Eton Street southbound from Holland Street to Bowers Street, or on Palmer Court. These locations are all in the direct vicinity of the brewing company.

The residential areas in the north zone include the neighborhood to the west of the Rail District and the District Lofts townhomes within the rail district. Hazel Street, Bowers Street, and Haynes Street are restricted to permit parking only. Overall, the on-street (residential) parking areas see minimal impact from overflow parking from the commercial developments; with an average occupancy of on-street parking at 13-22% during both weekday and Friday from 4:00-7:00 PM.



However, during the peak hour there was 100% occupancy on the north side of Yosemite Boulevard between Columbia Street and South Eton Street and 63% occupancy on the south side of Villa Road between Columbia Street and South Eton Street. These locations are near the Big Rock restaurant, and adjacent to the areas with residential permit parking.

#### South Zone

The south zone includes the area of the Rail District south of Holland Street, and north of Lincoln Street, and both east and west of South Eton Street.

The south zone includes a variety of commercial, office and specialty retail businesses including: yoga, swim school, dog trainers, and salons. The highest parking demand occurs in this area during weekday daytime hours. The peak hour included in the analysis is during the weekday on from 4:00-5:00 PM; with 46% of the off-street parking spaces, 25% of the on-street parking (non-residential), and 18% of the on-street (residential) spaces were occupied.

#### Off-Street Parking

As is typical of the land uses, many of the off-street parking lots were near capacity during the peak hour and were relatively vacant after 5:00PM. This may be an opportunity for shared parking agreements to relieve some parking demand in the north zone.

#### On-Street Parking

The on-street parking (non-residential) during the weekday and Friday peak periods is approximately 25% occupied, but the majority of vehicles were parked on Commerce Street and Cole Street. Lincoln Street has 47 available on-street (non-residential) parking spaces which could be utilized for future development of the Rail District. The available parking in the south zone may also be utilized by the demand from the north zone; however, the average distance from Lincoln Street to the popular businesses in the north zone is approximately  $\frac{1}{2}$  mile and people are more likely to seek closer on-street (residential) parking.

The residential area includes the neighborhood to the west and is not significantly impacted by spillover parking from the Rail District. The occupancy of on-street parking remained consistent at 16-18% during both weekday and Friday from 4:00-7:00 PM.

#### **Pedestrian Improvement Analysis**

#### Maple Road & South Eton Street

The intersection of Maple Road & South Eton Street is a three-leg signal controlled intersection with Maple Road comprising the east and west legs and South Eton Street comprising the south leg of the intersection. Maple Road is the northern border of the Rail District and South Eton Street is the north/south street through the Rail District. The Ad Hoc Rail District Commission provided the following recommendations for improvements for review:

- Widening the sidewalk on the west side of South Eton Street
- Splitter island on northbound South Eton Street at Maple Road
- Larger bumpout on the east side of South Eton Street

#### Sidewalk West side of South Eton Street

The sidewalk for review is located on the west side of South Eton Street and extends south from Maple Road to approximately 80 feet north of Villa Road. The sidewalk is 5 feet wide and is flush against the curb and gutter. The existing width meets ADA Standards, however, an 8 to 10-foot sidewalk is desired when the sidewalk is flush against the curb and gutter (*AASHTO Guide for Planning, Design, and Operation of Pedestrian Facilities*). Widening the sidewalk to the west is not feasible due to the retaining wall located at the intersection. However, the southbound lane width could be reduced from 16 feet to 13 feet to accommodate an 8-foot sidewalk, as shown in the attached concept drawing. There is currently no parking at this location, therefore, parking will not be impacted.

#### Splitter Island

The existing pedestrian crossing on the south leg of the intersection is approximately 88 feet due to the skew of the intersection. Splitter islands should be considered when crossing distance exceeds 60 feet (AASHTO



*Guide for Planning, Design, and Operation of Pedestrian Facilities*). Installing a raised splitter island, as shown in the attached concept drawing, would give the pedestrian a refuge for crossing traffic and provide greater detectability of the pedestrians by motorists. The splitter island should be designed to accommodate the right-turn movement of trucks and snow plows.

#### East Side Bumpout

The curb radius on the southeast corner was evaluated to determine if creating a bumpout to reduce the eastwest crossing distance at this intersection was feasible. A WB-40 trailer was simulated through the turning movements at this intersection and it was determined that the radius could be reduced slightly from 28-ft to 25ft; however, this would not result in a significant decrease in the crossing distance. Therefore, this improvement is not recommended at this intersection. This concept and the truck turning template are attached.

#### **Bowers Street & South Eton Street**

The intersection of Bowers Street & South Eton Street is three-leg intersection, with stop control on the Bowers Street approach. The Griffin Claw Brewing Company is located on the east side of the intersection with Bowers Street. The Ad Hoc Rail District Commission requested an evaluation of the impact of the following geometric changes on pedestrian and vehicular traffic:

- Bumpouts on Bowers Street and/or South Eton Street
- Pedestrian Islands on South Eton Street.

#### **Bumpouts**

The pedestrian crossing on Bowers Street is approximately 28 feet. To maintain two-way traffic on Bowers Street it is not recommended that the roadway width is further reduced.

The pedestrian crossings South Eton Street are approximately 43 feet. This roadway has more width to accommodate bumpouts than Bowers Street. In addition, a larger curb extension on the east side of South Eton could be accommodated at this location. This is shown on the attached concept drawing for this intersection. Bumpouts and curb extensions would reduce the crossing distance for pedestrians, improve the sight distance and sight lines for pedestrians, slow down vehicles, and prevent parked cars from encroaching into the crosswalk areas, as well as provide an area for streetscape improvements and community signing. Additional curb extensions could also be installed on South Eton Street at other popular crossing locations to improve the safety of pedestrians and provide continuity to the South Eton Street corridor.

#### Pedestrian Islands

The addition of pedestrian islands on South Eton was evaluated. The existing roadway width on South Eton Street provides enough space for two 12-foot drive lanes, 8-foot parking lanes on both sides, and a 5-foot pedestrian island. Vehicular lanes could also be reduced to 11 feet to provide a 7-foot island. A raised pedestrian island would improve pedestrian safety and slow down traffic, however, extending it throughout the South Eton Street corridor would greatly impact the access to businesses along the corridor, as there are many driveways adjacent to the roadway. The turning movements at this intersection would also be restricted. The raised medians would also need maintenance and may also impact the ability of snow plows to service the roadway and private parcels.

#### Conclusion

The conclusions of this Parking Study and Pedestrian Improvement Analysis are as follows:

- 1. In the north zone, off-street and on-street (non-residential) parking demand is high and the existing spill over parking is impacting Yosemite Boulevard and Villa Road.
- 2. In the south zone, most off-street parking is at capacity during the weekday, daytime hours but is not significantly impacting the on-street (non-residential and residential) parking.
- 3. Parking demand at the Whistle Stop, Bolyard Lumbar, and various businesses in the south zone provide an opportunity for shared parking agreements during the nights and weekends
- 4. Lincoln Street has ample on-street (non-residential) parking supply and could be utilized for future development of the Rail District.

- 5. Pedestrian improvements recommended by the Ad Hoc Rail District Commission were analyzed and the following are feasible:
  - a. Splitter island on South Eton Street at Maple Road.
  - b. Widening sidewalk on west side of South Eton Street at Maple Road
  - c. Installing bumpouts and a curb extension on South Eton Street at Bowers Road and other popular pedestrian crossings
  - d. Streetscape improvements and community signage throughout the district with an emphasis on South Eton Street and the northern and southern boundaries.
- Attached: Parking Analysis Zones Concept Drawings (3) Parking Data Analysis Private Parcel Parking Spaces Parking Count Data

LMS:jmk

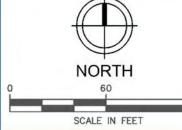


### PARKING ANALYSIS ZONES

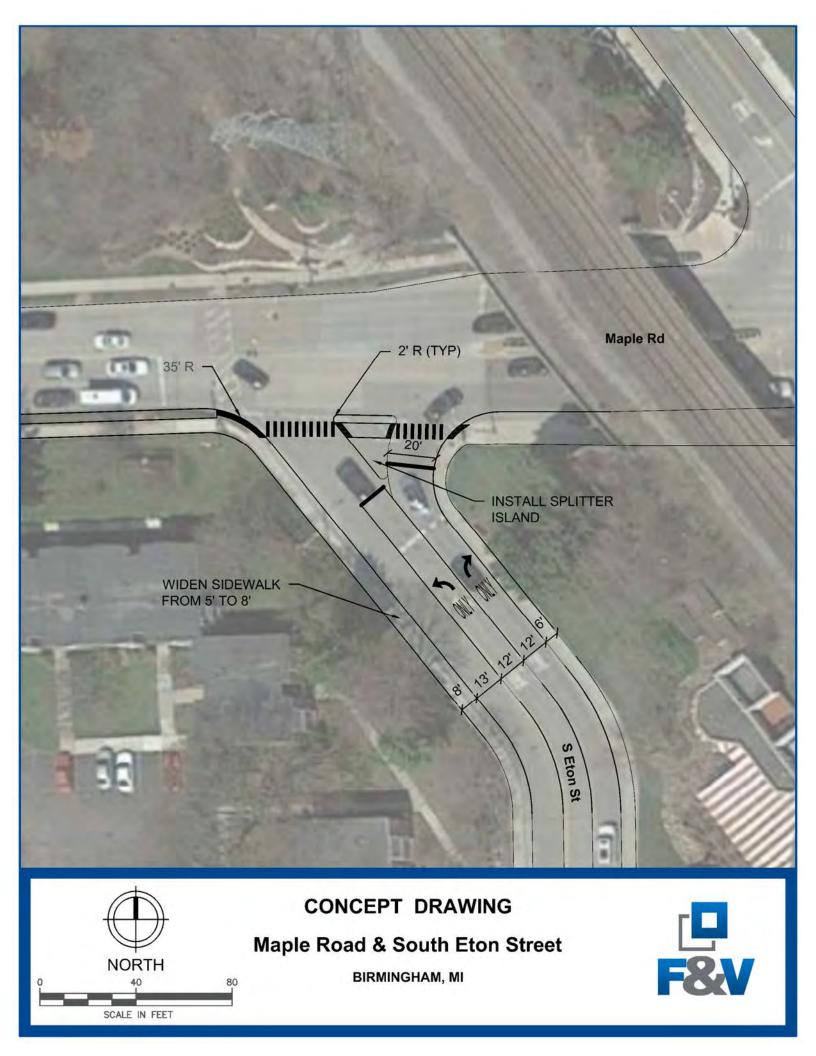
**City of Birmingham Rail District** 

**BIRMINGHAM, MI** 





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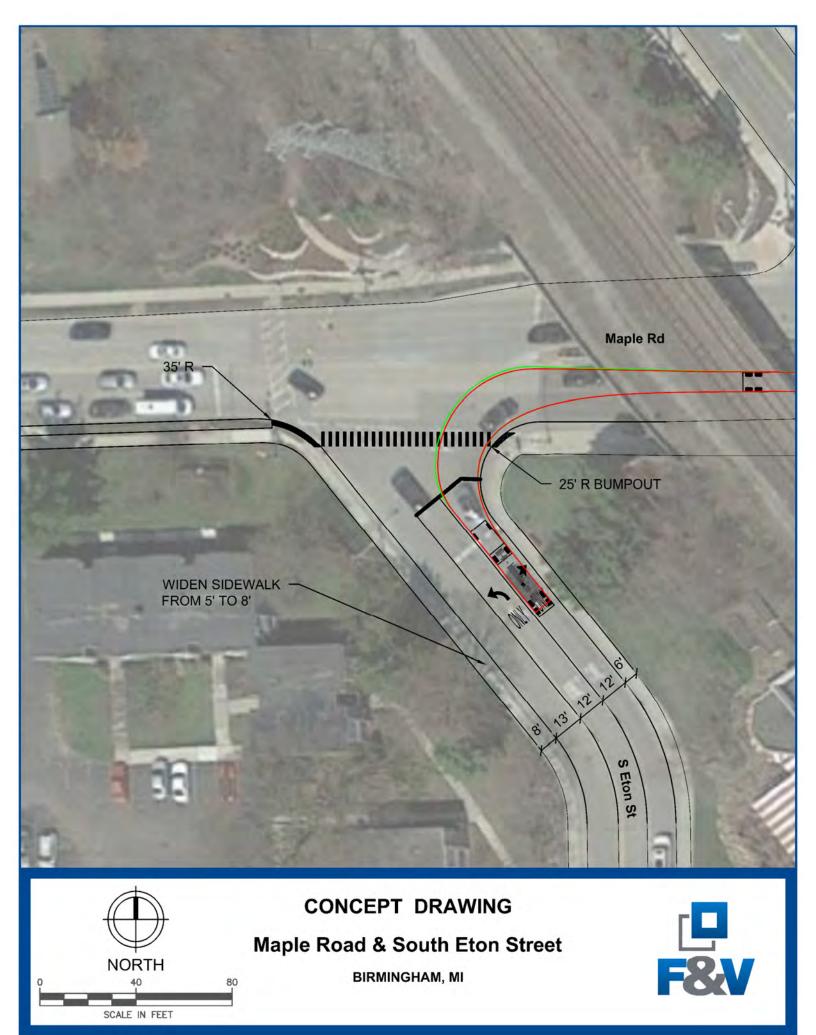
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### **CONCEPT DRAWING**

### **Bowers Street & South Eton Street**

**BIRMINGHAM, MI** 





		0	ccupied Spa	aces per Ho	ur		
PEAK HOUR ANALYSIS	V	Wed, Sept. 28 Fri, Sept. 23					
	4pm	5pm	6pm	4pm	5pm	6pm	
TOTAL NORTH ZONE	270	289	327	385	401	411	
TOTAL SOUTH ZONE	535	413	434	447	360	357	

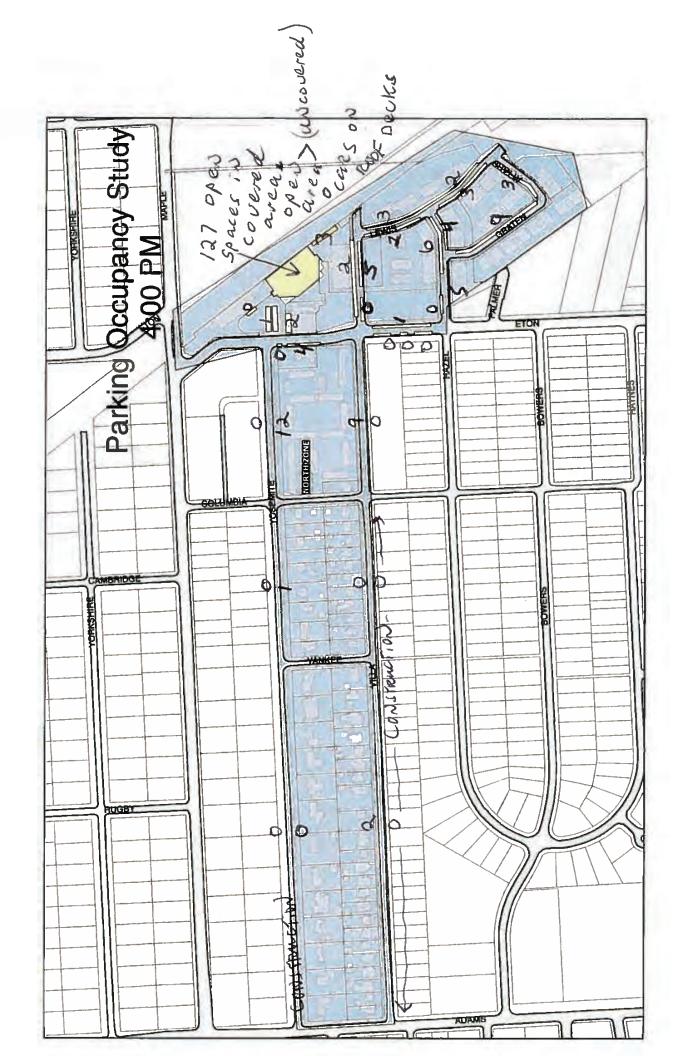
				Priv	vate Parcel	Parking										
			Occupied Spaces per Hour							Percent Occupied						
Zone	Location	TOTAL Available	١	Ved, Sept. 2	28		Fri, Sept. 23	3		Fri, Sept. 23	3		Fri, Sept. 23	3		
20116	Location	Spaces	4pm	5pm	6pm	4pm	5pm	6pm	4pm	5pm	6pm	4pm	5pm	6pm		
	Parking Garage*	272	79	88	78	110	121	47	29%	32%	29%	40%	44%	17%		
	The Reserve and Big Rock	34	3	5	23	5	0	29	9%	15%	68%	15%	0%	85%		
	District Lofts	10	3	3	6	6	4	4	30%	30%	60%	60%	40%	40%		
Ð	Whistle Stop	11	0	3	0	0	0	2	0%	27%	0%	0%	0%	18%		
Zon	Griffin Claw Brewing Co.	77	14	29	63	58	60	72	18%	38%	82%	75%	78%	94%		
North Zone	The Robot Garage	44	11	12	15	9	15	27	25%	27%	34%	20%	34%	61%		
z	Autoshop	71	52	49	45	60	57	59	73%	69%	63%	85%	80%	83%		
	Law Firm	15	3	3	0	5	3	1	20%	20%	0%	33%	20%	7%		
	Bolyard Lumber Co.	11	4	4	2	3	2	2	36%	36%	18%	27%	18%	18%		
	Bolyard Lumber Co.	17	5	5	0	10	7	2	29%	29%	0%	59%	41%	12%		
	Birmingham Public School Transportation	81	2	2	0	0	0	3	2%	2%	0%	0%	0%	4%		
	Downriver Refrigeration Supply	21	11	6	3	3	0	6	52%	29%	14%	14%	0%	29%		
		9	9	5	4	6	3	0	100%	56%	44%	67%	33%	0%		
	Canine Academy	9	9	9	3	2	3	2	100%	100%	33%	22%	33%	22%		
	Classic Country Antiques	13	11	7	12	10	4	2	85%	54%	92%	77%	31%	15%		
	Born Yoga	90	79	56	47	61	53	34	88%	62%	52%	68%	59%	38%		
	Mixed Commercial	19	14	5	5	15	8	2	74%	26%	26%	79%	42%	11%		
	Mixed Commercial	100	29	29	43	33	30	27	29%	29%	43%	33%	30%	27%		
	Detroit Kung Fu Studio	19	1	1	0	15	12	6	5%	5%	0%	79%	63%	32%		
		56	31	31	29	21	20	14	55%	55%	52%	38%	36%	25%		
	Bob Adams Towing	5	3	3	3	4	5	4	60%	60%	60%	80%	100%	80%		
one		21	7	3	2	2	0	0	33%	14%	10%	10%	0%	0%		
South Zone	RJS Tool and Garage	4	0	0	0	0	0	0	0%	0%	0%	0%	0%	0%		
SoL		29	3	3	2	1	2	3	10%	10%	7%	3%	7%	10%		
	Armstrong White Advertising	58	38	37	13	25	20	7	66%	64%	22%	43%	34%	12%		
		5	5	5	3	3	1	2	100%	100%	60%	60%	20%	40%		
		57	4	4	2	4	6	3	7%	7%	4%	7%	11%	5%		
	Burley Guys Junk Removal	22	10	4	7	3	6	7	45%	18%	32%	14%	27%	32%		
	Mixed Commercial	40	16	9	7	9	8	7	40%	23%	18%	23%	20%	18%		
	Dogtopia Birkram	16	16	14	11	16	10	10	100%	88%	69%	100%	63%	63%		
	Cole Street Collision	45	45	45	45	45	45	45	100%	100%	100%	100%	100%	100%		
		30	23	16	16	16	16	16	77%	53%	53%	53%	53%	53%		
	Goldfish Swim School	53	52	0	58	42	0	37	98%	0%	109%	79%	0%	70%		
	Newingham Dental Center*	46	10	12	13	0	1	2	22%	26%	28%	0%	2%	4%		
	Raquet Club and Skate Park	163	39	49	55	45	53	64	24%	30%	34%	28%	33%	39%		
	TOTAL NORTH ZONE	562	174	201	232	266	269	245	31%	36%	41%	47%	48%	44%		
	TOTAL SOUTH ZONE	1011	467	355	383	381	306	303	46%	35%	38%	38%	30%	30%		

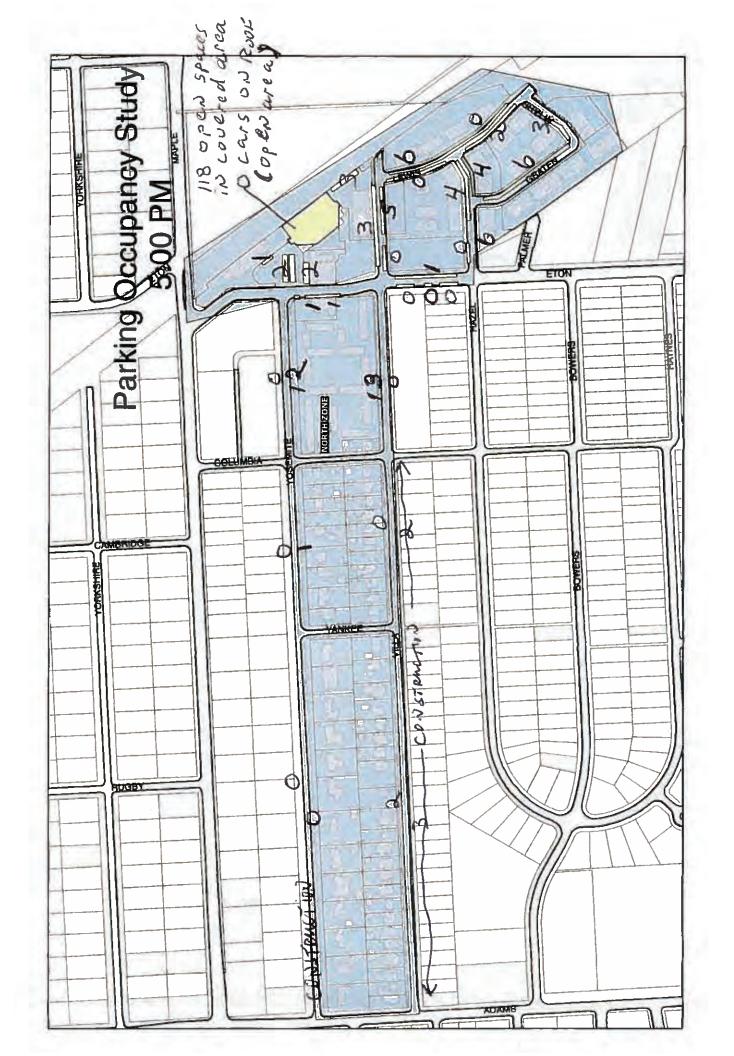
\*The 6pm count for the parking garage and all Fri. counts for the dental center were taken on Fri, Sept 30.

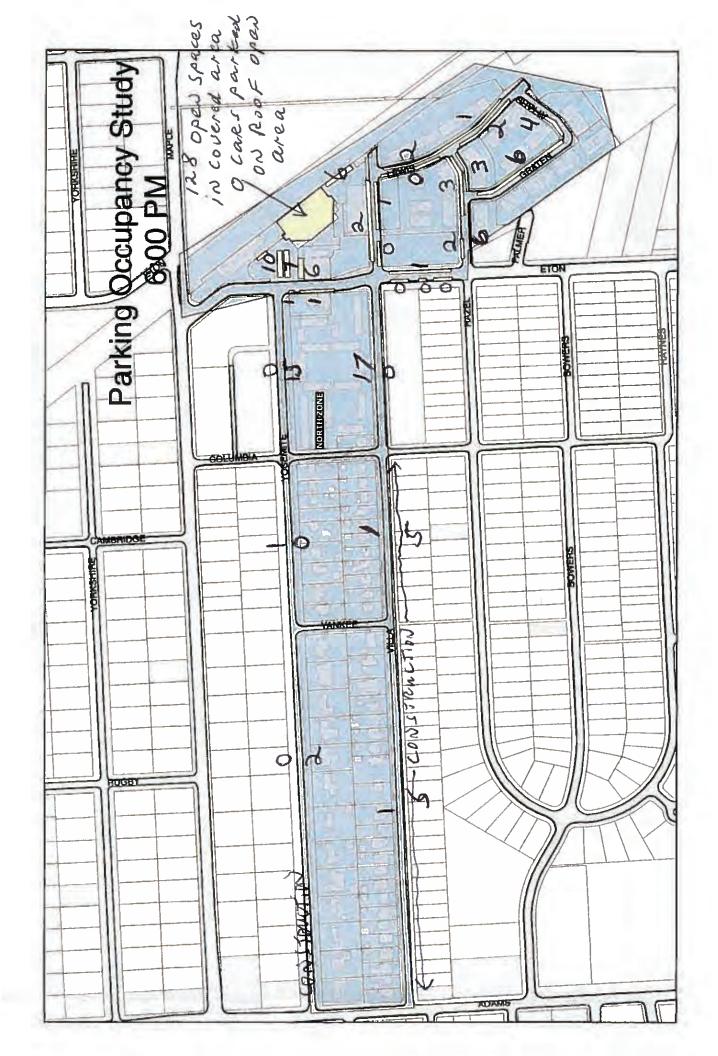
				On Stree	t Parking (I	Non-Reside	ntial)								
				C	ccupied Spa	aces per Ho	ur		Percent Occupied						
Zone	Location	TOTAL Available	Wed, Sept. 28				Fri, Sept. 23			Fri, Sept. 23			Fri, Sept. 23		
20116	Location	Spaces	4pm	5pm	6pm	4pm	5pm	6pm	4pm	5pm	6pm	4pm	5pm	6pm	
	Eaton St NB - Hazel to Villa	12	1	1	1	2	7	8	8%	8%	8%	17%	58%	67%	
	Eaton St SB - Villa to Yosemite	7	4	2	2	4	6	4	57%	29%	29%	57%	86%	57%	
	Eaton St SB - Hazel to Villa	9	0	0	0	3	2	4	0%	0%	0%	33%	22%	44%	
	Villa WB - Eaton to Lewis	15	2	3	2	1	7	4	13%	20%	13%	7%	47%	27%	
	Hazel EB - Graten to Lewis	6	4	4	3	6	5	3	67%	67%	50%	100%	83%	50%	
	Hazel WB - Eton to Lewis	14	6	4	5	8	8	9	43%	29%	36%	57%	57%	64%	
	Eaton St NB - Palmer to Hazel	5	2	1	0	0	2	3	40%	20%	0%	0%	40%	60%	
e	Eaton St NB - Bowers to Palmer	4	2	3	3	3	3	4	50%	75%	75%	75%	75%	100%	
North Zone	Eaton St NB - Haynes to Bower	7	3	2	1	3	3	7	43%	29%	14%	43%	43%	100%	
orth	Eaton St NB - Webster to Holland	7	1	0	0	0	0	2	14%	0%	0%	0%	0%	29%	
z	Eaton St NB - Cole to Webster	10	8	5	2	8	7	7	80%	50%	20%	80%	70%	70%	
	Eaton St SB - Bowers to Hazel	10	2	2	4	1	6	7	20%	20%	40%	10%	60%	70%	
	Eaton St SB - Haynes to Bower	7	0	0	0	0	1	7	0%	0%	0%	0%	14%	100%	
	Eaton St SB - Holland to Haynes	4	0	0	0	1	1	4	0%	0%	0%	25%	25%	100%	
	Eaton St SB - Webster to Holland	5	0	0	1	0	0	0	0%	0%	20%	0%	0%	0%	
	Eaton St SB - Cole to Webster	3	3	0	0	0	0	0	100%	0%	0%	0%	0%	0%	
	Palmer St EB	3	3	2	3	3	3	3	100%	67%	100%	100%	100%	100%	
	Palmer St WB	6	4	4	5	4	4	6	67%	67%	83%	67%	67%	100%	
	Eaton NB - Lincoln to Cole	13	0	0	0	0	0	1	0%	0%	0%	0%	0%	8%	
e	Eaton SB - Lincoln to Cole	7	0	0	0	0	0	0	0%	0%	0%	0%	0%	0%	
Zon	Cole EB - Eaton to End	26	7	5	3	2	5	2	27%	19%	12%	8%	19%	8%	
South Zone	Cole WB - Eaton to End	25	17	13	11	21	12	10	68%	52%	44%	84%	48%	40%	
Ň	Commerce NB - Lincoln and Cole	7	7	6	0	6	0	5	100%	86%	0%	86%	0%	71%	
	Lincoln WB - Eaton to End	47	0	0	0	0	0	0	0%	0%	0%	0%	0%	0%	
	TOTAL NORTH ZONE	134	45	33	32	47	65	82	34%	25%	24%	35%	49%	61%	
	TOTAL SOUTH ZONE	125	31	24	14	29	17	18	25%	19%	11%	23%	14%	14%	

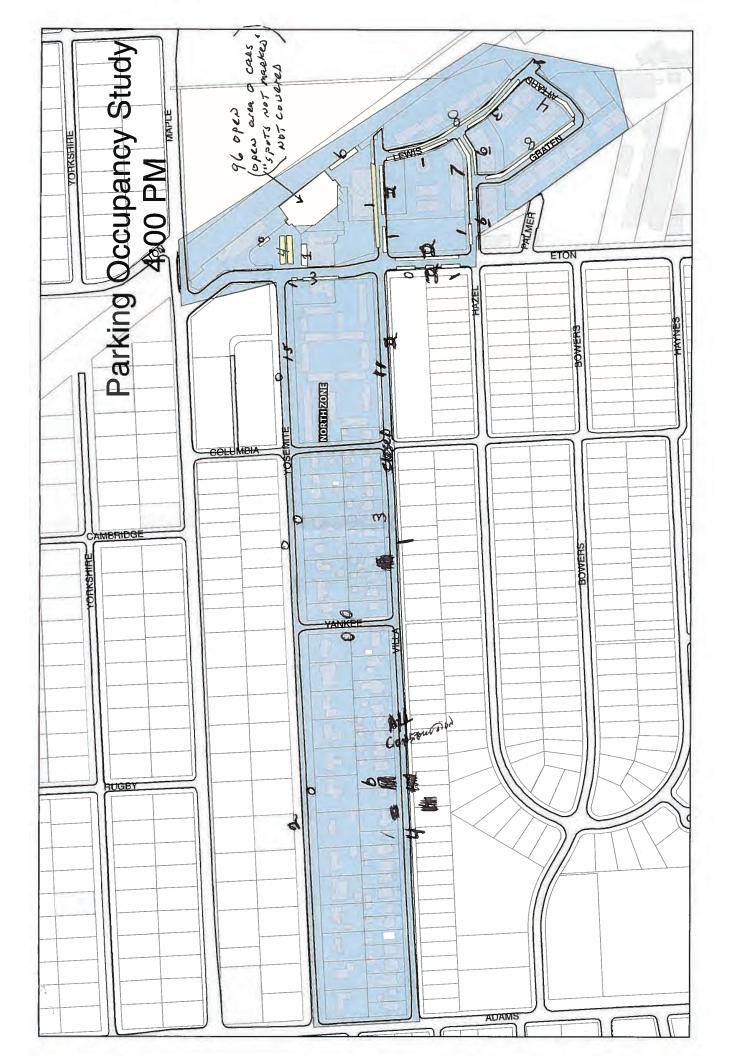
				On S	Street Parki	ng (Residen	tial)							
				0	ccupied Spa	aces per Ho	ur				Percent	Occupied		
Zone	Location	TOTAL Available	V	Ved, Sept. 2	28		Fri, Sept. 23	3		Fri, Sept. 23	3		Fri, Sept. 2	3
Lone		Spaces	4pm	5pm	6pm	4pm	5pm	6pm	4pm	5pm	6pm	4pm	5pm	6pm
	Yosemite EB - Adams to Yankee	44	0	0	2	0	0	0	0%	0%	5%	0%	0%	0%
	Yosemite EB - Yankee to Columbia	19	1	1	0	0	0	0	5%	5%	0%	0%	0%	0%
	Yosemite EB - Columbia to Eaton	21	12	12	15	15	18	21	57%	57%	71%	71%	86%	100%
	Yosemite WB - Adams to Yankee	50	0	0	0	2	1	1	0%	0%	0%	4%	2%	2%
	Yosemite WB - Yankee to Columbia	11	0	0	1	0	0	1	0%	0%	9%	0%	0%	9%
	Yosemite WB - Columbia to Eaton	22	0	0	0	0	0	0	0%	0%	0%	0%	0%	0%
	Villa EB - Adams to Yankee	29	0	3	5	4	5	5	0%	10%	17%	14%	17%	17%
	Villa EB - Yankee to Columbia	15	0	2	5	1	0	1	0%	13%	33%	7%	0%	7%
one	Villa EB - Columbia to Eaton	21	0	0	0	2	0	0	0%	0%	0%	10%	0%	0%
North Zone	Villa EB - Eaton to Lewis	12	5	5	1	3	2	4	42%	42%	8%	25%	17%	33%
	Villa WB - Adams to Yankee	32	2	2	1	6	7	6	6%	6%	3%	19%	22%	19%
	Villa WB - Yankee to Columbia	14	0	0	1	3	1	3	0%	0%	7%	21%	7%	21%
	Villa WB - Columbia to Eaton	24	9	13	17	11	9	15	38%	54%	71%	46%	38%	63%
	Lewis NB - Villa to Attard	24	5	9         13         17         11         9         15         38%           5         6         3         8         7         7         21%	25%	13%	33%	29%	29%					
	Lewis SB - Villa to Hazel	7	2	0	0	1	0	0	29%	0%	0%	14%	0%	0%
	Lewis SB - Hazel to Attard	13	3	2	2	3	2	2	23%	15%	15%	23%	15%	15%
	Lewis - S of Attard	2	0	0	0	1	1	2	0%	0%	0%	50%	50%	100%
	Graten St NB	16	9	6	6	8	9	11	56%	38%	38%	50%	56%	69%
	Attard St WB	8	3	3	4	4	5	5	38%	38%	50%	50%	63%	63%
	Holland EB - Torry to Eaton	31	9	6	6	10	8	4	29%	19%	19%	32%	26%	13%
	Holland WB - Torry to Eaton	30	7	6	8	7	10	8	23%	20%	27%	23%	33%	27%
a)	Webster EB -Torry to Eaton	26	2	3	3	2	5	5	8%	12%	12%	8%	19%	19%
Zoni	Webster WB - Torry to Eaton	27	3	3	6	1	1	4	11%	11%	22%	4%	4%	15%
South Zone	Cole EB - Torry to Eaton	29	7	6	7	8	6	7	24%	21%	24%	28%	21%	24%
Sc	Cole WB - Torry to Eaton	32	7	7	4	4	4	6	22%	22%	13%	13%	13%	19%
	Torry NB - Cole to Holland	15	0	1	1	3	1	0	0%	7%	7%	20%	7%	0%
	Torry SB - Cole to Holland	17	2	2	2	2	2	2	12%	12%	12%	12%	12%	12%
	TOTAL NORTH ZONE	384	51	55	63	72	67	84	13%	14%	16%	19%	17%	22%
	TOTAL SOUTH ZONE	207	37	34	37	37	37	36	18%	16%	18%	18%	18%	17%

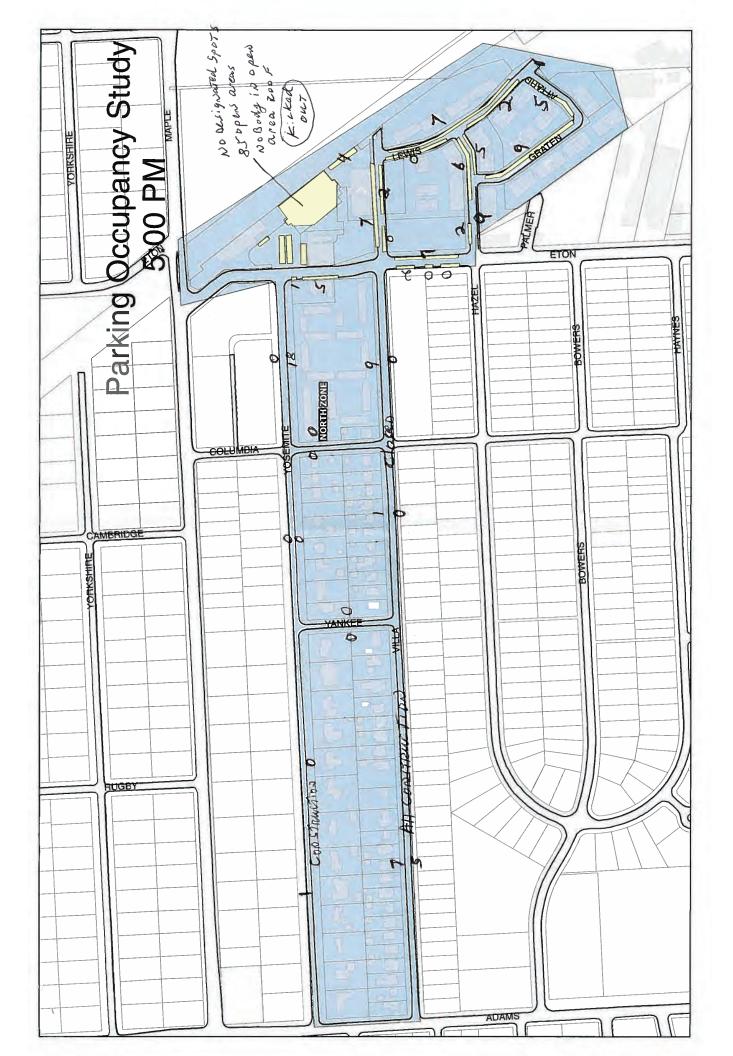


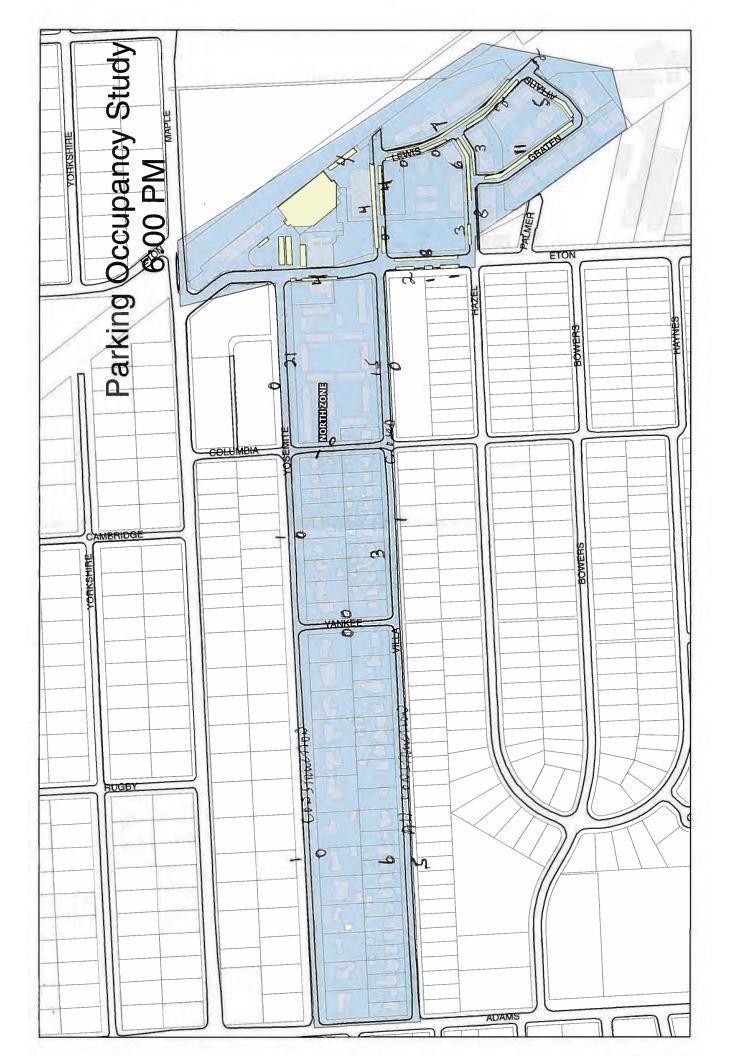


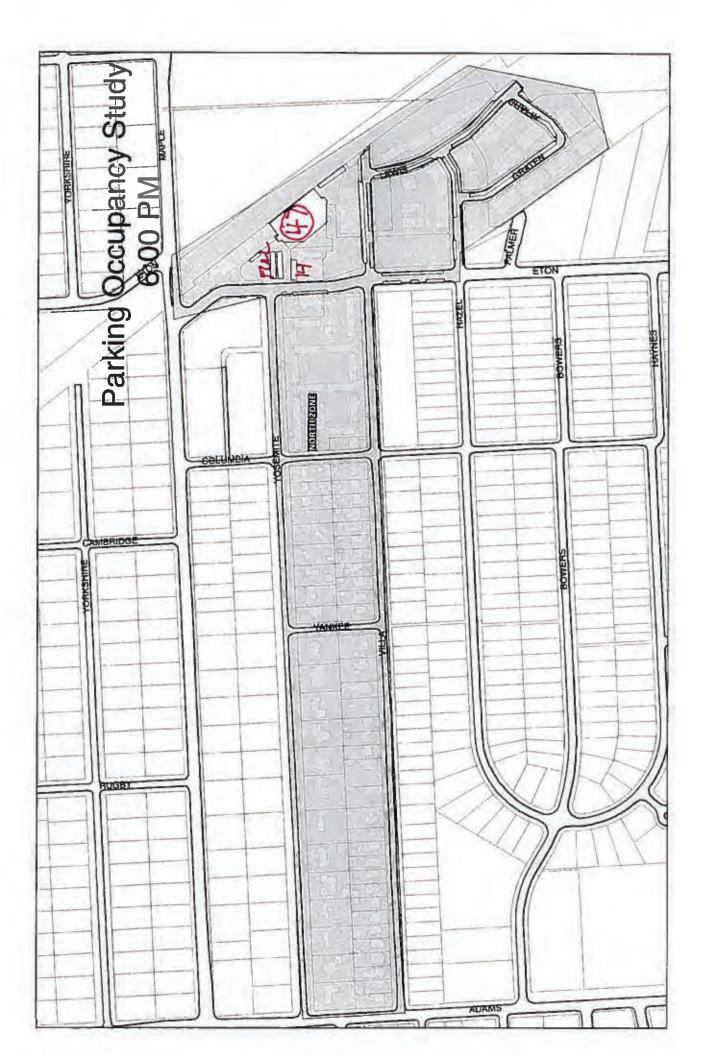


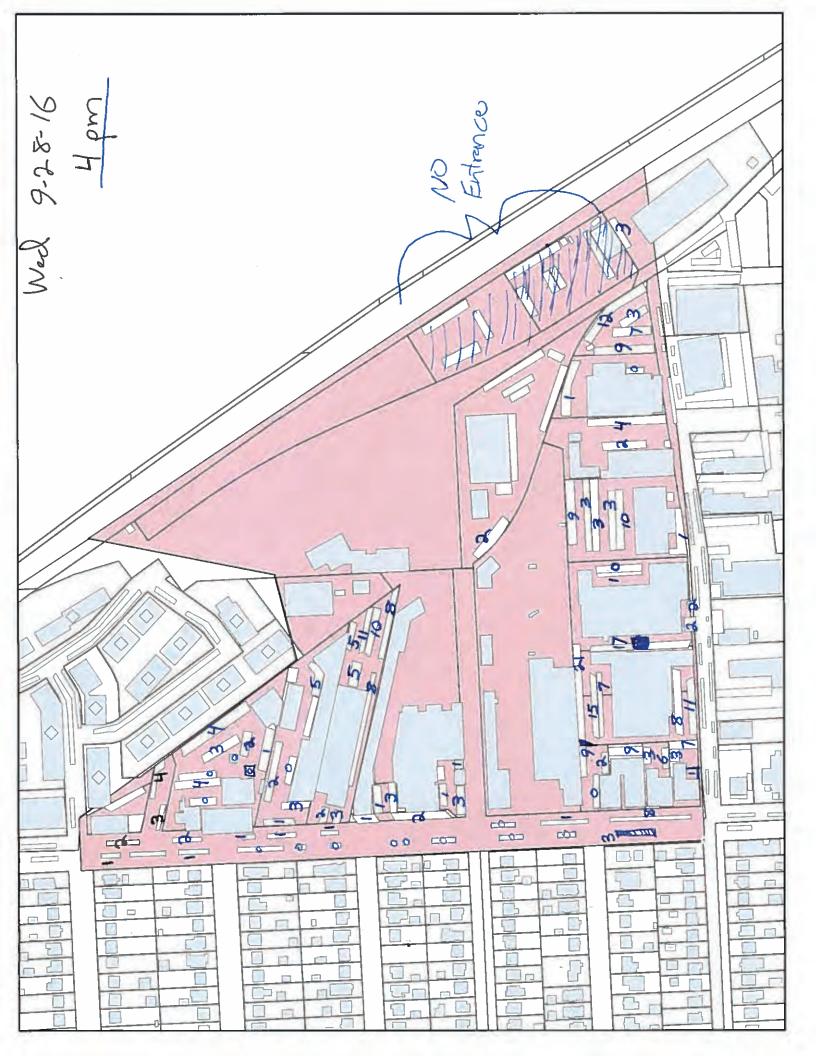


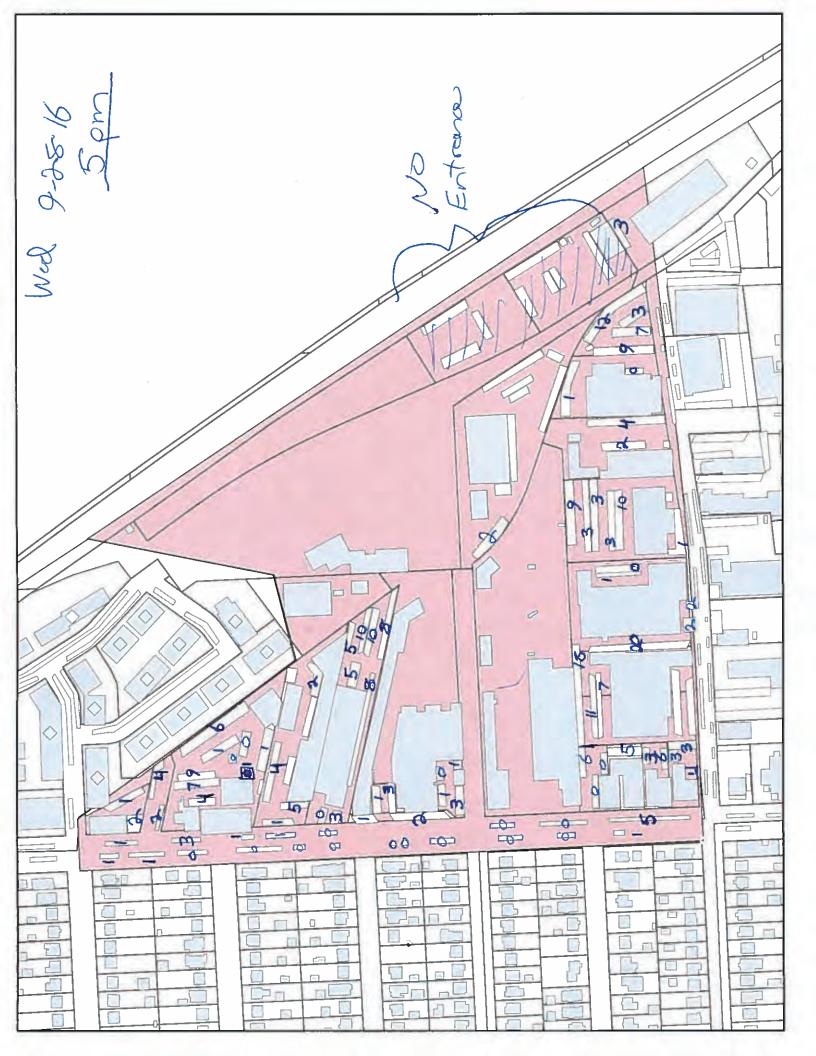


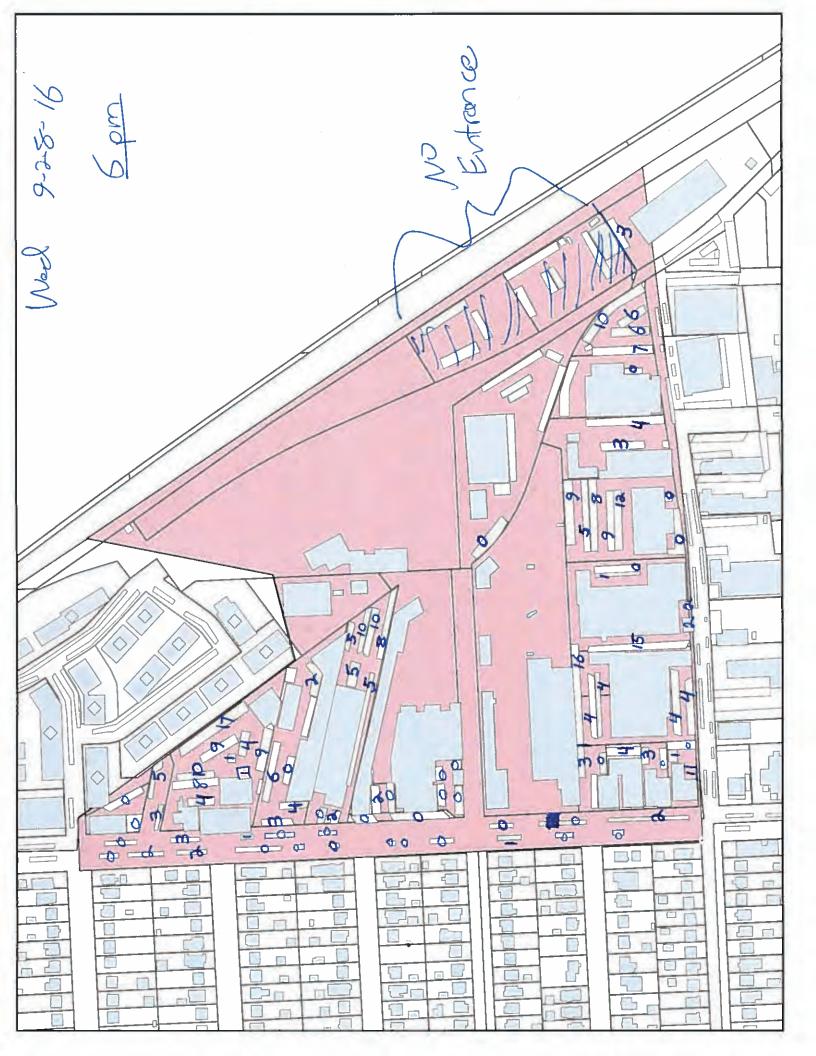


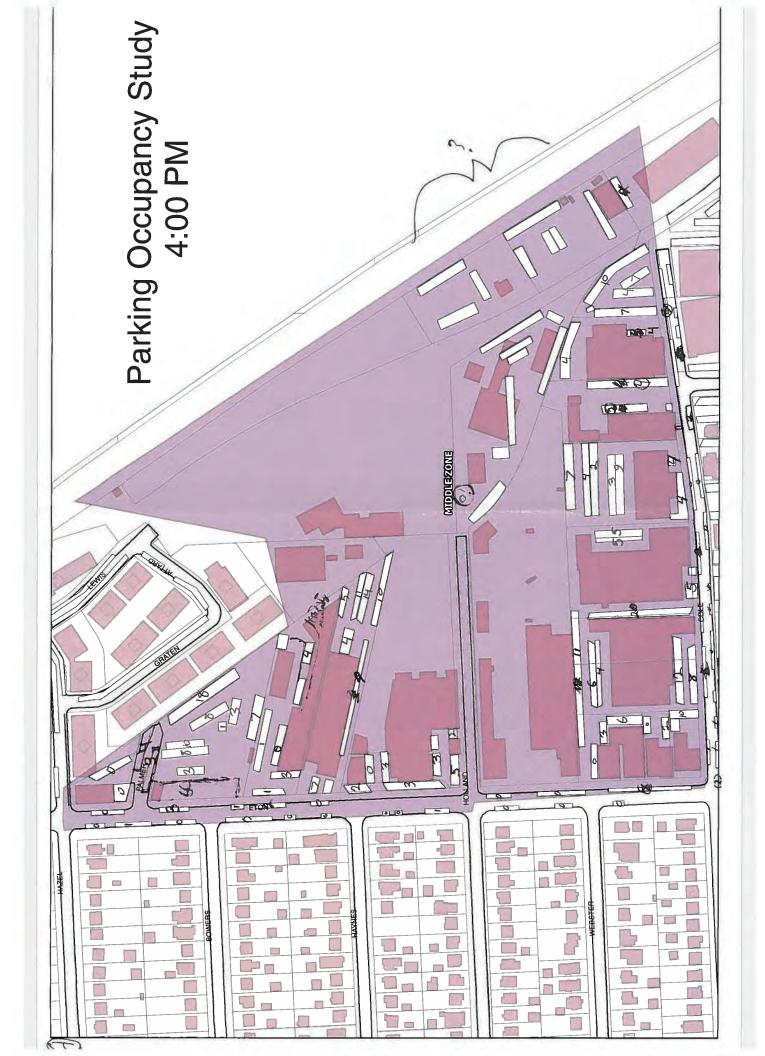


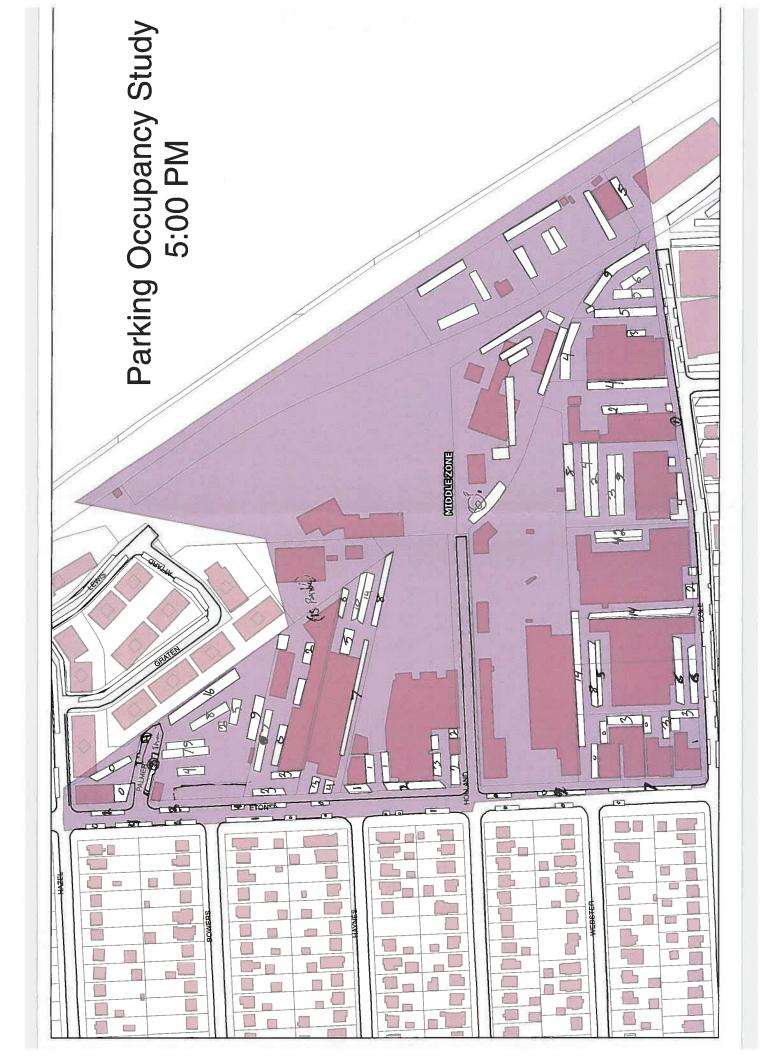


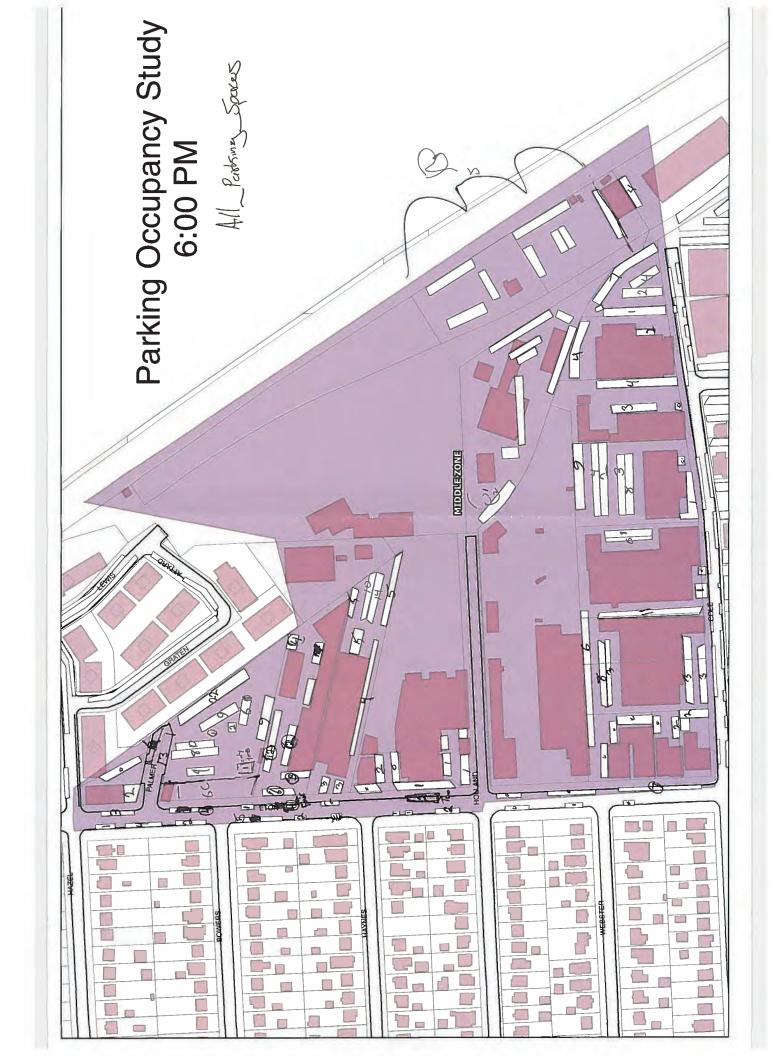
















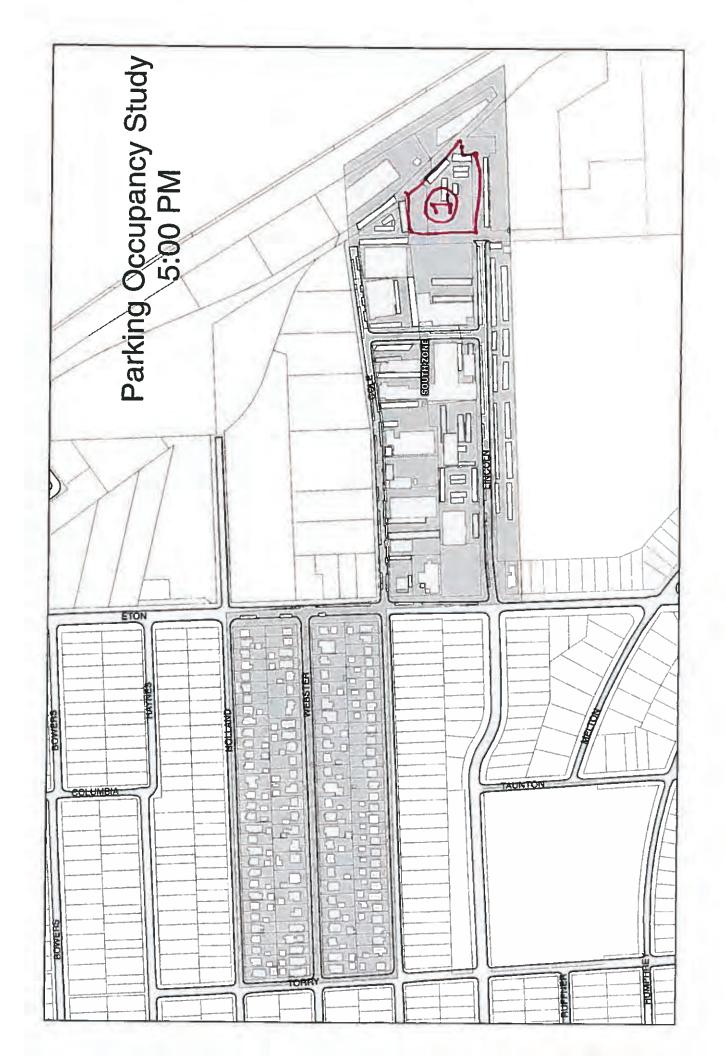


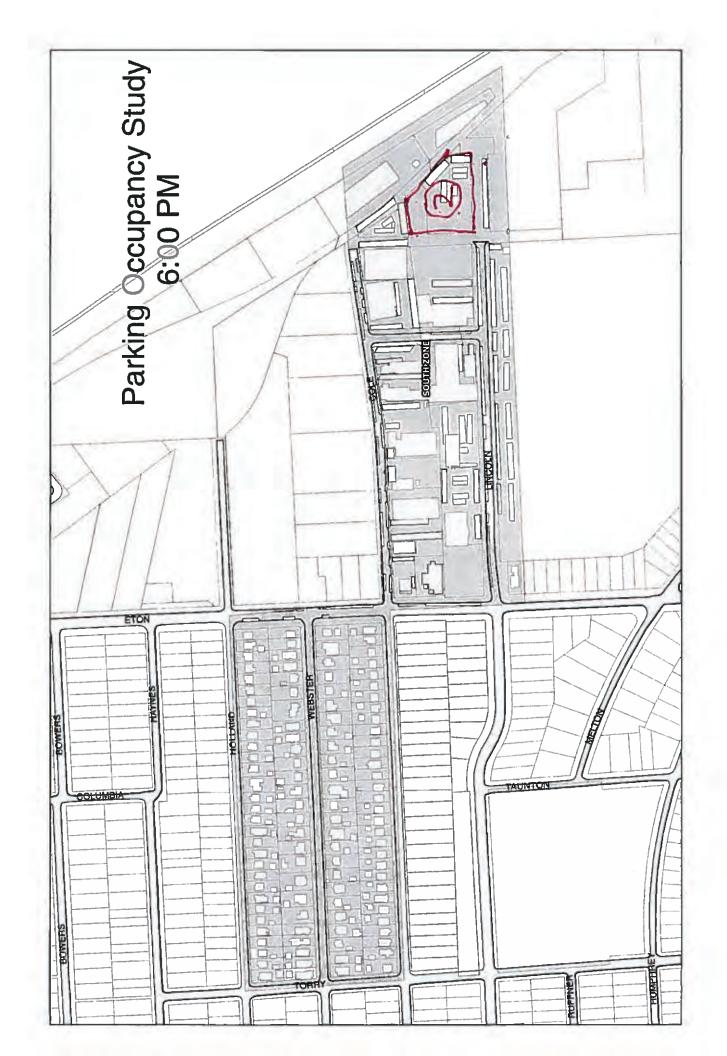












City of	Birmingham	MEMORANDUM
DATE:	December 1, 2016	Engineering Dept.
то:	Joseph Valentine, City Manager	
FROM:	Paul T. O'Meara, City Engineer	
SUBJECT:	Auto Parking System Parking Rate Review	

#### BACKGROUND

The popular concept of "two hours free" and \$1 per hour after that up to \$5 maximum was implemented in 1996, and then left in place for a period of 20 years. Similarly, the current rates at the parking meters have been in place for a similar time period, except for minor exceptions.

Monthly permit rates at the structures have been adjusted on several occasions over the years, usually adjusted to reflect the difference in demand at the various parking structures. Most recently, increases at all five structures were implemented in the summer of 2014, and again in 2015. As demand for parking spaces grew, increases were considered justified not only because of high demand, but also to help build a savings account in the parking system fund for potential upcoming construction.

In April of this year, staff reviewed the rates with the Advisory Parking Committee (APC), and recommended a package of increases that would primarily impact both the monthly and daily rates in the parking structures. Raising the lower priced meters so that all meters were \$1 per hour was also suggested. Other changes were included as well, designed to reduce demand in the parking structures, and to encourage employees to consider the City's off-site parking options. The APC was not inclined to recommend any changes at that meeting.

Staff refined the package based on APC input, and also provided options on how to charge the daily rate. At the May meeting, the APC approved a recommendation that included several items, with the two significant changes impacting the monthly and daily rates in the structures. The suggested increase for most of the lower cost parking meters was not agreed to.

At the June 6, 2016 Commission meeting, the recommendations of the APC were discussed. Most of the package was approved that evening, as noted below (modifications and notes are added in italics):

The Advisory Parking Committee recommends that the City Commission approve the following changes to reflect the current value of parking, and to help position the Auto Parking System Fund for future expected parking system capacity improvements:

1

1. Effective July 1, 2016, to change the daily parking rate at the Park St., Peabody St., N. Old Woodward Ave., and Chester St. Structures to match the rate currently in effect at the Pierce St. Parking Structure, wherein parking will be charged as follows:

Time	Proposed Rate
Less than 2 hours	Free
Less than 3 hours	\$2
Less than 4 hours	\$4
Less than 5 hours	\$6
Less than 6 hours	\$8
More than 6 hours	\$10

The above applies to charges applied prior to 10 PM every evening. Charges after 10 PM will have a maximum value of \$5. (This provision was deleted.)

2.—Effective July 1, 2016, to increase the monthly parking permit rate at the majority of the parking facilities, as follows:

Parking Facility	Existing	Proposed
		<del>7-1-16</del>
Pierce St.	<del>\$65</del>	<del>\$70</del>
<del>Park St.</del>	<del>\$60</del>	<del>\$70</del>
Peabody St.	<del>\$65</del>	<del>\$70</del>
N. Old Woodward Ave.	<del>\$55</del>	<del>\$70</del>
Chester St.	<del>\$45</del>	<del>\$50</del>
Lot 6 – Regular Permit	<del>\$65</del>	<del>\$70</del>
Lot 6 – Economy Permit	<del>\$45</del>	<del>\$50</del>
South Side Permit (Ann St.)	<del>\$50</del>	<del>\$50</del>
South Side Permit (S. Old Woodward Ave.)	<del>\$25</del>	<del>\$25</del>

(The Commission asked the APC to review this recommendation in more detail, considering the cost of parking, the demand, what other cities are charging, etc., and return with a more aggressive increase.)

- 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 \$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 currently set at 50¢ per hour to \$1 per hour, making the entire City uniform at \$1 per hour.
- 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 \$10 per month over the regular monthly permit rate. (*The Commission asked that staff report back as to the popularity of this permit after several months of use, and to ensure that the program does not result in monthly permits being forfeited and resold to other parkers that would park more frequently during the busy peak hours. A separate report on this item can be found in Appendix A.)*

As a result of this directive, the APC discussed the issue of Monthly Permit rates at their July meeting. Staff assembled and reviewed data from other mid-sized cities in the Midwest, which showed that Birmingham's monthly rates fell in between E. Lansing and Bloomington, IN. While they acknowledged that demand was very strong, they also considered that the daily rate increase recently implemented was already impacting employers to a large extent, as many employees cannot get a monthly parking permit. Knowing that all businesses have budgets, and knowing that monthly rates had been increasing on a slow but steady trajectory over the past few years, the APC was uncomfortable supporting any increase larger than the one already suggested.

After this discussion, staff looked more closely at the rate structure in general, and noted that the recent daily rate increase left parking meter rates inappropriately low. Since the APC was already involved in a detailed review and upcoming recommendation relative to purchasing new parking meters, it was thought to be best to wait on any further rate discussions until both the parking meters and the monthly rates can be considered as part of a package.

At the August APC meeting, the committee reviewed the parking meters in greater detail. At that time, the test period on Martin St. was underway, but no conclusions had been finalized. The APC gave sales teams from both parking meter vendors an opportunity to present their package to the Committee.

In October, the Police Dept. had completed their study, and recommended the purchase of the CivicSmart Liberty meters. At the same meeting, staff presented a revised rate package proposal, wherein all meters were recommended for a 50¢ increase, and monthly permit rates were continuing to increase at the levels suggested previously. Coupled with the recommendations for both were detailed resolutions that helped clarify the APC's position on both matters.

The recommendations are as follows:

SUGGESTED RECOMMENDATION A (MONTHLY PERMIT RATE INCREASE):

WHEREAS, demand for parking in the parking structures has increased substantially over the past three years, particularly from all day employees, and

WHEREAS, both the N. Old Woodward Ave. and Park St. Parking Structures are filling often, forcing the City to consider and activate various means to provide short term alternate parking opportunities as well as preparing plans for long term expansion of the system, and

WHEREAS, the demand for monthly parking permits at all five structures is much greater than can be satisfied given the current capacities available, and

WHEREAS, the parking system has implemented two annual rate increases for monthly permits both in 2014 and 2015, and

WHEREAS, the members of the Advisory Parking Committee represent various interests in the Central Business District, and understand that all businesses need to be able to budget upcoming expenses in a reasonable manner, and

WHEREAS, the daily rate increase implemented in July for the parking structures is already impacting the budget of many of the same businesses that pay for employee parking in both forms (monthly and daily), and

WHEREAS, the monthly rate schedule suggested for this year reflects an appropriate amount as compared to other Midwestern mid-sized cities, and

WHEREAS, businesses will be struggling to make sufficient income in the coming years as the City undertakes complete reconstruction of both Old Woodward Ave. and Maple Rd. between now and 2019,

THEREFORE, the Advisory Parking Committee recommends that the monthly rate schedule suggested for this year be approved by the Commission, which represents an increase of 7% to 27% over what is currently being charged, as it will already represent a substantial impact on the budgets of downtown businesses, and further, can be increased again in 2017 as appropriate, as follows:

Pierce St.	\$70
Park St.	\$70
Peabody St.	\$70
N. Old Woodward Ave.	\$70
Chester St.	\$50
Parking Lot 6 – Regular	\$70
Parking Lot 6 – Economy	\$50
South Side (Ann St.)	\$60
South Side (S. Old Woodward Ave.)	\$35

SUGGESTED RECOMMENDATION B (PARKING METER RATE INCREASE):

The Advisory Parking Committee passed a recommendation approving the conversion of all Central Business District parking meters to smart parking meters. If and when that conversion takes place, the Advisory Parking Committee also recommends the following to the City Commission: WHEREAS, the majority of the parking meters in downtown Birmingham have had the same rate structure since 1996, and

WHEREAS, other cities experiencing our level of demand now charge higher rates at their parking meters, and

WHEREAS, the rate being charged at the meters actually provides a lower cost per hour in some locations than what is charged in the parking structures, and

WHEREAS, the City has postponed an increase at the parking meters above \$1 per hour while offering coin only parking meters due to the large number of coins that motorists would have to carry for longer term stays at the meters,

THEREFORE, now that the City is moving to offer both credit and PINless debit card payment features at its meters, as the new meters are installed, it is recommended that the Commission direct staff to increase the current \$1 per hour parking meters to \$1.50 per hour, and to increase the current 50¢ per hour meters to \$1 per hour.

Chairman Lex Kuhne will be present at the meeting with a presentation to help explain the APC recommendations. Suggested resolutions on both items are provided below:

SUGGESTED RESOLUTION A: (MONTHLY PERMIT INCREASE):

To authorize monthly permit rate increases effective January 1, 2017, according to the following schedule:

Pierce St.	\$70
Park St.	\$70
Peabody St.	\$70
N. Old Woodward Ave.	\$70
Chester St.	\$50
Parking Lot 6 – Regular	\$70
Parking Lot 6 – Economy	\$50
South Side (Ann St.)	\$60
South Side (S. Old Woodward Ave.)	\$35

### SUGGESTED RESOLUTION B:

To direct staff to increase all parking meters by 50¢ per hour as the new CivicSmart Liberty parking meters are installed, effectively raising the \$1 per hour meters in the central core of the downtown to \$1.50 per hour, and raising the 50¢ per hour meters to \$1 per hour.

## APPENDIX A

#### EVENING ONLY MONTHLY PERMITS

Efforts have been made to notify the business community about the evening only monthly permit. As can be seen below, sales have been most strong at Pierce St. Initially there was concern that current regular permit holders may relinquish their permit to purchase an evening only version. However, as shown below, this trend did not materialize (the four permits listed in this category below all came in July, when the permits were first offered). At the present time, we intend to maintain this program that is valuable for a small but important segment of the employee base in downtown Birmingham.

#### Evening Permits total as of 12/01/16:

Pierce St.	34
<ul> <li>Peabody St.</li> </ul>	0
• Park St.	4
Chester St.	8
N. Old Woodward Ave.	13

### Number of surrendered normal permits passes:

Pierce St.	2
N. Old Woodward Ave.	2

City of	Birmingham	MEMORANDUM
DATE:	October 20, 2016	Engineering Dept.
то:	Advisory Parking Committee	
FROM:	Paul T. O'Meara, City Engineer	
SUBJECT:	Parking System Rate Study	

At the April and May, 2016 meetings, the Advisory Parking Committee (APC) reviewed and studied rate changes for the parking system designed to increase revenues and to encourage larger employers to seriously consider off-site parking options for employees. A package of recommendations were sent to the City Commission. At the meeting of June 6, the City Commission discussed the matter further, and approved the following rate changes:

- Daily rates at all five parking structures were increased to \$2 per hour for a maximum charge of \$10 per day, maintaining the first two hours free feature.
- Free Parking to employers who utilize an off-site parking arrangement with the City to shuttle, valet, or carpool employees into and out of the CBD.
- Changing meter rate for meters on Chester St. from 50¢ to \$1 per hour.
- Authorizing an Evening Only Monthly Permit at all structures, charged at \$20 per month less than a regular permit.

The Commission declined to raise monthly rates at that time as had been recommended, indicating that the rate of increase was potentially not enough, and that this matter should be reviewed in more detail by the APC.

The changes that were authorized were implemented with the new fiscal year, starting July 1.

## OVERVIEW – PARKING SYSTEM RATE STRUCTURE

1

Attached are two parking system rate flow charts, one for short term visitors (generally customers), and one for long term visitors (generally employees).

Historically, we have attempted to set rates such that:

- Parking on the street at a meter in the prime areas of the CBD is always in high demand. Quick turnover is important to allow more visitors to benefit from these spaces. Setting the rate higher than any other parking is appropriate to encourage use of the parking structures. (Lower rates at meters that are further from the center of the City, or further from most destinations are appropriate given their lower demand.)
- Daily parking rates in the structures should be set to encourage short term visits into the structure at low cost, in an attempt to get this traffic off the street.
- Where space is available, monthly permits should be issued only to employees in the parking assessment district, providing a discount from the daily rate for regular visitors.

Keeping the parking structure open and available to visitors is a higher priority, though, so a cap must be placed on monthly permits based on the daily demand.

As noted above, daily rates in the parking structures were changed recently, but monthly permits and parking meter rates were not. As a result, there is currently an imbalance where the above principles are not always being met. The following memo is split into two parts to address both issues.

#### MONTHLY PERMIT RATES

The following chart lists the recent rates that have been charged for monthly permits, as well as the rates that were recommended by the APC in May of this year:

Parking Facility	Prior to	Effective	Effective	Proposed
	8-1-14	8-1-14	7-1-15	7-1-16
Pierce St.	\$55	\$60	\$65	\$70
Park St.	\$45	\$50	\$60	\$70
Peabody St.	\$45	\$55	\$65	\$70
N. Old Woodward Ave.	\$45	\$50	\$55	\$70 <sup>1</sup>
Chester St.	\$30	\$40	\$45	\$50
Lot 6 – Regular Permit	\$50	\$55	\$65	\$70
Lot 6 – Economy Permit	\$30	\$35	\$45	\$50
South Side Permit (Ann St.)	\$40	\$40	\$50	\$60
South Side Permit (S. Old Woodward Ave.)	\$40	\$40	\$25	\$35

As you may recall, demand in the parking structures started increasing significantly in the middle of 2013. Seeing the need to increase revenues for potential future expansion, as well as to direct customers to the areas of lower demand, rates were increased in the summer of 2014 and again in 2015. A third increase, more significant than the others, was planned for 2016 as well, as shown. The increases for 2016 were primarily focused on the north side of the City where demand has increased the most, with smaller increases proposed in the remaining areas.

When the recommendation was discussed by the City Commission, it was noted that with the new daily rates, even the \$70 monthly fee is an excellent value for the full time employee, as the monthly permit will pay for itself after only 7 work days with an average of 20 work days per month. The Commission also felt that compared to other cities, our rates are too low given the current demand.

At the July APC meeting, the above issue was discussed. A new table of possible rate increases was provided for review, as follows:

<sup>&</sup>lt;sup>1</sup> In previous rate increases, no change greater than \$10 per month has been implemented. A change of \$15 this one time is recommended at the N. Old Woodward Ave. Structure, given the large jump in demand that has been seen there, and to equalize it to the other three prime parking locations.

Parking Facility	Current	Proposed	Proposed	Proposed
	Rate	Plan A	Plan B	Plan C
Pierce St.	\$65	\$70	\$75	\$80
Park St.	\$60	\$70	\$75	\$80
Peabody St.	\$65	\$70	\$75	\$80
N. Old Woodward Ave.	\$55	\$70	\$75	\$80
Chester St.	\$45	\$50	\$55	\$60
Lot 6 – Regular Permit	\$65	\$70	\$75	\$80
Lot 6 – Economy Permit	\$45	\$50	\$55	\$60
Ann St. Permit	\$50	\$60	\$60	\$60
S. Old Woodward Ave.	\$25	\$35	\$35	\$35
Permit				

Comparisons of the various rate schedules, and how they compare to the current rates, was also provided in the form of the following table:

	Proposed Plan A	Proposed Plan B	Proposed Plan C
Average Rate (to	\$61	\$64	\$67
Compare to other			
Cities)			
Actual Increase at	\$5 to \$15	\$10 to \$20	\$15 to \$25
Parking Structures			
% Increase at Parking	7% to 27%	15% to 36%	23% to 45%
Structures			
Total Increase in	\$384,000	\$432,000	\$480,000
Revenue			
# of Days Permit is	5 to 7	5.5 to 7.5	6 to 8
Paid Back at Daily			
Rate			

Also provided for the APC was a list of current monthly rates charged at other cities in the Midwestern USA. Since every city is different in terms of what it offers, an average of monthly charges was developed for each city, allowing a more direct comparison to what Birmingham charges (referenced in line 1 in the above chart):

MUNICIPALITY	AVERAGE
	MONTHLY
	PERMIT
Ann Arbor, MI	\$145
Grand Rapids, MI	\$137
Lansing, MI	\$122
State College, PA	\$90
Kalamazoo, MI	\$89
Evanston, IN	\$85
E. Lansing, MI	\$80
Bloomington, IN	\$54
Grosse Pointe, MI	\$50
Ferndale, MI	\$20

The above chart would put Birmingham between E. Lansing and Bloomington, IN for any of the suggested rate schemes, as shown on the attached bar chart.

Members of the APC have been appointed to the Committee often because they have direct connections to the stakeholders downtown. While there is a desire to do what is best for the Parking System, there was not a majority of members that felt comfortable moving forward with any schedule that increases rates more than what had been suggested previously. While it is understood that the monthly rate increase represents a bargain compared to the daily rate, for those that have been paying the slow but steady increases in these rates over the previous years would be heavily impacted if that rate were to increase a lot faster now. Members of the APC would like to suggest that if the rates are increased as suggested, there is certainly room for more increases in the future, especially if and when the City begins replacing and expanding its oldest parking structures. A suggested recommendation to reflect these points is provided below at the end of this memo.

### PARKING METER RATE

Attached is a map that reflects the parking meter rates that have been in effect with little adjustment, since late 1996. Parking meters are set at \$1 per hour for the high demand areas of the CBD. The far north and south ends of the Old Woodward Ave. corridor are set at 50¢ per hour. (Meters in the off-street lot adjacent to the front doors of several businesses between 600-800 N. Old Woodward Ave. have more recently been increased to \$1 to encourage turnover.) A small number of meters were also remaining on Chester St. at 50¢. Those have since been increased to \$1 per hour as of this summer.

When the rate increase was first studied in April, staff recommended that the first of more potential changes relative to meter rate changes should be to increase all 50¢ meters to \$1 per hour. There was no suggested rate increase suggested for the \$1 meters, in part because when only coin payments are accepted, it becomes onerous on the customer to have to produce a large number of coins for longer stays. Raising the rates above \$1 per hour would increase the magnitude of this problem. The APC chose not to proceed with a rate increase for most of the 50¢ meters, because it was noted that there is a benefit in the Parking Lot #6 area to have a price differential. (Specifically, there is a high demand for the parking meters in the off-street parking lot located in front of the businesses at 600-800 N. Old Woodward Ave.

Making the meters double the price in this area vs. the meters across the street, or behind the buildings in Parking Lot 6, helps provide a deterrent to long term employees using these spaces. If all meters were the same price, this deterrent would be removed.)

Given the fundamental goal that the rate at parking meters should be higher than the rate in the structures, the current rate schedule needs adjustment. If the City proceeds with replacing its parking meters as recommended, the opportunity to increase rates at all meters becomes available. Customers that do not have a Parkmobile account will now have a payment option other than coins.

CITY	RATE 1	RATE 2	RATE 3	RATE 4	HOURS OF OPERATION
BIRMINGHAM	\$1.00	\$.50			9AM-9PM
					MON-SAT
ROCHESTER	\$1.00				9AM-9PM
					MON-SAT
ROYAL OAK	\$1.00	LOTS .50 DAY / .75	\$.50		11AM-11PM
	STREETS	NIGHT HI USE ZONE AFTER 5PM	FARMER'S MKT		MON-SAT
FERNDALE	.50				10AM-9PM
					MON-SAT
MT. CLEMENS	\$.75	\$.50			
	STREETS	LOTS			
ANN ARBOR	\$2.40	\$1.60	\$0.80		8AM-6PM
					MON-SAT
DETROIT	\$2.00	\$1.50	\$1.00		7AM-10PM
					MON-SAT
TRAVERSE	\$1.00	\$.60 AT HOUR METERS			8AM-6PM
CITY					MON-SAT
GRAND RAPIDS	\$1.75 CBD	\$2.25 ELECTRIC VEHICLE	\$1.25 OUT		8AM-5PM
		STATION	.75 WAY OUT		MON-FRI
LANSING	\$1.25	\$1.00	\$.65	\$.50	8AM-5PM
					MON-FRI
EAST LANSING	\$.75	UNLESS OTHERWISE NOTED			8AM-3AM
					MON-SAT

Following is a list of current parking meter rates at various cities, as assembled courtesy of the Police Dept.:

At this time, staff is suggesting a rate increase for meters throughout the Central Business District, as the new smart meters are installed. The suggested rate increase, based on what other cities are doing in the area, would be to increase all meters that are currently 50¢ per hour to \$1, and those that are \$1 to \$1.50. Such rates would make Birmingham compare well to other cities such as Detroit, Ann Arbor, and Grand Rapids, but higher than other cities in the immediate area where demand is not as great, such as Rochester, Royal Oak, and Ferndale. A rate increase structured as such would:

- Discourage long term use of meters, encouraging those that plan to stay longer to move into a parking structure.
- Providing an appropriate pricing structure that reflects the high value of parking on the street.
- Continue to reflect that parking is in highest demand in front of busy retail areas, while those that want to park further away from the core don't have as many options, and should not have to pay as much.

 Increase revenues by approximately \$700,000 annually, based on current income levels, adjusted for decreased demand (but not reflecting the increases projected by purchase of smart meters).

Following are two suggested recommendations. The first pertains to the monthly rate increase, while the second suggests a rate increase at the parking meters.

SUGGESTED RECOMMENDATION A (MONTHLY PERMIT RATE INCREASE):

WHEREAS, demand for parking in the parking structures has increased substantially over the past three years, particularly from all day employees, and

WHEREAS, both the N. Old Woodward Ave. and Park St. Parking Structures are filling often, forcing the City to consider and activate various means to provide short term alternate parking opportunities as well as preparing plans for long term expansion of the system, and

WHEREAS, the demand for monthly parking permits at all five structures is much greater than can be satisfied given the current capacities available, and

WHEREAS, the parking system has implemented two annual rate increases for monthly permits both in 2014 and 2015, and

WHEREAS, the members of the Advisory Parking Committee represent various interests in the Central Business District, and understand that all businesses need to be able to budget upcoming expenses in a reasonable manner, and

WHEREAS, the daily rate increase implemented in July for the parking structures is already impacting the budget of many of the same businesses that pay for employee parking in both forms (monthly and daily), and

WHEREAS, the monthly rate schedule suggested for this year reflects an appropriate amount as compared to other Midwestern mid-sized cities,

THEREFORE, the Advisory Parking Committee recommends that the monthly rate schedule suggested for this year be approved by the Commission, which represents an increase of 7% to 27% over what is currently being charged, as it will already represent a substantial impact on the budgets of downtown businesses, and further, can be increased again in 2017 as appropriate, as follows:

Pierce St.	\$70
Park St.	\$70
Peabody St.	\$70
N. Old Woodward Ave.	\$70
Chester St.	\$50
Parking Lot 6 – Regular	\$70
Parking Lot 6 – Economy	\$50
South Side (Ann St.)	\$60
South Side (S. Old Woodward Ave.)	\$35

#### SUGGESTED RECOMMENDATION B (PARKING METER RATE INCREASE):

The Advisory Parking Committee passed a recommendation approving the conversion of all Central Business District parking meters to smart parking meters. If and when that conversion takes place, the Advisory Parking Committee also recommends the following to the City Commission:

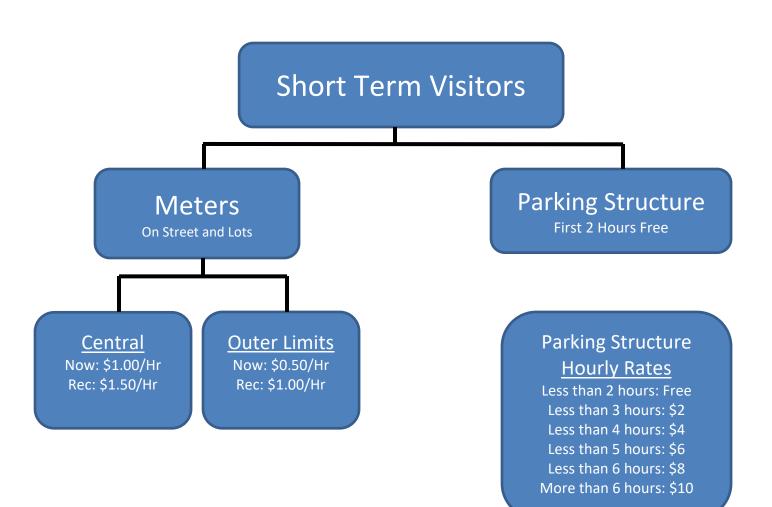
WHEREAS, the majority of the parking meters in downtown Birmingham have had the same rate structure since 1996, and

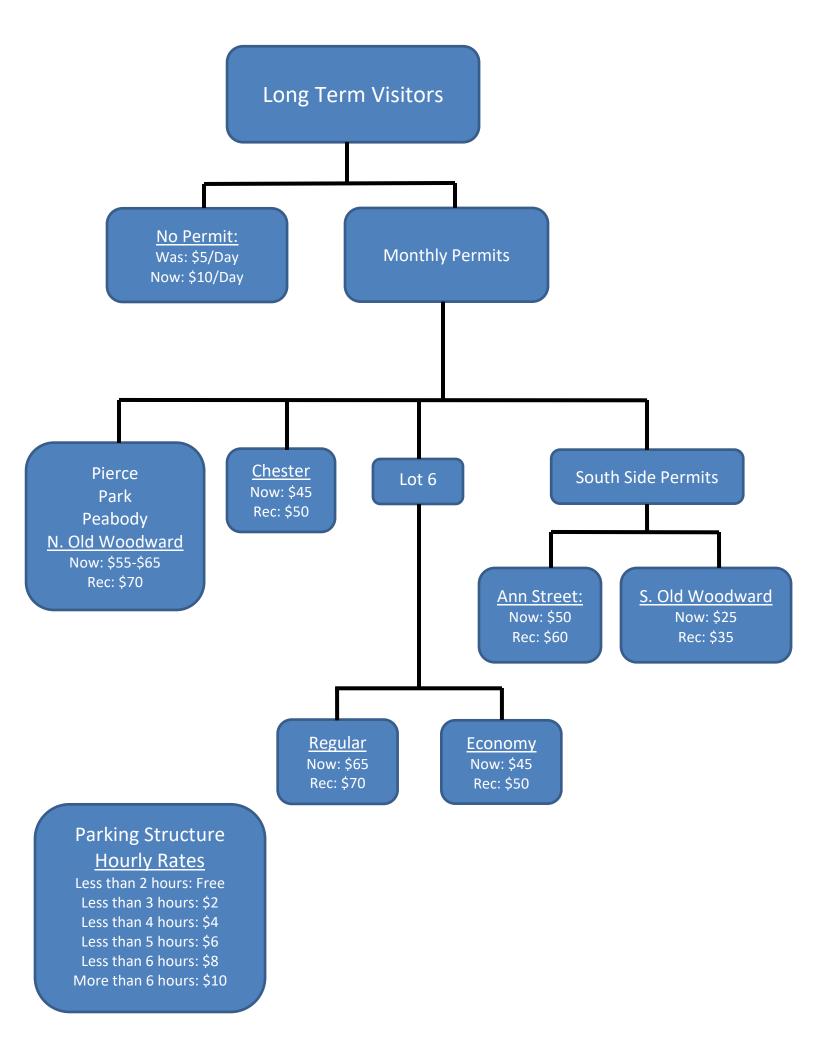
WHEREAS, other cities experiencing our level of demand now charge higher rates at their parking meters, and

WHEREAS, the rate being charged at the meters actually provides a lower cost per hour in some locations than what is charged in the parking structures, and

WHEREAS, the City has postponed an increase at the parking meters above \$1 per hour while offering coin only parking meters due to the large number of coins that motorists would have to carry for longer term stays at the meters,

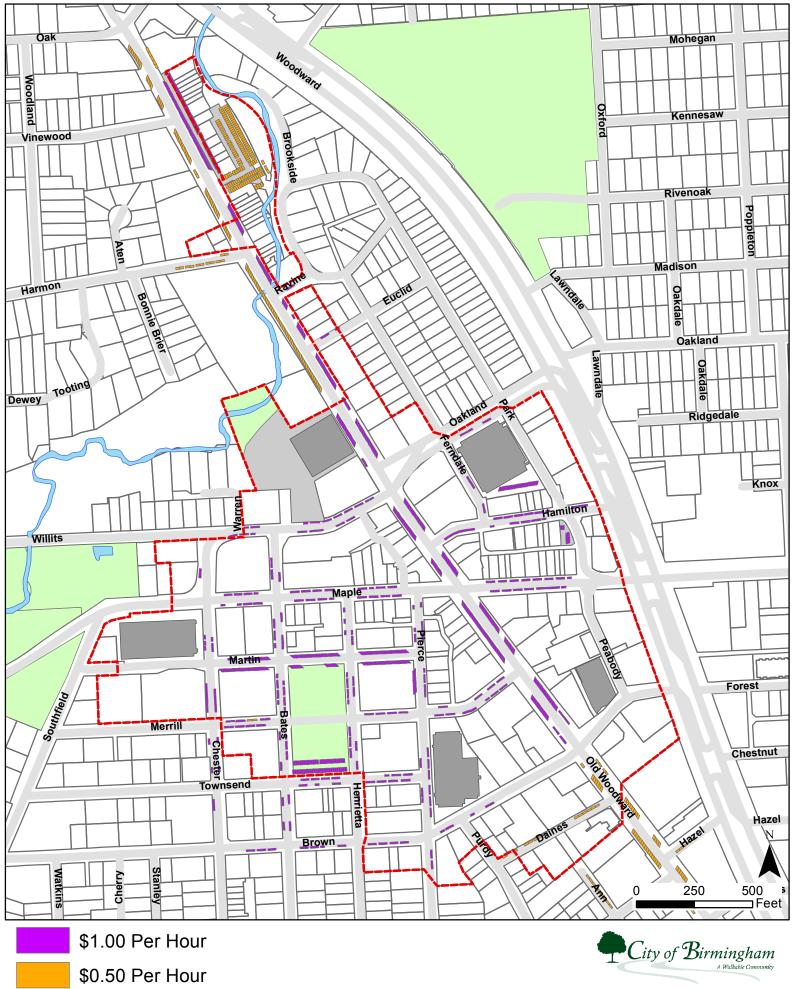
THEREFORE, now that the City is moving to offer both credit and PINless debit card payment features at its meters, as the new meters are installed, staff is directed to increase the current \$1 per hour parking meters to \$1.50 per hour, and to increase the current 50¢ per hour meters to \$1 per hour.







# City of Birmingham Downtown Parking Rates



City of	Birmingham	MEMORANDUM
DATE:	July 14, 2016	Engineering Dept.
TO:	Advisory Parking Committee	
FROM:	Paul T. O'Meara, City Engineer	
SUBJECT:	Parking Rates Study	

As reported last month, the City Commission approved the majority of the recommended rate and policy changes from the Advisory Parking Committee (APC) at their meeting of June 6. The two areas that they sent back to the APC for further study are referenced below:

## REGULAR MONTHLY PERMIT FEES

The Parking System has increased monthly permit fees during the summer of 2014 and 2015, and had pursued another increase in 2016 to continue an incremental increase of monthly rates. Attached for your reference is the table of changes that have occurred, and what was included in the recommendation:

Parking Facility	Prior to	Effective	Effective	Proposed
	8-1-14	8-1-14	7-1-15	7-1-16
Pierce St.	\$55	\$60	\$65	\$70
Park St.	\$45	\$50	\$60	\$70
Peabody St.	\$45	\$55	\$65	\$70
N. Old Woodward Ave.	\$45	\$50	\$55	\$70
Chester St.	\$30	\$40	\$45	\$50
Lot 6 – Regular Permit	\$50	\$55	\$65	\$70
Lot 6 – Economy Permit	\$30	\$35	\$45	\$50
South Side Permit (Ann St.)	\$40	\$40	\$50	\$50
South Side Permit (S. Old Woodward Ave.)	\$40	\$40	\$25	\$25

Using data assembled from several other cities, the average price per month for these various cities is provided below, from highest to lowest:

MUNICIPALITY	AVERAGE
	MONTHLY
	PERMIT
Ann Arbor, MI	\$145
Grand Rapids, MI	\$137
Lansing, MI	\$122
State College, PA	\$90
Kalamazoo, MI	\$89
Evanston, MI	\$85
E. Lansing, MI	\$80
Bloomington, IN	\$54
Grosse Pointe, MI	\$50
Ferndale, MI	\$20

Although none of the cities listed is very similar to Birmingham, each has some similarities. Averaging the monthly permit fees that were suggested for 2016 in this same way, the average cost of a permit in Birmingham would be rounded off to \$58. Compared to the other cities in the list, this number seems low. However, staff feels that it is important to continue a slow upward increase for the monthly permits so that the parking policies do not generate too much negativity toward the City. When considering this question, here are some interesting items to consider:

- 1. The recent daily rate increase has already created negative feelings toward the parking system, so it is expected that another monthly increase will have the same effect.
- 2. At least one large company is now reconsidering the option of off-site parking options.
- 3. The \$25 South Side Permits that have been available for many years on S. Old Woodward Ave. south of Haynes St. are suddenly gaining interest. For the first time they are all sold out, and a waiting list is getting started. No rate increase is being suggested for this area since people have just started buying them for the first time, which we consider a success toward getting vehicles out of the structures. Further, now that permits are being sold in this area, we would like to watch how the street is handling the extra demand, and to possibly offer more permits for sale in the future.

In the table below, Proposed Plan A is the plan recommended by the APC, but rejected by the City Commission as providing rates that are too low. Two additional rate schedules are provided below for your consideration:

Parking Facility	Prior to	Effective	Effective	Proposed	Proposed	Proposed
	8-1-14	8-1-14	7-1-15	Plan A	Plan B	Plan C
Pierce St.	\$55	\$60	\$65	\$70	\$75	\$80
Park St.	\$45	\$50	\$60	\$70	\$75	\$80
Peabody St.	\$45	\$55	\$65	\$70	\$75	\$80
N. Old Woodward Ave.	\$45	\$50	\$55	\$70	\$75	\$80
Chester St.	\$30	\$40	\$45	\$50	\$55	\$60
Lot 6 – Regular Permit	\$50	\$55	\$65	\$70	\$75	\$80
Lot 6 – Economy Permit	\$30	\$35	\$45	\$50	\$55	\$60
Ann St. Permit	\$40	\$40	\$50	\$50	\$55	\$60
S. Old Woodward Ave. Permit	\$40	\$40	\$25	\$25	\$25	\$25

The following is a summary of the differences between the plans:

	Proposed Plan A	Proposed Plan B	Proposed Plan C
Average Rate (to	\$58	\$63	\$67
Compare to other			
Cities)			
Actual Increase at	\$5 to \$15	\$10 to \$20	\$15 to \$25
Parking Structures			
% Increase at Parking	7% to 27%	15% to 36%	23% to 45%
Structures			
Total Increase in	\$384,000	\$432,000	\$480,000
Revenue			
# of Days Permit is	5 to 7	5.5 to 7.5	6 to 8
Paid Back at Daily			
Rate			

The Advisory Parking Committee is asked to review the new suggested plans, and determine if it is appropriate to recommend a higher monthly rate schedule for the consideration of the City Commission. A suggested recommendation is provided below:

### SUGGESTED RECOMMENDATION:

The Advisory Parking Committee recommends that the City Commission authorize an increase in the monthly parking permit rate schedule, defined above as Proposed Plan \_\_\_\_\_.

City of	Birmingham	MEMORANDUM
DATE:	June 11, 2016	Engineering Dept.
TO:	Advisory Parking Committee	
FROM:	Paul T. O'Meara, City Engineer	
SUBJECT:	Parking Rate Changes Proposal	

1

The rate change proposal package was reviewed by the City Commission at their meeting of June 6, 2016. The resolution as passed, as well as the DRAFT minutes of the meeting, are attached for your information. Below is a summary of the discussion, and what steps the Committee is being asked to take at this time:

- 1. The hourly rate schedule was approved except that the price reduction from \$10 to \$5 after 10 PM was taken out of the proposal. The Commission was concerned about the inequity of paying \$10 before 10 PM, and getting a significant price reduction if you stay longer. This change has merit in two respects:
  - a. The original motivation of this change was that previously the price at Pierce St. was double what it was at the other structures. With the previous schedule, evening employees were being encouraged to park further away from their place of employment to get a price reduction, and then having to walk alone late at night to get to their car. If all five structures are the same price, this problem is no longer there.
  - b. By starting an Evening Only monthly permit, evening employees will now have a cheaper option to avoid this price increase.
- 2. The monthly permit schedule was not approved. The Commission felt that even with the changes, the prices are too low. The Commission asked that the APC review the cost schedule based on:
  - a. Comparable prices at many other similar cities throughout the USA.
  - b. The savings being gained if one buys a permit compared to paying the daily rate.
  - c. The actual cost of building and maintaining a parking space, compared to what is being charged.
- 3. The free parking provision for those parking at off-site church lots was approved.
- 4. The reduction in the number of authorized monthly permits at the Park St. and N. Old Woodward Ave. Structures was approved.
- 5. The increase for the parking meters on Chester St. was approved.
- 6. The Evening Only monthly permit was approved, except that any regular permits that are made available as a result of this program may not be sold to other customers until the issue is reviewed in more detail by the APC. (Commissioners were concerned that if we actually sell more permits to people that use them during the day (instead of the evening) as a result of this program, we are making the problem worse during the day.)

During the coming weeks, staff will do additional research on the two remaining issues (monthly permit rates, and potential new sales as a result of the evening only sales), and return

to discuss these again at a future APC meeting. SP+ is now preparing to implement the other changes by July 1, 2016.

## DRAFT CITY COMMISSION MINUTES JUNE 6, 2016

## 06-183-16 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 is 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 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:

Time	<i>Existing Rate at</i> <i>Four Structures</i>	<i>Existing Rate at Pierce St. Str.</i>	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	

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

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 relations 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)

City of	Birmingham	MEMORANDUM
DATE:	May 12, 2016	Engineering Dept.
TO:	Advisory Parking Committee	
FROM:	Paul T. O'Meara, City Engineer	
SUBJECT:	Parking System Rates	

#### <u>OVERVIEW</u>

Last month, a comprehensive package of rate changes were presented to the Advisory Parking Committee for review. The suggested changes were presented from the perspective that:

- 1. Demand from employees is forcing the system to operate without sufficient capacity for shoppers and visitors that arrive later in the day. Creating an incentive to move employees to less desirable parking locations would help the business community.
- 2. Compared to what is being charged in the private parking facilities, the rates being charged are less than what people are willing to pay.
- 3. Revenue increases would help the parking system prepare itself for large expenditures in the future, as the need to enlarge and/or replace parking structures grows.

The parking committee was not prepared to endorse the rate changes. Two general themes came from the meeting:

- Requiring large blocks of employees to park their cars off site outside the downtown area is not looked upon favorably. Changing the rates as suggested will not change their behaviors, but it will hurt the smaller businesses that also need to pay these higher rates. Rather than changing rates, the APC and the Birmingham Shopping District (BSD) should begin discussions to consider changing the zoning ordinance that allows the current building expansions without creating new private parking spaces.
- 2. If the rate structure is going to be restructured, the rate of increase for the shorter time periods (3 to 7 hours) should be priced more aggressively too, so that shorter term employees have to pay more.

To that end, the following is offered:

- 1. Some discussions have occurred with members of the BSD on this matter. More discussions are planned, but there is nothing concrete to report as of yet. It should be noted that if the APC pursues this goal of changing the zoning ordinance, that is a long term issue that will not be resolved quickly.
- 2. SP+ staff put together some figures that are attached relative to various daily rate pricing schemes that could be employed, and how they affect revenue. More dialogue is provided below.

3. The Ad Hoc Parking Development Committee held their first meeting focused on finance on April 27. Long term cash flow projections were provided for both the current rate structure, and for the rate structure that was recommended in our April 15 memo. Increasing the rates as suggested makes a significant improvement on improving the cash available to help finance a large parking structure project. Serious discussions about the revenue that can be generated from a special assessment district are scheduled for this coming week (May 16). Since the City has only assessed for new parking spaces being created (not the replacement of existing spaces within a new building, which is being contemplated), revenues to be generated through special assessments may not be significant. If the City continues to move in the direction committing to a large construction project, (currently being projected at \$26 to \$28 million, even after the sale of land), a rate increase is likely a part of the equation.

With the above in mind, information has been provided below relative to various hourly rate pricing schemes. Secondly, a new idea is also being offered relative to making the package more desirable for evening employees. The system could offer an evening only monthly permit for those that arrive after 4 PM, as long as they regularly leave the building after their shift (no overnight parking). Information is provided below on that as well.

#### HOURLY RATES

The rate package presented last month suggested that the hourly rate structure would only be modified for long term parkers (7+ hours). The suggestion was focused on the following thought process:

- 1. The long term employee that arrives early in the workday are the ones that we hope to discourage parking in the structures. Many vehicles (over 14,000 per month) park for more than 6 hours a day now. This number is growing as monthly permits become increasingly scarce. These people are paying a lot of money per month to park, and if the increase is significant, it may cause behaviors to modify. Those visitors or employees that park for shorter shifts do not pay as much overall, and are less likely to change their behaviors.
- 2. As daily traffic has increased, so has the volume of cars that fall under the "2 hours free" category. There are a significant number of people that take time during their day to move their car out and back into the garage to reduce their total cost of parking for the day. If we raise the rates much for the middle range people (3 to 6 hours), this behavior is clearly going to pick up.
- 3. Rate increases do have a negative impact on those that use the system. If there are groups of people that remain unaffected by the change, that reduces the number of people that are negatively impacted.

Attached is a table that demonstrates the amount of money that the system earns if various rate structures are used. The following are some notes on the various alternatives:

**Current Rates** – This table represents the current rate structure for all but the Pierce St. Structure. (Therefore, the net revenue shown is smaller than what is currently being realized.) This rate structure has been in place since 1997 (almost 20 years).

**Pierce St. Rate** – This is the rate structure that was recommended in our April 15 memo. Implementing this rate structure at all five facilities has the benefit of only impacting the long term parkers. At Pierce St., long term parkers are already paying this rate, so there would be no change for them. As described in the previous memo, revenues are predicted to increase about \$500,000 per year, which is about \$42,000 per month.

Alternate Rate Schedules A, B, and C – These schedules represent increasing the rate more aggressively, with B and C including a 3 hours free provision (instead of 2). Clearly, these rates would impact those employees that work shorter shifts (and likely earn less money). Staff does not recommend this. We assume that these employees would be less likely to have any other choice than to pay these rates, or they may be more likely to move their car in and out of the structure more often. Having a big change in cost between 3 and 4 hours will encourage people to try to manipulate the system with unwanted behaviors. This negative behavior causes more traffic in the streets and the structures, and results in a less pleasant work environment for those that feel that they have to do this.

Alternate Rate Schedule D – If the Committee is inclined to be more aggressive than what was first suggested, we recommend a more gradual increase by going to a rate that increases at the rate of \$2 per hour. Even this smaller change results in revenues about double what they are today. This change would impact every daily parker in the system.

With the idea that a revenue increase should not be too extreme at any one time, staff continues to recommend that all five structures charge the same rate, specifically the one labeled as the "Pierce St. Rate."

#### EVENING ONLY MONTHLY PERMIT

Reviewing usage patterns, there are currently about 100 monthly permit holders (system-wide) that routinely enter their parking structure after 4 pm to work an evening shift. The parking system could offer an evening only monthly permit that would work the same as a regular monthly permit, except that they could only enter the structure every day after 4 PM. Further, they would have to agree to not leave their car overnight (which would then cause more traffic burden the next morning). The evening permit would not be as desirable, so it would have to be sold at a discount. We are recommending a \$10 discount from the regular price. Offering such a permit would reduce revenues, to an extent that is difficult to predict. It would provide the following benefits to the system's users:

- 1. Those paying for a monthly permit that are in the structure primarily in the evening could save \$10 per month.
- 2. Removing the estimated 100 permits from the current monthly permit holders would allow a new 100 customers (system-wide) to purchase a monthly permit. Since some parkers have been waiting over 2 years for a permit, that would bring an end to a long wait. (Selling more permits could potentially increase the number of vehicles in a structure, unless they are parking in the same structure now anyway, paying the daily rate. If enacted with the recommendation to reduce the number of permits at N. Old Woodward Ave. and Park St., they would potentially be able to move to a different structure instead.)

- 3. Current evening employees that cannot get a permit would now be able to purchase one, as the system should be able to supply many more permits than there is currently needed. Again this would reduce revenues, but would improve customer satisfaction.
- 4. Offering monthly permits would hopefully encourage evening employees on a tight budget to purchase a permit, rather than attempt to keep their costs down by driving out and then back into the structure during their shift.

Based on the above new thoughts, the recommendation from the April meeting is repeated below, and now includes the provision for an evening only monthly permit.

#### SUGGESTED RECOMMENDATION:

The Advisory Parking Committee recommends that the City Commission approve the following changes to reflect the current value of parking, and to help position the Auto Parking System Fund for future expected parking system capacity improvements:

1. Effective July 1, 2016, to change the daily parking rate at the Park St., Peabody St., N. Old Woodward Ave., and Chester St. Structures to match the rate currently in effect at the Pierce St. Parking Structure, wherein parking will be charged as follows:

Time	Pierce St. Rate
Less than 2 hours	Free
Less than 3 hours	\$1
Less than 4 hours	\$2
Less than 5 hours	\$3
Less than 6 hours	\$4
Less than 7 hours	\$5
Less than 8 hours	\$7.50
More than 8 hours	\$10

The above applies to charges applied prior to 10 PM every evening. Charges after 10 PM will have a maximum value of \$5.

2. Effective July 1, 2016, to increase the monthly parking permit rate at the majority of the parking facilities, as follows:

Parking Facility	Existing	Proposed
		7-1-16
Pierce St.	\$65	\$70
Park St.	\$60	\$70
Peabody St.	\$65	\$70
N. Old Woodward Ave.	\$55	\$70
Chester St.	\$45	\$50
Lot 6 – Regular Permit	\$65	\$70
Lot 6 – Economy Permit	\$45	\$50
South Side Permit (Ann St.)	\$50	\$50
South Side Permit (S. Old Woodward Ave.)	\$25	\$25

- 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 \$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 currently set at 50¢ per hour to \$1 per hour, making the entire City uniform at \$1 per hour.
- 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 \$10 per month over the regular monthly permit rate.

Time	Current Rates	Transactions	Net	Ticket percentage
Under 2 hours	Free	41162	\$0.00	0.509664079
2-3 Hours	\$1	12446	\$10,260.00	0.154105221
3-4 hours	\$2	6330	\$10,937.00	0.078377475
4-5 hours	\$3	3617	\$9,332.00	0.04478536
5-6 hours	\$4	2431	\$8,839.00	0.030100417
6 or more	\$5	14777	\$53,678.00	0.182967448
Totals		80763	\$93,046.00	\$1.15

### **Current Rates**

### Pierce Rate

Time	Current Rates	Transactions	Net	Ticket percentage
Under 2 hours	Free	41162	\$0.00	0.509664079
2-3 Hours	\$1	12446	\$12,446.00	0.154105221
3-4 hours	\$2	6330	\$12,660.00	0.078377475
4-5 hours	\$3	3617	\$10,851.00	0.04478536
5-6 hours	\$4	2431	\$9,724.00	0.030100417
6-7 hours	\$5	2188	\$10,940.00	0.027091614
7-8 hours	\$7.50	2486	\$18,645.00	0.030781422
8 or more	\$10	8432	\$84,320.00	0.104404245
after 10pm	\$5	1671	\$8,355.00	0.020690168
Totals		80763	\$167,941.00	\$2.08

## Alternate Rate schedule A

Time	Current Rates	Transactions	Net	Ticket percentage
Under 2 hours	Free	41162	\$0.00	0.509664079
2-3 Hours	\$3	12446	\$37,338.00	0.154105221
3-4 hours	\$5	6330	\$31,650.00	0.078377475
4-5 hours	\$7	3617	\$25,319.00	0.04478536
5or more	\$10	15537	\$155,370.00	0.192377698
after 10pm	\$5	1671	\$8,355.00	0.020690168
Totals		80763	\$258,032.00	\$3.19

Time	Current Rates	Transactions	Net	Ticket percentage
Under 3 hours	Free	53608	\$0.00	0.6637693
3-4 Hours	\$5	6330	\$31,650.00	0.078377475
4-5 hours	\$6	3617	\$21,702.00	0.04478536
5-6 hours	\$7	2431	\$17,017.00	0.030100417
6-7 hours	\$8	2188	\$17,504.00	0.027091614
7-8 hours	\$9	2486	\$22,374.00	0.030781422
over 8 hours	\$10	8432	\$84,320.00	0.104404245
after 10pm	\$5	1671	\$8,355.00	0.020690168
Totals		80763	\$202,922.00	\$2.51

### Alternate Rate schedule B

Alternate C (Very estimated)

Time	Current Rates	Transactions	Net	Ticket percentage
Under 3 hours	Free	#REF!	\$0.00	#REF!
3-4 Hours	\$5	4748	\$23,740.00	#REF!
4-5 hours	\$7	2712	\$18,984.00	#REF!
over 5 hours	\$10	14929	\$149,290.00	#REF!
In after 5 pm	\$5	4766	\$23,830.00	#REF!
Totals		#REF!	\$215,844.00	#REF!

## Alternate Rate schedule D

Time	Current Rates	Transactions	Net	Ticket percentage
Under 2 hours	Free	41162	\$0.00	0.509664079
2-3 Hours	\$2	12446	\$24,892.00	0.154105221
3-4 hours	\$4	6330	\$25,320.00	0.078377475
4-5 hours	\$6	3617	\$21,702.00	0.04478536
5-6 hours	\$8	2431	\$19,448.00	0.030100417
6-7 hours	\$10	2188	\$21,880.00	0.027091614
7-8 hours	\$10	2486	\$24,860.00	0.030781422
8 or more	\$10	8432	\$84,320.00	0.104404245
after 10pm	\$5	1671	\$8,355.00	0.020690168
Totals		80763	\$230,777.00	\$2.86

#### City of Birmingham, Michigan Automobile Parking System Fund Projected Cash Flow Analysis

#### Projected Cash Flow Current Revenue Stream

#### CITY OF BIRMINGHAM AUTOMOBILE PARKING SYSTEM FUND CASH FLOW PROJECTION

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	ACTUAL 2014-2015	PROJECTED 2015-2016	PROJECTED 2016-2017	PROJECTED 2017-2018	PROJECTED 2018-2019	PROJECTED 2019-2020	PROJECTED 2020-2021	PROJECTED 2021-2022	PROJECTED 2022-2023	PROJECTED 2023-2024	PROJECTED 2024-2025	PROJECTED 2025-2026
CASH FLOWS FROM OPERATING ACTIVITIES: CASH RECEIVED FROM CUSTOMERS	\$4,709,912	\$5,263,480	\$5,252,330	\$5,252,330	\$5,252,330 -	\$5,252,330	\$5,252,330	\$5,252,330 -	\$5,252,330 -	\$5,252,330 -	\$5,252,330	\$5,252,330
CASH RECEIVED FROM FEDERAL GRANT CASH PAYMENT TO SUPPLIER/CONTRACTORS FOR GOODS & SERVICES CASH PAYMENT TO CENTRAL PARKING SYSTEM CONTRACTOR CASH PAYMENT TO CITY EMPLOYEES FOR SERVICES	(435,348) (1,439,861) (436,518)	(597,780) (1,470,000) (402,360)	(536,570) (1,700,000) (453,471)	(534,760) (1,600,000) (465,597)	(570,394) (1,640,574) (475,695)	(581,802) (1,695,193) (486,035)	(593,438) (1,751,721) (496,623)	(605,307) (1,810,228) (507,466)	(617,413) (1,870,789) (518,571)	(629,761) (1,933,478) (529,946)	(642,357) (1,998,377) (541,599)	(655,204) (2,065,567) (553,538)
NET CASH PROVIDED BY OPERATING ACTIVITIES	2,398,185	2,793,340	2,562,289	2,651,974	2,565,666	2,489,300	2,410,548	2,329,329	2,245,557	2,159,144	2,069,997	1,978,021
CASH FLOWS FROM CAPITAL AND RELATED FINANCING												
ACTIVITIES: ACQUISITION AND CONSTRUCTION OF CAPITAL ASSETS	(1,443,676)	(1,566,090)	(1,802,000)	(940,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)
NET CASH USED FOR CAPITAL AND RELATED FINANCING ACTIVITIES	(1,443,676)	(1,566,090)	(1,802,000)	(940,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)
CASH FLOWS FROM INVESTING ACTIVITIES: INTEREST AND DIVIDENDS ON INVESTMENTS	44,410	56,670	76,430	100,490	127,800	174,900	195,890	215,820	273,740	294,990	359,840	381,760
NET CASH PROVIDED BY INVESTING ACTIVIITES	44,410	56,670	76,430	100,490	127,800	174,900	195,890	215,820	273,740	294,990	359,840	381,760
NET INCREASE (DECREASE) IN CASH AND INVESTMENTS	998,919	1,283,920	836,719	1,812,464	1,493,466	1,464,200	1,406,438	1,345,149	1,319,297	1,254,134	1,229,837	1,159,781
CASH AND INVESTMENTS AT BEGINNING OF YEAR	5,516,138	6,515,057	7,798,977	8,635,696	10,448,160	11,941,626	13,405,826	14,812,264	16,157,413	17,476,711	18,730,845	19,960,682
CASH AND INVESTMENTS AT END OF YEAR	\$6,515,057	\$7,798,977 =======	\$8,635,696	\$10,448,160	\$11,941,626 =======	\$13,405,826 =======	\$14,812,264	\$16,157,413 ========	\$17,476,711 =======	\$18,730,845	\$19,960,682 ======	\$21,120,463

#### City of Birmingham, Michigan Automobile Parking System Fund Projected Cash Flow Analysis

#### Projected Cash Flow with (5) Revenue Proposals

#### CITY OF BIRMINGHAM AUTOMOBILE PARKING SYSTEM FUND CASH FLOW PROJECTION

	ACTUAL 2014-2015	PROJECTED 2015-2016	PROJECTED 2016-2017	PROJECTED 2017-2018	PROJECTED 2018-2019	PROJECTED 2019-2020	PROJECTED 2020-2021	PROJECTED 2021-2022	PROJECTED 2022-2023	PROJECTED 2023-2024	PROJECTED 2024-2025	PROJECTED 2025-2026
CASH FLOWS FROM OPERATING ACTIVITIES: CASH RECEIVED FROM CUSTOMERS	\$4,709,912	\$5,263,480	\$6,245,925	\$6,245,925	\$6,245,925	\$6,245,925	\$6,245,925	\$6,245,925	\$6,245,925	\$6,245,925	\$6,245,925	\$6,245,925
CASH RECEIVED FROM FEDERAL GRANT CASH PAYMENT TO SUPPLIER/CONTRACTORS FOR GOODS & SERVICES CASH PAYMENT TO CENTRAL PARKING SYSTEM CONTRACTOR CASH PAYMENT TO CITY EMPLOYEES FOR SERVICES	(435,348) (1,439,861) (436,518)	(597,780) (1,470,000) (402,360)	(536,570) (1,700,000) (453,471)	(534,760) (1,600,000) (465,597)	(570,394) (1,640,574) (475,695)	(581,802) (1,695,193) (486,035)	(593,438) (1,751,721) (496,623)	(605,307) (1,810,228) (507,466)	(617,413) (1,870,789) (518,571)	(629,761) (1,933,478) (529,946)	(642,357) (1,998,377) (541,599)	(655,204) (2,065,567) (553,538)
NET CASH PROVIDED BY OPERATING ACTIVITIES	2,398,185	2,793,340	3,555,884	3,645,569	3,559,261	3,482,895	3,404,143	3,322,924	3,239,152	3,152,739	3,063,592	2,971,616
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES: ACQUISITION AND CONSTRUCTION OF CAPITAL ASSETS	(1,443,676)	(1,566,090)	(1,802,000)	(940,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)
NET CASH USED FOR CAPITAL AND RELATED FINANCING ACTIVITIES	(1,443,676)	(1,566,090)	(1,802,000)	(940,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)
CASH FLOWS FROM INVESTING ACTIVITIES: INTEREST AND DIVIDENDS ON INVESTMENTS	44,410	56,670	76,430	100,490	150,890	214,020	246,590	278,290	360,550	396,160	492,150	531,390
NET CASH PROVIDED BY INVESTING ACTIVIITES	44,410	56,670	76,430	100,490	150,890	214,020	246,590	278,290	360,550	396,160	492,150	531,390
NET INCREASE (DECREASE) IN CASH AND INVESTMENTS	998,919	1,283,920	1,830,314	2,806,059	2,510,151	2,496,915	2,450,733	2,401,214	2,399,702	2,348,899	2,355,742	2,303,006
CASH AND INVESTMENTS AT BEGINNING OF YEAR	5,516,138	6,515,057	7,798,977	9,629,291	12,435,350	14,945,501	17,442,416	19,893,149	22,294,363	24,694,066	27,042,965	29,398,707
CASH AND INVESTMENTS AT END OF YEAR	\$6,515,057	\$7,798,977 =============	\$9,629,291 ========	\$12,435,350	\$14,945,501	\$ <b>1</b> 7,442,416 ==========	\$19,893,149 =======	\$22,294,363	\$24,694,066 	\$27,042,965	\$29,398,707 	\$31,701,713

For the shuttle and valet operations, again using the 50 vehicles scenario, a cost of \$17 per month per vehicle would apply (to the City). A separate payment from the employer to the service company would then also apply for the service, at whatever rate the employer can negotiate.

While the feasibility of these programs may have seemed low in the past, as demand for parking continues to rise, we expect these programs to look more attractive. The current option of parking in a parking structure and paying \$5 per day can be brought down with these options, and hopefully will become more attractive. As employee demand makes the parking structures busier, the demand can also have negative consequences on customer parking as well. We will work to encourage these programs actually being used, in an effort to keep the parking structures open and available for shopper and customer traffic.

City of	Birmingham	MEMORANDUM
DATE:	April 15, 2016	Engineering Dept.
TO:	Advisory Parking Committee	
FROM:	Paul T. O'Meara, City Engineer	
SUBJECT:	Parking System Rates	

#### PROBLEM

The Birmingham parking structures has long been operated with the premise that spaces need to be made available in each parking structure at all times for customer (shopper) traffic. While customers would generally prefer to park at a street meter, once these become full, it is imperative that the nearest parking structure be open and ready to serve them. In the past, this was easy to achieve simply by limiting the number of monthly parking permits sold in each structure, based on the supply and demand.

With the large increase in office occupancy seen since 2013, demand on the parking structures is greater than can be accommodated. Monthly permits are sold out in all five structures, with the shortest current wait time being about a year at Chester St. (People have been known to wait over three years to get into Peabody St.) Since there are many more employees than available monthly permits, a large number of employees elect to park in the parking structure all day, and pay the daily rate. (Many of the larger employers are covering this cost, and paying the parking system through validations.)

As you know, through the efforts of the Manager's office, off site parking options have been made available at three local churches. A promotional sheet was put together (discussed previously, and attached again to this report) encouraging large employers to take advantage of this option. During talks with these employers, it has become evident that it is important that they keep their staff happy. As a result, parking off site is not considered an attractive option, particularly if it is almost or as costly as just parking in the structure.

A new large influx of employees started working in downtown Birmingham in late January. The impact this has made can be demonstrated on the attached "Garage Full" lists. We are now in a position where all five parking structures are often filling for a period of time during the middle of the day (peak time). Considering that this is historically the lowest demand time of year, and considering all five parking structures are fully open (without construction underway), we have a situation that must be remedied. It is important to the overall dynamics of the downtown to have a healthy retail/restaurant sector in place. If the customers of these establishments come to town and cannot find a parking place, it will begin impacting their bottom line.

#### <u>SOLUTION</u>

In order to keep the parking structures open and accessible to customers, the number of employee vehicles within need to be reduced. The following options are offered for your consideration (presented in order of expected impact):

- 1. Increase the Parking Structure Daily Rate
- 2. Increase the Parking Structure Monthly Permit Rate
- 3. Reduce the Cost of Parking Vehicles Outside Downtown
- 4. Reduce the Authorized Number of Monthly Parking Permits

Finally, due to the above changes, it is appropriate to review the rate at the parking meters. Detail of this topic can be found below, and is listed as a fifth recommended change to complete this report:

# 5. Increase lower cost parking meters so that all meters charge the rate of \$1 per hour.

More detail of each option is provided below:

#### 1. Increase the Parking Structure Daily Rate

The last system-wide change to the daily rates in the parking structures came in 1996 (almost twenty years ago) with the implementation of the "First Two Hours Free" campaign. Given its longevity, it can be considered a major success. The rate structure remains unchanged in four of the five structures. About ten years ago, the rate was modified at the Pierce St. Structure, when demand in that area was resulting in a large number of daily rate employees. In an effort to move these people into the other, less desirable structures, the daily rate was increased, and it remains that way today. Below are the rates currently in place:

Time	Standard Daily Rate	Pierce St. Rate <sup>1</sup>
Less than 2 hours	Free	Free
Less than 3 hours	\$1	\$1
Less than 4 hours	\$2	\$2
Less than 5 hours	\$3	\$3
Less than 6 hours	\$4	\$4
Less than 7 hours	\$5	\$5
Less than 8 hours	\$5	\$7.50
More than 8 hours	\$5	\$10

The recent increase in demand can largely be traced to an increase in full time employees parking all day long. The larger mployers are typically paying the cost of parking for their

<sup>&</sup>lt;sup>1</sup> The maximum rate drops back to \$5 for those that leave after 10 PM. This provision was implemented to help late evening employees since parking demand is much lower at that time of night.

employees, in the form of validation charges. The "Pierce St." modified rate structure has three benefits:

- 1. The change in rates does not impact the customer or short term visitor.
- 2. The change in rates results in a large increase to those who stay all day. The increase can be significant particularly if an employer is covering the costs for many employees.
- 3. The additional revenue can be saved for future parking space construction, as well as the cost of the initiative noted below.

It is recommended that the Pierce St. rate structure be extended to the other four parking structures, so that employees are given a stronger financial incentive to look to alternate means of parking.

Given current (as of the last few weeks) usage patterns, it is estimated that approximately \$500,000 additional annual revenue would result from this change. (If the reaction to the rate increase results in substantial behavior changes, this number would go down.)

The only costs for implementation would be to update the rate signs posted at each vehicle entrance in the four other structures, as well as reprogramming the traffic control system equipment. Total costs are estimated to be about \$1,000.

#### 2. Increase the Parking Structure Monthly Permit Rate

The following rate structure lists what the rates have been over the past three years, as well as a suggested increase to be implemented on July 1. The rate changes in the recent past have been predicated on the fact that:

- 1. Monthly permits represent a commodity that is in high demand that is under priced.
- 2. Revenues in excess of expenditures can be saved in the Parking System Fund and used later toward the cost of constructing new parking spaces.

Historically, the south side of downtown was in highest demand for permits, and the rate structure reflects that. However, demand is now strong everywhere. Even Chester St. Structure is filling at least once, if not more, each week. With this in mind, increases are recommended more toward equalizing costs between the different facilities, with the exception of the following:

Chester St. – While the Chester St. Structure is now filling more frequently, it is still recognized that for a lot of employees, this is not the facility of their choice. Many people parking here must walk further to their destination than they would if they could park closer. For that reason, staff recommends that the price at Chester, while increasing, should remain below the others.

Lot 6 Economy Permit – All of the Lot 6 area is now in high demand during the peak hour. However, we think an incentive for those willing to park in the least desirable parking metered spaces continues to be appropriate. South Side Permit (Ann St. & S. Old Woodward Ave.) – Sales of permits in this area remains below demand. Particularly at the S. Old Woodward Ave. location, sales are very low. Staff feels that having this option available for those that are sensitive to cost is a good thing. No increases are suggested here.

Parking Facility	Prior to	Effective	Effective	Proposed
	8-1-14	8-1-14	7-1-15	7-1-16
Pierce St.	\$55	\$60	\$65	\$70
Park St.	\$45	\$50	\$60	\$70
Peabody St.	\$45	\$55	\$65	\$70
N. Old Woodward Ave.	\$45	\$50	\$55	\$70 <sup>2</sup>
Chester St.	\$30	\$40	\$45	\$50
Lot 6 – Regular Permit	\$50	\$55	\$65	\$70
Lot 6 – Economy Permit	\$30	\$35	\$45	\$50
South Side Permit (Ann St.)	\$40	\$40	\$50	\$50
South Side Permit (S. Old Woodward Ave.)	\$40	\$40	\$25	\$25

The increase in revenues over the course of the fiscal year, should these rates be implemented, is estimated at almost \$400,000 per year. The cost of implementation will be a small amount of programming changes.

#### 3. Reduce the Cost of Parking Vehicles Outside Downtown

Tentative agreements have been made with three churches within or adjacent to Birmingham:

- 1. First United Methodist Church (1669 W. Maple Rd.)
- 2. Ascension of Christ Lutheran Church (16935 W. 14 Mile Rd., Beverly Hills)
- 3. Our Shepherd Lutheran Church (2225 E. 14 Mile Rd.)

All three have offered similar opportunities. For discussion purposes, the first one will be used as an example. If desired, an employer could begin renting 50 of these spaces through the City at the cost of \$10,000 per year (\$833.33 per month, which translates to a cost of \$16.67 per vehicle per month). The rental fee has been considered a "pass through" cost wherein the City would charge the same amount for the rental fee, since the City has to pay rent to the landowner. The employer must also sustain the transportation costs inherent in this off site program, be it via carpooling, shuttle, or valet.

Staff is suggesting that it is important for these off site spaces to be used. Doing so will benefit customers having access to the parking spaces these vehicles would be using downtown, which helps the viability of the businesses they are patronizing. In order to incentivize the use of these spaces, it is recommended that the Parking System be responsible for this rental cost. Then the employers' only cost would be the transportation costs (carpool, shuttle, or valet). Given the current availability of these spaces, the cost to the City will be less than \$30,000

<sup>&</sup>lt;sup>2</sup> In previous rate increases, no change greater than \$10 per month has been implemented. A change of \$15 this one time is recommended at the N. Old Woodward Ave. Structure, given the large jump in demand that has been seen there, and to equalize it to the other three prime parking locations.

annually. Given the current revenues of the Parking System, we feel that this cost can be easily sustained.

#### 4. <u>Reduce the Authorized Number of Monthly Parking Permits</u>

Each parking structure has an authorized number of monthly permits that may be sold. The number is based on past experience, keeping the number as high as practical, but low enough that the parking structure does not fill to capacity except during extreme demand periods that should only happen a small number of times per year.

Based on the attached "Garage Full" list, the recent change in demand in the area of the N. Old Woodward Ave. and Park St. Structures has resulted in these facilities filling almost five times per week during the peak hour.

As can be seen on the attached monthly demand summary, some of the parking structures are authorized to sell more monthly permits than there are spaces within. These numbers worked in the past because only about 60% of the monthly permit holders are actually present at one time during the peak hour. This, coupled with relatively low daily demand, allowed the oversell factor to work. While the oversell at Park St. is minimal (less than 1%), it is significant at N. Old Woodward Ave. (21%). Perhaps not coincidentally, the Park St. Parking Structure is not filling quite as often as N. Old Woodward Ave. The amount of reduction recommended is less at Park St., accordingly. The suggested changes are shown below:

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

Lowering the number of permits sold has historically been voluntary, through attrition. Turnover for monthly permits is relatively low, given their current demand and value. Recent experience has shown that lowering the authorized number of permits in this environment will not result in much change. It may take two to three years to accomplish. However, given the current environment, it is not appropriate to be filling the structure with too many permits. Converting future permit sales to daily traffic will then encourage more vehicles to participate in the off-site parking options.

#### 5. Increase lower cost parking meters so that all meters charge the rate of \$1 per hour.

Currently, the majority of the City's meters charge for parking at the rate of \$1 per hour, as they have since 1996. However, about 30% of the meters, mostly on the far north and south sides of the district, charge at 50¢ per hour. A map of the meter rates as they currently exist is attached for reference. Some of these meters are close to a parking structure, while others are located far away. Most are being used more now than they were at the time the decision was made to make them less expensive.

If one chooses to park at a 50¢ meter for the majority of the work day, and the new rates go into effect, it is actually cheaper than parking in the structures. This goes against the philosophy that meters are prime parking, and that the rate paid should reflect their demand.

Changing the rate would involve renting a programming device from the parking meter vendor, and installing new labels on the affected meters. Parts and labor for this effort should cost less than \$2,000 as a one time expense. Revenues are roughly estimated to increase by \$260,000 annually.

A suggested recommendation encompassing all four parts of this package is provided below:

#### SUGGESTED RECOMMENDATION:

The Advisory Parking Committee recommends that the City Commission approve the following changes to reflect current value, and in order to encourage the use of the off-site parking spaces currently available at three local churches:

1. Effective July 1, 2016, to change the daily parking rate at the Park St., Peabody St., N. Old Woodward Ave., and Chester St. Structures to match the rate currently in effect at the Pierce St. Parking Structure, wherein parking will be charged as follows:

Time	Pierce St. Rate
Less than 2 hours	Free
Less than 3 hours	\$1
Less than 4 hours	\$2
Less than 5 hours	\$3
Less than 6 hours	\$4
Less than 7 hours	\$5
Less than 8 hours	\$7.50
More than 8 hours	\$10

The above applies to charges applied prior to 10 PM every evening. Charges after 10 PM will have a maximum value of \$5.

2. Effective July 1, 2016, to increase the monthly parking permit rate at the majority of the parking facilities, as follows:

Parking Facility	Existing	Proposed 7-1-16
Pierce St.	\$65	\$70
Park St.	\$60	\$70
Peabody St.	\$65	\$70
N. Old Woodward Ave.	\$55	\$70
Chester St.	\$45	\$50
Lot 6 – Regular Permit	\$65	\$70
Lot 6 – Economy Permit	\$45	\$50
South Side Permit (Ann St.)	\$50	\$50
South Side Permit (S. Old Woodward Ave.)	\$25	\$25

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 \$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 currently set at 50¢ per hour to \$1 per hour, making the entire City uniform at \$1 per hour.

# February

Carago	Time	How long	Date	- Physical Count
Garage Woodward	1015a	5hrs	2/1/2016	
				0
Park	11a	4hrs	2/1/2016	25
Peabody	12	2hrs	2/1/2016	30
Pierce	12	2hrs	2/1/2016	60
Chester	12	2hrs	2/1/2016	54
Woodward	11a	4hrs	2/2/2016	8
Park	12	4hrs	2/2/2016	15
Peabody	12	2hrs	2/2/2016	20
Pierce	1p	1hr	2/2/2016	30
Woodward	11	4hrs	2/3/2016	20
Park	11	3hrs	2/3/2016	15
Pierce	12	2hrs	2/3/2016	50
Peabody	12	2hrs	2/3/2016	22
Chester	12	2hrs	2/3/2016	35
Park	1015a	4hrs	2/4/2016	15
Woodward	11a	4hrs	2/4/2016	12
Pierce	1230p	1hr	2/4/2016	54
Peabody	1p	1hr	2/4/2016	15
Chester	1p	1hr	2/4/2016	22
Park	1030a	4hrs	2/5/2016	5
Woodward	11a	4hrs	2/5/2016	35
Pierce	1145a	2hrs	2/5/2016	64
Peabody	12	1.5hrs	2/5/2016	43
Park	945a	4hrs	2/8/2016	0
Woodward	11a	3hrs	2/8/2016	54
Pierce	12p	1hr	2/8/2016	78
Peabody	1230p	1hr	2/8/2016	25
Park	955a	4hrs	2/9/2016	0
Woodward	1035a	3hrs	2/9/2016	11
Pierce	12p	1hr	2/9/2016	89
Peabody	12p	1hr	2/9/2016	45
				We stopped this daily as more spaces seemed to be open. We do spot check
Park Woodward	1030a 11a	3hrs 3hrs	2/10/2016 2/10/2016	weekly

Peabody	12p	.5hr	2/10/2016	
Park	1030a	3hrs	2/11/2016	
Woodward	11a	2hrs	2/11/2016	
Peabody	1230p	.5hr	2/11/2016	
<b>D</b>	4000	0.51	0/40/0040	
Park	1030a	3.5hrs	2/12/2016	
Woodward	11a	2hrs	2/12/2016	
Peabody	12p	1hr	2/12/2016	
Deal	40.	01	0/45/0040	
Park	10a	3hrs	2/15/2016	
Woodward	11a	2.5hrs	2/15/2016	
Dark	1015-	Ohro	0/47/0040	
Park	1045a	3hrs	2/17/2016	
Woodward	1115a	2.5hrs	2/17/2016	
Park	1030a	4bro	2/18/2016	
		4hrs		
Woodward	1130a	2.5hrs	2/18/2016	
Park	0550	3.5hrs	2/10/2016	
Park Woodward	955a 1055a		2/19/2016	
	10558	2hrs	2/19/2016	
Darl	110	Ohro	0/00/0040	
Park	11a	2hrs	2/22/2016	
Woodward	12p	1hr	2/22/2016	
Deule	44-	Ob an	0/00/0040	
Park	11a	2hrs	2/23/2016	
Woodward	1130a	1.5hrs	2/23/2016	
David	045 -	4hr	0/00/0040	
Park	945a		2/29/2016	
Woodward	1055a	2.5hrs	2/29/2016	

City of	Birmingham	MEMORANDUM
DATE:	January 14, 2016	Engineering Dept.
TO:	Advisory Parking Committee	
FROM:	Paul T. O'Meara, City Engineer	
SUBJECT:	Off Site Parking Options	

1

As you know, monthly parking permit demand has grown significantly beyond what the parking system can support, resulting in a large waiting list at all five parking structures. Attached under another agenda item in this package are the most recent materials from the Ad Hoc Parking Development Committee's most recent meeting. (A verbal update of that meeting will be provided at the meeting.) The Development Committee represents the long term solution to this issue.

To provide a more immediate response, last May the Advisory Parking Committee was updated on initiatives the City Manager's office was pursuing, including possibly renting existing church parking lots for alternative parking areas. At that time, a program of carpooling was suggested as a means to get four employees to group together, parking three cars at the remote lot, and one at the Chester St. Structure. While no one has used the carpooling option to date, it is still considered a viable option. In the past several months, two other options have surfaced as possible ways to address this problem:

Shuttle – After reviewing the feasibility with a private company, it is possible that a large employer could hire a company to provide a shuttle from a remote parking lot to the specific downtown office of the company paying for the service. It is possible that more than one company could work together to make this more affordable.

Valet – The City also reviewed the feasibility of a private company being hired by a large employer to run a valet service. The valet would have more staff at the beginning and end of the day, and take individual cars from the employer's office to the remote parking lot.

The attached flyer has been prepared, and will now be available in the SP+ Parking office. If staff gets questions or comments about the lack of parking from large employers, they will have this sheet available to hand out to those that may be interested in other options. The options are arranged from the lowest cost (carpooling) to the highest (valet). The cost structure for carpooling would be completely between the employer and the City. The City's costs that would need to be covered would include the church parking lot rental (negotiated at \$10,000 per year per lot, ranging in size from 45 to 70 cars), and the cost of one monthly permit (for the benefit of four employees). For example, if 50 vehicles are involved, the rental fee for the lot would be covered at a cost of \$17 per month per vehicle, and the cost of one parking permit at Chester St. would be \$45 (for each group of 4 employees).

For the shuttle and valet operations, again using the 50 vehicles scenario, a cost of \$17 per month per vehicle would apply (to the City). A separate payment from the employer to the service company would then also apply for the service, at whatever rate the employer can negotiate.

While the feasibility of these programs may have seemed low in the past, as demand for parking continues to rise, we expect these programs to look more attractive. The current option of parking in a parking structure and paying \$5 per day can be brought down with these options, and hopefully will become more attractive. As employee demand makes the parking structures busier, the demand can also have negative consequences on customer parking as well. We will work to encourage these programs actually being used, in an effort to keep the parking structures open and available for shopper and customer traffic.

# Birmingham Parking System Offers Additional Parking Opportunities

The City of Birmingham has the opportunity to offer approximately 200 parking spaces at off-site facilities in and around the City to companies on the waiting list for monthly parking permits willing to explore creative solutions. Any of these solutions will enable your staff to avoid the daily parking rate, and will offer a reduced monthly permit cost.

While the City is conducting its due diligence in examining long-term parking facility improvements, these interim opportunities are being offered to expand current parking capacity and address current demands. Three sites have agreed to participate, including the First United Methodist Church at 1589 W. Maple Road, Our Shepherd Lutheran Church at 2225 E. 14 Mile Road, and Ascension of Christ Lutheran Church at 16935 W. 14 Mile Road in Beverly Hills. The opportunity to utilize these spaces can be accomplished in three alternative forms.

## Carpooling –

A parking lot would be made available for employee carpooling, and monthly parking permits in the Chester St. Structure would be issued to a select number of companies that choose to participate.

## Parking Shuttle –

An exclusive shuttle service would be provided to transport employees from one of the parking facilities to the door of the business and return them at the end of the day.

## Valet Parking –

A valet station would be set up at a business location to transport employee vehicles to a surface lot for parking and return their cars at the end of the day.

City of Birmingham

Given the logistics of administering off-site parking, arrangements must be made with businesses with groups of 20 or more employees. Additional solutions may be considered for these spaces that meet the objectives of the interim program.

**Cost:** Monthly parking permits issued under this arrangement would be issued at a reduced rate from the current permit fees. Individual rates would be determined by the alternative selected.

**Questions:** For additional information on any of these alternatives, please contact our parking agency to discuss these alternatives at <u>Spplusbirmingham@spplus.com</u> or call 248-540-9690.



**MEMORANDUM** 

**Police Department** 

SUBJECT:	CivicSmart Parking Meter and Vehicle Detection Sensor Purchase
FROM:	Mark H. Clemence, Chief of Police
то:	Joseph A. Valentine, City Manager
DATE:	December 28, 2016

In April 2016, staff began to reexamine on-street parking technologies in anticipation of the 2017 Old Woodward repaving project. The police department was tasked with examining various parking technologies including the following four systems: traditional (coin operated), smart meters (credit card enabled), multi-space (pay stations) and zone parking.

With contemporary meter technology (multi-space / smart meters), parking mechanism faults are instantly reported via management system support software – jammed meters and dead batteries can be repaired or replaced instantly resulting in less downtime per meter space providing potential for increased revenues due to fewer broken meters. Units run on solar power and are easily programmed for rate and time limit changes. Internet based meter management for repairs, audits, space monitoring, maintenance logs, inventory, etc. is greatly enhanced over administration of traditional parking meter mechanisms such as our existing system. Multi-space and single space smart meters share common advantages. In regards to technology, there is no distinct advantage between multi-space and single space smart meters. Traditional meters, while reliable, do not provide any of the advantages offered by modern technology.

#### **MULTI-SPACE PAY STATIONS**

Multi-space kiosks were evaluated with the consideration that streetscape aesthetics may improve with this type of on-street parking design. However, due to the need to identify parking spaces with zone and space numbers, current meter posts would remain in use. Although individual meter housings and mechanisms would be removed, the multi-space kiosks would be added resulting in additional streetscape design concerns. Multi-space kiosks also include significant loss of traffic control flexibility. Currently when very large areas or even single parking meter spaces need to be reserved for valet operations, special events and construction projects, meter bags are a convenient and effective way to prevent vehicles from parking at select spots. With multi-spaces kiosks, reserving spaces would require the use of barricades, traffic cones or barrier tape which are easily moved by parkers not authorized for those locations. Throughout staff discussions with parking equipment vendors, various problems associated with multi-space meters were identified by numerous dealers. Multi-space pay station drawbacks include:

- Motorists have to walk too far to pay for parking (a particular problem in winter months or during inclement weather)
- Wayfinding signage and kiosk directions increase motorist frustrations
- If one kiosk is out of service all spaces in the area remain unpaid or motorists must walk even further to pay for parking
- Sometimes the closest kiosk is across the street, prompting the motorist to cross the road to pay

- Repairs are more expensive than single space meters
- ADA / handicap parking compliancy issues
- Enforcement activity is more complicated
- User errors wrong parking space number or license plate number entered results in ticket
- Complex multi-space meters are not as user friendly and easy to operate as single space meters

Staff conducted meetings and discussions with industry leading multi-space pay station and smart parking meter vendors (IPS Group, Mackay Meters, CivicSmart, and Traffic & Safety Systems). Also, staff spoke with representatives from several area communities (Rochester, Royal Oak, Ferndale, Grand Rapids, Detroit, East Lansing, and Ann Arbor) regarding their experiences with various parking equipment.

#### ZONE PARKING

Following the multi-space research, staff reviewed zone parking to review the advantages and disadvantages of implementing zone parking in the City of Birmingham. Zone parking allows a person to pay for parking within a specific zone. The vehicle has the ability to move, within that zone, as long as time remains on their parking session. Payment for this type of parking can be made at centrally located pay stations using a pay by plate method. Vendors (CivicSmart, Traffic & Safety Systems, IPS, Genetec) who provide parking systems and municipalities (Ann Arbor, Traverse City, Detroit, Michigan State University, Toledo, Windsor, Greenwich CT, Rochester NY, Palo Alto, CA, and Aspen CO) using both standalone meters and pay stations were contacted for review.

The perceived advantage of zone parking is the elimination of posts and signs identifying parking spaces. Disadvantages of zone parking include:

- Walking to a pay station and possibly waiting to pay
- Inconvenience to patrons parking with disability placards
- Zone parking requires multiple signs per block, giving the location of the pay station and identifying the parking zone
- On-street parking restrictions would require blocking parking spots with barricades, cones and barrier tape
- Zone parking requires pay stations and license plate recognition (LPR) equipment. Several LPR vendors, including Genetec, admit LPR accuracy is only about 95%, requiring a separate device for verification
- LPR forces parking enforcement assistants off the sidewalk and into vehicles. Parking enforcement officers are a great public relations tool having daily contact with business owners and patrons of the city
- LPRs create an additional cost to enforce parking and there is substantial cost estimated at \$110,000 to equip our two parking jeeps with LPR cameras
- Should LPR equipment fail, motorized parking enforcement ceases until the vehicle equipment is repaired
- Zone parking requires 100% accuracy when patrons enter license plate information into the kiosk any error will result in a parking citation being issued
- Pay station outages create a large revenue loss now that multiple spots are affected

#### SINGLE SPACE SMART METERS

Single space credit card meters are conveniently located for parkers, feature the same advantages of multi-space meters plus vehicle detection sensor technology not available with multi-space meters or zone, incorporate easier and cheaper repairs and offer streamlined enforcement tools. If one unit is out

of service, revenues and enforcement for the adjacent spaces are not affected. Traffic control at single space parking meters is achieved efficiently with the use of parking meter bags – no barricades, cones, or barrier tape needed. The lone disadvantage of single space meters is that there is no streetscape improvement.

### COSTS:

An examination of the costs between single space smart meters and multi-space / zone parking show a distinct cost advantage for smart meters as demonstrated in the below chart:

VENDOR	# METERS	PRICE PER	PURCHASE PRICE	ANNUAL MAINT	5 YR MAINT COST	TOTAL 5 YR COST
SINGLE SPACE:						
CIVICSMART	1,277	\$355.50	\$787,270.50	\$75,853.80	\$379,269.00	\$1,242,393
MULTI SPACE (LUKE):						
TRAFFIC & SAFETY	153	\$8,500	\$1,300,500	\$119,340	\$596,700	\$2,607,120
ZONE PARKING:			\$1,410,500	INC	INC	\$2,717,120

### SUMMARY - NEW PARKING METER TECHNOLOGIES

At the June 15 Advisory Parking Committee meeting, multi-space and zone parking technologies were discussed. At that meeting, after consideration of all of the above, the Advisory Parking Committee determined a new parking meter payment system is warranted and the best solution for is single space smart parking meters (with vehicle detection sensors) as opposed to multi-space pay stations or zone parking. Also at the June 15 APC meeting the committee voted to approve a trial of single space parking meters manufactured by IPS and CivicSmart. Mackay Meters and POM. Inc. declined to participate in the trial.

#### TRIAL RESULTS

From August 1 – August 30, 2016 a 30 day trial of single space smart meters was conducted on Martin Street between Henrietta and Pierce. Mechanisms manufactured by two competing vendors as selected by the Advisory Parking Committee for the trial – the IPS Group M5 meter and the CivicSmart (Duncan Parking Technologies, Inc.) Liberty meter. Both meters feature coin and credit card payment options. The trial focused on the following criteria:

- Installation & system implementation
- Customer service provided by vendors
- Management reporting systems
- Parkmobile interface
- Interoperability with parking enforcement handheld computers
- Aesthetic design/streetscape
- Parking customer experiences and comments
- Meter design and functionality
- Collections/maintenance/repair operations
- Sensor technology

### PRICE COMPARISON - CIVIC SMART / IPS

Quantity = 1,262 single space meters and sensors

ITEM	METER PURCHASE PRICE PER	METER PURCHASE PRICE TOTAL	SENSOR PURCHASE PRICE TOTAL	ANNUAL MAINT FEES METERS	ANNUAL MAINT FEES SENSORS	TOTAL ANNUAL MAINT COST	MAINT COSTS 5 YR TOTAL	TOTAL 5 YR COST
CAPITAL OUTLAY METERS:								
IPS GROUP *	\$455.00	\$574,210.00	\$315,500.00	\$121,152.00	\$53,004.00	\$174,156.00	\$870,780.00	\$1,760,490.00
CIVICSMART	\$355.50	\$448,641.00	\$329,382.00	\$74,962.80	\$40,888.80	\$115,851.60	\$579,258.00	\$1,357,281.00
COST DIFFERENCE	\$113.50 EACH	\$125,569.00	(\$13,882.00) / YR	\$46,189.20 / YR	\$12,115.20 / 5 YRS	\$58,304.40 / 5 YR		\$403,209.00
CAPITAL OUTLAY SENSORS:								
IPS SENSOR COST	\$250.00	\$315,500.00				\$315,500.00		
CIVICSMT SENSOR COST	\$261.00	\$329,382.00				\$329,382.00		
MAINTENANCE:	MONTHLY FEES PRICE PER	MONTHLY FEE TOTAL		ANNUAL FEES TOTAL COST				
IPS GROUP MAINT FEES	\$8.00	\$10,096.00		\$121,152.00 / YR		\$605,760.00 5 YRS		
CIVICSMART MAINT FEES	\$4.95	\$6,246.90		\$74,962.80 / YR		\$374,814.00 5 YRS		
IPS SENSOR FEES	\$3.50/MO	\$4,417.00 / MO		\$53,00400 / YR		\$265,020.00		
CIVICSMT SENSOR FEES	\$2.70/MO	\$3,407.40 / MO		\$40,888.80 / YR		\$204,444.00		

### **CIVICSMART LIBERTY COSTS:**

Capital Outlay Liberty Meters Capital Outlay CivicSmart Vehicle Detection Sensors Capital Outlay Total	\$355.50 x 1,262 meters = \$448,641.00 \$261.00 x 1,262 spaces = \$329,382.00 \$778,023.00
Annual Fees (Maintenance): includes CivicSmart PEMS m	anagement system * \$4.95 per meter per month x 1,262 meters \$6,246.90 per month \$74,962.80 per year \$374,814.00 (5 year meter fees total cost)
Annual Fees (Sensors):	<ul> <li>\$2.70 per sensor per month x 1,262 meters</li> <li>\$3,407.40 per month</li> <li>\$40,888.80 per year</li> <li>\$204,444.00 (5 year sensor fees total cost)</li> </ul>

5 YEAR TOTAL COST CIVICSMART = \$1,357,281.00

#### **IPS M5 COSTS:**

Capital Outlay IPS M5 Meters Capital Outlay IPS Sensors Capital Outlay Total	\$455.00 x 1,262 meters = \$574,210.00 \$250.00 x 1,262 spaces = \$315,500.00 \$889,710.00
Annual Fees (Maintenance): includes IPS data managem	ent system * \$8.00 per meter per month x 1,262 meters \$10,096 per month \$121,152.00 per year \$605,760 (5 year meter fees total cost)
Annual Fees (Sensors) 5 YEAR TOTAL COST IPS GROUP = \$1,760,490.00	\$3.50 per sensor per month x 1,262 meters \$4,417.00 per month \$53,004.00 per year \$265,020.00 (5 year sensor fees total cost)

\* Original IPS maintenance charges were quoted at \$5.75 per month (plus \$.13 per transaction fee) per meter and adjusted by IPS on 09/08/16 to \$8.00 per month per meter (plus \$.06 per transaction fee) for final quote based on 30 day trial results.

### CONCLUSION

Based upon the analysis of the trial criteria, the cost of both systems, feedback received from users of both systems and the independent advisory opinion of Mr. Andy Miller from Carl Walker, Inc. the APC voted at its October 26 meeting to select CivicSmart as the City's single space smart meter vendor.

#### **OTHER – MONTHLY WIRELESS AND CREDIT CARD FEES**

In addition to the purchase price of smart meter and sensor equipment, monthly fees apply for wireless connectivity, reporting system charges and maintenance as indicated in the above cost analysis chart. With the purchase of smart meters, there are three types of associated credit card fees: gateway charges, processing fees and interchange fees. Finance Director Mark Gerber has examined these fees and has determined that the City will absorb those costs.

#### Suggested Resolution A:

To accept the recommendation of the Advisory Parking Committee approving the purchase of 1,277 CivicSmart Liberty parking meters and vehicle sensors in the amount of \$787,270 for capital outlay and an additional \$586,143 for monthly maintenance and connectivity fees; further to charge these expenditures to Auto Parking System Fund account number 585-538.001-981.0100.

Suggested Resolution B (CREDIT CARD PROCESSING FEES):

To direct staff to offer a credit card payment option at the new CivicSmart Liberty parking meters, with all said card processing fees charged to the Auto Parking System Fund.

# Duncan Parking Technologies, Inc. Liberty Single-Space Meter Quote (5 Year Budget)

Duncan Parking Technologies, Inc.

a CivicSmart Company Prepared for: Birmingham Ship-to Region: MI **Prepared Date:** Quote ID: 16 09 01 202c 01/03/2017 **Expiry Date:** 02/02/2017 Sales Rep: Jeff Rock/Brad Magee **Product ID** Description **Unit Price** Qty **Extended Price 1. Single Space Meters** Duncan Liberty Single Space Electronic Mechanism w/ Credit Card \$ 504.415.00 SSM - LIBERTY Acceptance and Wireless Communication. Includes a modified dome 395.00 1277 Ś retainer (for POM Housing) Subtotal 504,415.00 2. Single Space Sensors Duncan Si Vehicle Sensor (Pole mounted, integrated with Duncan Liberty \$ SENS-Si 290.00 1277 \$ 370,330.00 Single Space meters). Includes Required Mounting Parts. Subtotal 370,330.00 3. Single Space Meter Services Project Management Includes customer-specific meter and back-office configuration (locations, numbering, hours, holidays, rates, coins, screens, credit card process, cell service, etc.), system testing & implementation. PM - TRAIN Flat Rate Included Remote PEMS Training session for City staff including, but not limited to meter technicians, meter collections, meter enforcement, finance department and management personnel. Field Installation is not included. Subtotal Included 4. Discounts One-Time Discount for Bundling the purchase of the Liberty Meters and/or OT - DIS \$ (87,474.50) \$ 1 (87,474.50) Vehicle Sensors or Handhelds. 10% off on hardware. Subtotal (87, 474.50)\$ **Grand Total:** 787,270.50 5. Liberty Monthly Fees **Monthly Total** Monthly wireless PEM System fee per single space credit card meter - Does SSM - CC - WIRE Ś 5.50 1277 \$ 7,023.50 not include Credit Card Gateway Fees. Price is per meter/per month. One-Time Discount on Monthly Recurring Fees for Bundling the purchase OT - DIS of the Liberty Meters and/or Vehicle Sensors or Handhelds. 10% off List \$ (702.35)1 \$ (702.35) Price. Subtotal: Monthly Fees 6,321.15 Subtotal for 1 Year \$ 75,853.80 \$ **Total For 5 Years** 379,269.00 6. Sensor Monthly Fees **Monthly Total** Monthly Wireless Fee for CivicSmart Pole Mounted Si Vehicle Sensor (per SENS-Si-WIRE \$ 3.00 1277 \$ 3,831.00 sensor/per month) One-Time Discount on Monthly Recurring Fees for Bundling the purchase OT - DIS \$ of the Liberty Meters and/or Vehicle Sensors or Handhelds. 10% off List \$ (383.10) (383.10) 1 Price Subtotal: Monthly Fees 3,447.90 Subtotal for 1 Year 41,374.80 \$ **Total For 5 Years** Ś 206,874.00 Grand Total for 5 Years (excludes Credit Card Fees): Ś 1.373.413.50 7. Credit Card Fees OPT1 - CC - GTWY Credit Card Gateway Fee (per transaction fee) \$0.06 Per Credit Card Transaction

# Duncan Parking Technologies, Inc. Liberty Single-Space Meter Quote (5 Year Budget)

Duncan Parking Technologies, Inc.

a 🔓 CivicSmart Company

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Prepared for:	Birmingham	Ship-to Region:	MI
Quote ID:	16 09 01 202c	Prepared Date:	01/03/2017
Sales Rep:	Jeff Rock/Brad Magee	Expiry Date:	02/02/2017
Product ID	Description	Unit Price Qty	Extended Price
8. Additional Red	quirements		

Sales Tax, if applicable, has not been included

Equipment is covered by a 1-year standard manufacturer's warranty.

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Shipping Terms FOB Origin. Shipping/Freight not included. Freight will be prepaid and added to the invoice.

Payment terms: Net 30 Days

Customer will be invoiced monthly in advance for recurring wireless service fees.

Quotation does not include field installation. Customer is responsible for installation.

Quotation subject to Duncan Parking Technologies, Inc. Standard Terms and Conditions. Please see attached.

Additional service and transaction processing costs apply from third parties, including: Credit card gateway transaction and merchant fees. Customer is

responsible for setting up credit card gateway compatible with Duncan credit card enabled meters. Contact your sales representative or project manager for additional details

Prices are subject to change in the event of new or increased costs of wireless communications and other third party vendor services.

Recurring prices are valid for the first full year of service and may be subject to change for subsequent contract terms.

Please Send Purchase Order To:

Duncan Parking Technologies, Inc. Attn: Meigan Lindholm PO BOX 2081 Milwaukee, WI 53201-2081 Ph: (414) 534-8066 Fax: (870) 741-6806 <u>mlindholm@civicsmart.com</u>

I hereby certify that the products and services referenced above have been requested and that by signing below I am confirming the order and agree to the terms and conditions presented in this quotation

### Authorized Signature

MARK H. CLEMENCE

Print or Type Name edeview@bhamgov.org

Email Address

BIII BIRMINGHAM POLICE DEPARTMENT

P.O. BOX 3001

BIRMINGHAM, MI 48012

Ship To Phone Number: (248) 530-1869

**Programming Contact Information Required:** 

ELLEN DEVIEW Contact Name

(248) 530-1869

Contact Phone Number edeview@bhamgov.org

Contact Email

Date

CHIEF OF POLICE

Print or Type Title (248) 530-1875

Phone Number

Ship To Address: BIRMINGHAM POLICE DEPARTMENT

**151 MARTIN STREET** 

**BIRMINGHAM, MI 48009** 



**MEMORANDUM** 

**Police Department** 

DATE:	October 21, 2016
то:	Advisory Parking Committee
FROM:	Mark H. Clemence, Chief of Police
SUBJECT:	Single Space "Smart" Meters – 30 Day Trial Report (REVISED)

Our current system for curbed and surface lot parking includes 1,262 mechanical (coin only) single space parking meters. Of the existing 1,262 parking meters, 817 spaces currently have a rate of \$1.00 per hour, and 445 spots are priced at \$.50 per hour.

An assessment of our existing parking meters confirmed that of the 1,262 installed meters, 989 of those units were manufactured prior to 2011. Our POM Inc. representative advised us in July of 2016 that mechanisms with a manufacture date prior to 2011 are now classified as obsolete, as repair parts are no longer available for those devices. According to the results of our meter analysis, 78% of our existing installed mechanisms are over five years old and therefore fall into the status of obsolescence. 18% (221) of our meters are over ten years old.

#### PARKING METER REVENUE SUMMARY:

DESCRIPTION	2014-15 ACTUAL	2015-16 ACTUAL
PARKMOBILE	109,800	147,450
LOT 6 – N. OLD WOODWARD	48,820	51,440
LOT 7 – SHAIN PARK	62,680	58,530
LOT 9 – PARK ST.	4,010	3,040
CURB	1,126,850	1,061,740
TOTAL *	1,352,160	1,322,200

\* Note: revenues from Lot 6 permits, valet parking meter bags, and contractor/vendor parking meter bags are not included in this table.

From August 1 – August 30, 2016 a 30 day trial of single space smart meters was conducted on Martin Street between Henrietta and Pierce. Mechanisms manufactured by two competing vendors were selected by the Advisory Parking Committee for the trial – the IPS Group M5 meter and the CivicSmart (formerly known as Duncan Industries) Liberty meter. Both meters feature coin and credit card payment options.

#### **IPS GROUP M5**



#### CIVICSMART LIBERTY



For the 30 day trial, (15) IPS M5 meter mechanisms were installed on the existing meter poles on the north side of Martin between Pierce and Henrietta. (16) CivicSmart Liberty mechanisms were installed on the south side of Martin between Pierce and Henrietta. The north side of Martin had only (15) meters due to the Townhouse Bistro's outdoor dining patio utilizing one parking space.

#### SMART METER AND VEHICLE DETECTION SENSOR TECHNOLOGY

With smart meter technology, parking mechanism faults are instantly reported via management system support software – jammed meters and dead batteries can be repaired or replaced promptly, resulting in less downtime per meter space providing potential for increased revenues due to fewer broken meters. Units run on solar or harvested energy power and are easily programmed for rate and time limit changes. Internet based meter management for repairs, audits, space monitoring, maintenance logs, inventory, etc. is greatly enhanced over administration of traditional parking meter mechanisms such as our existing system. A number of these features were validated during the trial period.

Vehicle detection sensors provided by both IPS and CivicSmart were also evaluated during the 30 day trial period. The trial demonstrated that sensors indeed provided meter revenue increases when installed in conjunction with new smart meters. Wireless vehicle detection sensors provide real-time data with over 99% accuracy to detect vehicle occupancy in a specific space. This provides for heightened efficiency and productivity of metered parking operations. Also, the sensors provide reset options for metered spaces after a vehicle moves from its designated space – increasing revenues as unused time cannot be transferred to the next vehicle using the space. (Vehicle A pulls out of space, sensor resets meter to zero minutes, Vehicle B cannot use prior vehicle's unused time and must pay for parking). Vehicle sensors also can be used to prevent meter feeding – no extension of time limits past maximum are authorized. Also, sensors can integrate with wayfinding mobile phone apps used by motorists to find desired parking spaces. The IPS Group vehicle detection sensors are built into the dome of the M5 meter. The CivicSmart sensors are mounted to the top of meter pole below the parking meter housing.

In summary, the 30 day trial was very successful in allowing staff to evaluate the two different systems that were installed. A 19.42% increase in parking meter revenues was realized from use of smart parking meters and sensors during the trial period. For the three weeks prior to the start of the trial, weekly revenues in this block averaged \$1,362.30. For the last three weeks of the trial (first week omitted due to installation and vendor presence) weekly revenues averaged \$1,626.92 in the trial block for an average increase of \$264.62 per week. The extended use of parking meter bags for a utility project at two spaces on the south (CivicSmart) side for over a week had an adverse effect on revenues and therefore reduced the amount of increase that could have been realized. The revenue increase is attributed to credit card use and vehicle detection sensors zeroing out time which was resold to the next parking customer.

The following criteria were evaluated during the 30 day trial period:

#### **INSTALLATION & SYSTEM IMPLEMENTATION**

On August 1, IPS arrived with meters programmed for the wrong side of the street. Two installers from IPS were on site with no other representatives present to assist in correction of miscommunicated deployment. After significant delay, IPS techs installed a meter on the north side of Martin Street, as opposed to the south side that was originally assigned to IPS. The first installed IPS Meter was too tall for most parking customers to be able to read, as the IPS M5 installations for the trial also included lower housings, whereas the CivicSmart units replaced the existing mechanisms only. IPS techs were advised that the first installed meter was too tall for customers to be able to read the display and use the meter. Further, techs were advised that the only apparent option would be for IPS to shorten the

meter poles to allow for the M5 trial to continue. As the steel poles are also full of concrete, IPS techs were advised that cutting poles would not be an easy task. Additionally, IPS was advised that should they not be the successful vendor upon completion of the trial, installation of replacement poles (at IPS expense) may be required to revert the original housing/mechanism heights to a proper usable position. The first IPS meter was installed after 4:00 p.m.

CivicSmart adapted to the south side of the block in an efficient and professional manner. A team of two vice presidents, an operations manager, an engineer, and two technicians resulted in an excellent installation process which was very well coordinated. All meters were up and running in no time, and the sensors were installed in a similar manner. All CivicSmart staff returned the following day to continue checking accuracy of meter and sensor operations.

#### ADVANTAGE: CIVICSMART

#### CUSTOMER SERVICE PROVIDED BY VENDORS

CivicSmart provided custom printed meter decals for the (16) CivicSmart spaces. These decals were printed in Birmingham Green and included time limit, meter operation instructions, and advertised the (4) accepted credit card payment options (MC, Visa, AMEX, Discover). CivicSmart responded very quickly when asked to customize financial reports to meet the needs of the police department. CivicSmart also made changes regarding vehicle detection sensor activity in a minimal amount of time whereas IPS took over a week to complete the task. Most impressively, CivicSmart maintained a total commitment to the 30 day trial period. Each week CivicSmart sent a variety of representatives – vice presidents, sales associates, engineers, and technical support staff to monitor the functionality of the parking meters and sensors. The CivicSmart representatives traveled from Arizona, California, Illinois and Wisconsin which demonstrated strong devotion to the project.

#### ADVANTAGE: CIVICSMART

#### MANAGEMENT REPORTING SYSTEMS

The CivicSmart PEMS (Parking Enterprise Management System) is more user friendly and easier to negotiate than the reporting system offered by IPS Group. While both management systems seem satisfactory, the CivicSmart PEMS is preferred and included a very convenient dashboard application that was used for daily financial and maintenance reporting throughout the trial.

#### ADVANTAGE: CIVICSMART

#### PARKMOBILE INTERFACE

Parkmobile (PM) is currently available at all parking meters in the City. The growth of Parkmobile continues, with the following recent revenue increases noted:

Fiscal year 2014-15 PM revenues up 59.09% (\$40,693 increase) as compared to 2013-14. Fiscal year 2015-16 PM revenue projections up 36.58% (\$40,170 increase) compared to 2014-15.

Parkmobile usage during the three months prior to the 30 day trial in this zone (Martin between Henrietta and Pierce) averaged 609 transactions per month (638 in May, 564 in June, 625 in July).

Our current parking meters are coin only with Parkmobile enabled at all spaces for a payment option. The CivicSmart and IPS meters are both Parkmobile compatible. When parking customers use Parkmobile pay by phone app for parking, fees charged by Parkmobile range from \$.30-\$.43 for each transaction (amounts vary based upon membership type). The city pays no fees for Parkmobile use and receives 12 monthly direct deposits and one annual revenue sharing check which averages around \$3,000.00 per year (3% of Parkmobile transactions).

The CivicSmart parking meters provided an excellent interface to the Parkmobile system. Parkmobile payments were successfully pushed to the meter mechanism so that both customers and enforcement personnel could see the payment status on the meter. This interface is provided at no charge by CivicSmart. IPS could not push Parkmobile payments to the meter during the 30 day trial and indicated that there would be a \$.10 per transaction fee charged to the City should IPS become the successful vendor and that option was selected. Additionally, there was no integrated Parkmobile report available with the IPS system during the trial whereas the CivicSmart PEMS financial summary reports reveal that 11% of parking customers utilized Parkmobile as a payment option throughout the course of the 30 day trial. This data was not available from IPS Group, as only coin and credit card payments were differentiated in the IPS reports.

#### ADVANTAGE: CIVICSMART

#### **INTEROPERABILITY WITH PARKING ENFORCEMENT HANDHELD COMPUTERS**

In addition to system integration with Parkmobile and BS&A financial software, compatibility with the handheld computers used by parking enforcement assistants is a critical requirement for the police department. The 2016-17 fiscal year budget includes funding for the replacement of our existing Duncan AutoCite handhelds used by parking enforcement staff. Smart meter, sensor, and handheld purchases must be jointly evaluated so that all aspects of the parking system are mutually compatible and cost effective for the City. During the 30 day trial, representatives from CivicSmart demonstrated the proposed N5Print handheld budgeted for the current fiscal year. This device provides an excellent interface to allow parking officers to easily determine which spaces are occupied / expired and any other desired enforcement information. The N5Print handhelds also provide auto chalk (electronic time zone enforcement) functionality. The proposed enforcement computers provide a daily history by license plate (either manually entered by officer or photographed using the built in license plate recognition (LPR) reader on the handheld). The new handhelds could also be used to computerize our existing database of residential parking permits. As the proposed N5Print handhelds would run on our existing Duncan AutoIssue software, this is a very cost effective solution and there are no worries about compatibility with the city's financial processing system (BS&A). IPS Group did not offer parking enforcement computer systems or equipment prior to the trial but have recently indicated that an a citation app is in development.

#### ADVANTAGE: CIVICSMART

#### **AESTHETIC DESIGN/STREETSCAPE**

As the CivicSmart Liberty meters fit securely into our existing housings, it is a very cost effective and efficient device that offers not only expedited installations but also does not alter the existing design of streetscape elements. The IPS M5 meter currently does not fit into our existing housings which means that either a customized mounting bracket or different lower housing unit is required in order to utilize this meter. As the brackets were not available for the trial period, IPS had to shorten all of the meter posts located in their trial area, resulting in significant aesthetic changes. Other design concerns regarding IPS meters noted during the trial period were detected in the City of Royal Oak where significant peeling was noticed on a large number of meters. The entire top portion of several IPS housings were found to be flaking as the exterior skin is coming off the Royal Oak meters. The IPS

meters installed in Birmingham during the 30 day trial immediately began to exhibit problems including rust in multiple locations on the majority of the meters. The rust was apparent near the door and at other locations on the IPS meters.

ADVANTAGE: CIVICSMART

### PARKING CUSTOMER EXPERIENCES AND COMMENTS:

Public feedback for the smart meter usage was encouraged throughout the 30 day trial period. Comment cards were placed at several offices in city hall to promote smart meter customers to comment on their experiences using the meters. Social, print, and electronic media were utilized to advertise the test period and to encourage customer use and feedback. Thirty-nine comment cards were turned in. Twenty-nine customers checked the "I LOVE THIS METER" box – 11 in favor of the IPS and 12 in favor of the CivicSmart, with the following comments noted:

- "I prefer paying using the app but the meter wasn't clearly marked" CS user
- "I use Parkmobile and prefer not to use the app" CS user
- "Use Parkmobile best way to pay for parking" IPS user

- "We do not need to buy new meters waste of \$500,000, existing ones are fine IPS user
- "I don't like meters" no meter brand specified (black ink)
- "I don't like meters" no meter brand specified (blue ink)
- "I tried both coins and a credit card and neither worked" CS user
- "Need designated H/cap spots" CS user
- "I put in 2 dimes & a nickel it only gave me 3 minutes
- "Didn't work! Takes dimes though..." CS and IPS user
- "Coins are being taken but not giving time" IPS user "Keep Parkmobile!" – user hated IPS loved CS and paid PM at CS
- "Please keep coin payment as option on city meters. Most citizens I know (different age groups) want to keep a coin payment option."

### ADVANTAGE: 52% CIVICSMART / 48% IPS

### METER DESIGN AND FUNCTIONALITY

The CivicSmart Liberty meter offers several advantages including Parkmobile interface and proven compatibility with BS&A (the city's financial software). The meter has a high resolution LCD display and color coded payment buttons for convenience and overall ease of use. The Liberty is ADA compliant. The device fits securely into our existing housings and provides for coin, credit, debit, and pay by phone transactions. The Liberty meters connect wirelessly to the included Parking Enterprise Management System (PEMS) for maintenance and reporting. CivicSmart will soon offer a Lexan parking meter dome that will magnify the LCD display. The IPS M5 meter has a larger display that provides for better viewing of the expiration indicator and is preferred by the majority of parking enforcement assistants for easier detection of expired meters, but that benefit may come at the cost of battery consumption requiring significant continuing expenditures for replacements.

### ADVANTAGE: DRAW

### **COLLECTIONS/MAINTENANCE/REPAIR OPERATIONS**

The CivicSmart crew did an excellent job of initial training for maintenance and repair operations. CivicSmart collections were unchanged from usual procedures as the meters were installed in the existing housings. IPS had significant delays in arranging training for parking meter maintenance staff. The IPS meter collections took a lot longer to complete due to the lower housings that were used during the trial. Meter collection staff reports that collection times on Martin Street were 3 minutes for the

<sup>&</sup>quot;I used coins it only gave me time when I used quarters. Didn't give me time for nickels or dimes" - CS user

<sup>&</sup>quot;I put in \$.60 then the meter read no coins. Then I had to use a credit card for a min. of \$1.00 for 2 hrs. I only needed 10 min." - CS user

(16) CivicSmart meters and 20 minutes for the (15) IPS meters. The difference is in sealed can vs. open can / coin chute design. The coin cans in the IPS housings required a much longer amount of time for collections. Meter technicians also frequently noticed coins lodged in the IPS parking meter housing door and also coins that had fallen inside the meter and landed at the bottom of the mechanism instead of routing through to the coin can.

It should be noted that the City of Rochester has been using IPS meters for over two years and their maintenance employee is scheduled to travel to California in September for additional required training due to ongoing maintenance issues. This is of great concern as we employ two part time employees to collect, maintain, and repair meters and need these operations to be very efficiently completed. Chief Schettenhelm of Rochester PD stated that IPS customer service and maintenance has been intermittent due to changes with IPS personnel servicing their community.

ADVANTAGE: CIVICSMART

### SENSOR TECHNOLOGY

CivicSmart sensors operate using radar technology. Essentially, an electronic fingerprint of a parked vehicle is generated and used to differentiate vehicles between parking sessions. The IPS Group sensors were not activated until August 15, and therefore the data was limited for comparison purposes including calculating increased revenues associated with resale of vacated parking spaces.

ADVANTAGE: CIVICSMART

### <u>PRICE</u>

### CIVICSMART LIBERTY COSTS:

Capital Outlay Liberty Meters Capital Outlay CivicSmart Vehicle Detection Sensors Capital Outlay Total	\$355.50 x 1,262 meters = \$448,641.00 \$261.00 x 1,262 spaces = \$329,382.00 \$778,023.00
Annual Fees (Maintenance): includes CivicSmart PEMS m	anagement system * \$4.95 per meter per month x 1,262 meters \$6,246.90 per month \$74,962.80 per year \$374,814.00 (5 year meter fees total cost)
Annual Fees (Sensors):	<ul> <li>\$2.70 per sensor per month x 1,262 meters</li> <li>\$3,407.40 per month</li> <li>\$40,888.80 per year</li> <li>\$204,444.00 (5 year sensor fees total cost)</li> </ul>
5 YEAR TOTAL COST CIVICSMART = \$1,357,281.00	
IPS M5 COSTS:	
Capital Outlay IPS M5 Meters Capital Outlay IPS Sensors Capital Outlay Total	\$455.00 x 1,262 meters = \$574,210.00 \$250.00 x 1,262 spaces = \$315,500.00 \$889,710.00

Annual Fees (Maintenance): includes IPS data management system \*

\$8.00 per meter per month x 1,262 meters\$10,096 per month\$121,152.00 per year\$605,760 (5 year meter fees total cost)

### Annual Fees (Sensors)

\$3.50 per sensor per month x 1,262 meters\$4,417.00 per month\$53,004.00 per year\$265,020.00 (5 year sensor fees total cost)

5 YEAR TOTAL COST IPS GROUP = 1,760,490.00

ITEM	METER PURCHASE PRICE PER	METER PURCHASE PRICE TOTAL	SENSOR PURCHASE PRICE TOTAL	ANNUAL MAINT FEES METERS	ANNUAL MAINT FEES SENSORS	TOTAL ANNUAL MAINT COST	MAINT COSTS 5 YR TOTAL	TOTAL 5 YR COST
CAPITAL OUTLAY METERS:								
IPS GROUP *	\$455.00	\$574,210.00	\$315,500.00	\$121,152.00	\$53,004.00	\$174,156.00	\$870,780.00	\$1,760,490.00
CIVICSMART	\$355.50	\$448,641.00	\$329,382.00	\$74,962.80	\$40,888.80	\$115,851.60	\$579,258.00	\$1,357,281.00
COST DIFFERENCE	\$113.50 EACH	\$125,569.00	(\$13,882.00) / YR	\$46,189.20 / YR	\$12,115.20 / 5 YRS	\$58,304.40 / 5 YR		\$403,209.00
CAPITAL OUTLAY SENSORS:								
IPS SENSOR COST	\$250.00	\$315,500.00				\$315,500.00		
CIVICSMT SENSOR COST	\$261.00	\$329,382.00				\$329,382.00		
MAINTENANCE:	MONTHLY FEES PRICE PER	MONTHLY FEE TOTAL		ANNUAL FEES TOTAL COST				
IPS GROUP MAINT FEES	\$8.00	\$10,096.00		\$121,152.00 / YR		\$605,760.00 5 YRS		
CIVICSMART MAINT FEES	\$4.95	\$6,246.90		\$74,962.80 / YR		\$374,814.00 5 YRS		
IPS SENSOR FEES	\$3.50/MO	\$4,417.00 / MO		\$53,00400 / YR		\$265,020.00		
CIVICSMT SENSOR FEES	\$2.70/MO	\$3,407.40 / MO		\$40,888.80 / YR		\$204,444.00		

\* Original IPS maintenance charges were quoted at \$5.75 per month (plus \$.13 per transaction fee) per meter and adjusted by IPS on 09/08/16 to \$8.00 per month per meter (plus \$.06 per transaction fee) for final quote based on 30 day trial results.

### ADVANTAGE: CIVICSMART

It should be noted that the above estimates do not include the purchase of spare mechanisms. Acquisition of spares (3% of total spaces) would also be recommended at time of purchase.

This project was not identified for the 2016-17 or 2017-18 fiscal year budgets, but the costs could be offset by credit card fees being paid by parking customers, meter rate increases, and revenue increases

associated with credit card usage and vehicle detection sensors. During the 30 day trial the average per transaction amounts at CivicSmart meters were \$.71 for coin, \$1.45 credit card, and \$1.39 Parkmobile. Proceeding with the purchase of smart meters without either passing the credit card fees to the customer or implementing a parking meter rate increase would adversely affect the Automobile Parking System fund.

### **CREDIT CARD FEES AND REVENUE INCREASES**

Smart meter credit card transaction fees vary by vendor. CivicSmart charges \$.06 per transaction, and IPS charges \$.13 per transaction. On September 8, IPS emailed final pricing which increased the monthly maintenance fees to \$8.00 per meter and reduced the credit card per transaction fees to \$.06 each. These per transaction charges are referred to as gateway fees and do not include credit card merchant processing fees. City staff has had several meetings with BankCard Services, a local credit card processing company which is independently operated and not affiliated with either IPS Group or CivicSmart. Mr. Mickael Gibrael, Vice president of Operations for BankCard Services has offered to act as the merchant of record for credit card processing should the City elect to implement smart meters. Credit card transactions at the new smart meters could be handled in similar fashion to the current Parkmobile system, whereby credit card parking rates would not exceed those charged by Parkmobile (average fee \$.43 per transaction). City Attorney Tim Currier stated that credit card transactions could be paid by the parking customer. Smart meter credit card payment revenue sharing is an additional option, similar to our Parkmobile agreement.

Based upon an evaluation of our current parking meter rates and after analyzing the CivicSmart (CS) meter and sensor data from the 30 day trial, CS Vice President Jeff Rock projected a return on investment (ROI) with credit cards amounting to a revenue increase of \$478,649 per year. Mr. Rock also estimates additional revenues associated with sensor use (resold time) in the amount of \$41,784. Increased citation revenues in the amount of \$86,462 are also projected as the capture rate should increase as vehicle detection sensors utilized in conjunction with new handheld enforcement computers could electronically locate violators and streamline enforcement activity. These revenue projections are based upon existing parking meter rates. Total increased parking revenues for credit card, sensors, and increased citations are projected by CivicSmart at \$606,895 for the first year.

Several smart meter vendors have stated that our existing parking meter rates of \$.50 and \$1.00 per hour are not conducive to smart meters as the fees associated with credit card transactions and processing are not supported by low parking rates. Passing along credit card fees to parking customers could support maintenance of the existing parking rates and also offset annual maintenance and sensor fees.

Based upon the results of the 30 day trial and considering the various criteria used to evaluate the two systems, the CivicSmart Liberty is the preferred solution for the police department should the City move forward with a purchase of smart meters. Benefits to our existing coin only / Parkmobile credit card payment include availability of real time data reflecting usage, meter repair/collection status, remote management, and automated rate and time limit adjustments. A combination of new CivicSmart meters and new handheld computers would provide parking enforcement assistants with current information regarding the status of expired meters throughout the city. New handhelds could be used to monitor and manage enforcement activity thereby increasing efficiency of parking enforcement operations.

### **CIVICSMART LIBERTY AND SENSOR REFERENCES**

The following information was obtained by staff from telephone conversations with existing CivicSmart Liberty and or sensor users:

Chattanooga, TN Chattanooga Area Regional Transportation Authority (CARTA):

Parking Director Brent Matthews reports that CARTA has 600 Liberty meters installed and an additional 100 on order. CARTA is very happy with them. IPS was not selected as the credit card prices are too high. CARTA also uses Parkmobile and averages 600 PM transactions per day. CARTA pays the credit card processing fees, which turned out to be considerably more than they thought. However, Mr. Matthews stated that his agency has less money to collect due to credit card and PM usage, lower coin processing fees charged by the bank, and also less fees associated with armored car transfer of coins from CARTA office to bank. IPS filed multiple FOIA requests and initiated a lawsuit when that company was not the selected meter vendor. Mr. Matthews stated that CivicSmart resolves issues quickly. Battery issues from 2+ years ago have been corrected and there have been no new issues experienced.

City of El Paso, TX:

Assistant Director of International Bridges Paul Stresow confirmed that 1,590 Liberty meters and 400 vehicle sensors are currently installed with an additional 400 sensors on order. The system was implemented in 2012 and works very well according to Mr. Stresow, who likes the CivicSmart reporting capabilities as the reports are very helpful for maintenance and management staff for troubleshooting and revenue tracking. Currently El Paso has 3 full time maintenance staff (4 authorized) with plans to add a fifth employee to assist with the additional sensor installations as the increased responsibilities may require an extra employee. El Paso conducted a trial between IPS and (formerly) Duncan prior to the system implementation in 2012. The city requested bids and CivicSmart won the award. IPS Group protested the bid award. IPS provided El Paso with negative CivicSmart information regarding a purchase in Laredo. Upon investigation of the IPS claims, El Paso determined that many of the statements were not true. In response to IPS challenging the bid award, the El Paso purchasing department rejected all of the original bids and rebid the project. CivicSmart was again awarded the bid. Mr. Stresow reported that CivicSmart has been good, particularly since the company acquired Duncan. CivicSmart research and development has greatly improved and the customer service provided is also improved. Mr. Stresow was impressed that the CEO of CivicSmart paid a visit to the city of El Paso to make sure that they were happy with the products and delivery of service. El Paso pushes credit card fees to parking customers at a flat rate of \$.35 per transaction.

City of Iowa City, IA:

Operations Supervisor Mark Fay stated that Iowa City has 1,175 Liberty meters installed since 2013. These units were purchased from Duncan Parking Technologies prior to the CivicSmart acquisition of Duncan which occurred in 2015. Iowa City originally experienced growing pains with the Liberty meters compared to the old Duncan products and services. The big problem was batteries were dying out fast and they had to be replaced. The battery issues have since been resolved, as have modem communication issues and company changeover issues experienced after installation. Iowa City conducted a meter trial between IPS and Duncan during which there were coin issues associated with the IPS meters. An aggressive preventative maintenance program has resulted in a drastic change in battery performance as a recharging station is used 2-3 times per year to enhance battery life. Mr. Fay reports that the Liberty meters are satisfactory and he would purchase CivicSmart again.

City of Walnut Creek, CA

Traffic Control Supervisor Karlan Larson reported that Walnut Creek has 1,500 IPS meters and 18 vehicle detection sensors which were installed beginning in April 2010. 110 Liberty meters were installed in 2015. Mr. Larson stated that a former Walnut Creek manager signed a contract with IPS that had a clause referencing that for the duration of the contract only IPS meters could be installed at the 1,500 spaces where the IPS meters were in use. After installation of the IPS meters, exorbitant battery bills became a big problem. The IPS battery bills exceeded \$100,000 per year for replacements, as there is apparently a component in the battery that is in fact not rechargeable. This was demonstrated on a youtube.com "Hack in the Box" security conference video. Mr. Larson stated that there is a perceived "planned obsolescence" regarding the IPS batteries which put Walnut Creek in a "bind mode" during which the city is riding out the existing IPS contract which expires in January 2017. Walnut Creek was able to install the Liberty meters in 2015 for new spaces not included in the 1,500 spaces referenced in the IPS contract. Mr. Larson reports that after January when the IPS contract expires, Walnut Creek will proceed with replacing those units with Liberty meters. Mr. Larson stated that the selling point for the Liberty is that the CivicSmart product does the same work and the batteries are fully rechargeable. He also indicated that he likes the CivicSmart product as it is virtually "bulletproof".

City of B	irmingham	MEMORANDUM
		Police Department
DATE:	August 29, 2016	
то:	Mark Clemence, Chief of Police	
FROM:	Scott Grewe, Operations Commande	er
SUBJECT:	Zone Parking	

Writer has been asked to prepare a report regarding zone parking in Birmingham. The purpose of this report is to review the advantages and disadvantages of implementing zone parking in the City of Birmingham. Two previous reports reviewed by the Parking Advisory Committee discussed the use of single space meters and multi space pay stations.

Zone parking allows a person to pay for parking within a specific zone. The vehicle has the ability to move, within that zone, as long as time remains on their parking session. Payment for this type of parking can be made at centrally located pay stations using a pay by plate method. Vendors who provide parking systems and municipalities using both standalone meters and pay stations were contacted for review.

### Vendor input/review

### Civic Smart

1

Writer met with Vice President of Enforcement Sales, Jeff Rock. Mr. Rock stated Civic Smart is no longer selling pay stations to be used as pay by space and zone parking. He advised communities that used the pay stations with them had all switched back to standalone meters for four main reasons; convenience for the user, ease of maintenance, ease of enforcement and cost. Mr. Rock did not suggest zone parking for the same issues. Furthermore, he stated zone parking is the most difficult and costly to enforce. License plate recognition (LPR) equipment would be required to check for paid/unpaid vehicles. Mr. Rock estimated the cost of one LPR around \$60,000 to \$100,000.

Mr. Rock expressed concerns over pay stations and gave the following information.

- 1. Many people don't want to walk to a pay station and prefer the convenience of having a meter in front of their vehicle.
- 2. If a plate is entered incorrectly at a pay station, they will receive a ticket as the vehicle is not paid for. Administration would have difficulty attempting to confirm payment being the actual plate is not in the system.
- 3. Pay station outages create a large revenue loss now that multiple spots are affected.
- 4. Repairs to pay stations often cost well over \$1000 while one brand new meter is around \$400.
- 5. Pay stations do not show time remaining for a particular spot and should print receipts for the person to have a reference for expiration time. Extra maintenance

of printers in colder climates and refilling paper supply becomes labor intensive and costly.

Mr. Rock expressed that Civic Smart/Duncan got out of the pay station business because it was not effective. He stated communities reported a loss in revenue and eventually returned to standalone meters. He gave Chicago and Los Angeles as examples of cities that removed the majority of their pay stations to go back to meters. Mr. Rock was not aware of any communities in the area that use pay by zone.

### Traffic and Safety

Writer spoke with Tom Neff, sales representative for Traffic and Safety. Mr. Neff stated that his company sells the Luke II Multi-space kiosk. He stated they do sell standalone meters but that they don't compare to the Luke II Multi-space. Mr. Neff stated that most of what he has seen is pay by space but believes pay by plate is the way to go. He advised Flint is currently using the pay by zone method and has reduced its parking enforcement staff as a result. Mr. Neff stated one person working in a vehicle with LPR is writing more tickets that three parking enforcement officers did in the past. He estimated the initial cost of one LPR set up to be \$45,000 to \$55,000 for a base set up. For a system that would "auto chalk" vehicles for time zone enforcement would be closer to \$70,000. He believed each additional camera set up would be around \$15,000 to \$20,000.

Mr. Neff stated the Luke II is very reliable and has very little down time. He said most problems are a five minute fix assuming spare parts are available. If not, parts can be overnighted keeping down time to 24 hours or less. He advised after initial set up there is very little maintenance. Mr. Neff stated with fewer units to service with multi-space kiosks the maintenance costs are also reduced. He stated there are fewer machines to empty coins from and maintain reducing labor costs.

### Integrated Parking Solutions (IPS)

Writer met with Director of Regional Sales, Randy Lassner. Mr. Lassner stated IPS currently sells pay stations and meters. He advised that pay stations result in lost revenue and advised against them. He showed writer a picture he recently took of an elderly woman with a cane who he observed standing at the pay station for over three minutes. Mr. Lassner stated he observed people waiting in line to pay for their parking and one other that opted not to wait and left, leaving his vehicle parked unpaid.

Mr. Lassner stated he took this picture and showed writer because it displayed several of his concerns regarding pay stations. First, an elderly woman with a cane had to walk a distance to a pay station versus the convenience of a meter in front of her vehicle. Second, a defective pay station or a person having difficulty paying results in others waiting to pay and/or opting not to pay. Lastly, revenue was lost as people chose not to have to wait to use the pay station or did not want to walk the extra distance to a pay station and would rather risk getting a citation.

When asked about zone parking Mr. Lassner expressed the same concerns as Mr. Rock from Civic Smart. He advised the cost of enforcement on top of the other issues already mentioned with pay stations made it impractical. Mr. Lassner also stated the only way to enforce zone parking is with license plate recognition (LPR) equipment. He estimated the cost of one complete installation to be around \$60,000. Mr. Lassner also stated the LPR systems are not

always accurate and estimated they are good about 85% of the time. He stated enforcement is next to impossible if the LPR goes out of service for any reason. Mr. Lassner stated the only community he was aware of that used pay by zone was Detroit.

### <u>Genetec</u>

Writer spoke with Shane Farrell, Inside sales for Automotive License Plate Systems, for Genetec. Mr. Farrell stated his company sells LPR systems and stated the University System is best suited for our parking needs. He stated the University System does parking enforcement with permits by license plates. He advised the systems uses mapping software to assign zones and rules for each zone. Mr. Farrell stated their equipment is accurate at least 95% of the time. He stated the system also does a "last chance look up" anytime a hit (unpaid vehicle) is found to check again for payment.

Mr. Farrell stated they system is permit driven. Basically, when time is purchased the vehicle then has a permit in the system to identify it as a paid vehicle for a specified length of time. When that time expires the permit is removed from the system and if the plate is read by their software it will alert the officer that it is an unpaid vehicle.

This system can be used to enforce residential permit zones. In residential zones permitted vehicles can be entered into the database on an annual basis. When an officer drives through a residential zone they will be alerted to vehicles parked in that zone that are not on the permitted list.

Mr. Farrell also advised the system has an "auto-chalk" function which requires an additional camera. The system will alert officers to vehicles that may be in violation of maximum time zones. The officer can use the auto chalk function to take an additional photo to mark the vehicle. This camera takes an enhanced photo of the vehicles wheel and specifically the valve stem. The officer can return to the area after the allotted zone time and if the vehicle is still parked take an additional enhanced photo of the wheel/valve stem for evidence and issue a citation for time limit violation.

Mr. Farrell also advised the system is able to identify Scofflaw vehicles and can also connect to NCIC for stolen vehicles. BOL's (Be On the Lookout) for suspect vehicles, from our agency or others, as well as Amber Alert vehicles can be entered in an attempt to locate suspect vehicles.

Mr. Farrell stated the cost for one vehicle set up with the LPR cameras is approximately \$32,000. If the department decided to add the additional "auto chalk' cameras the total cost is \$40,000 per vehicle. He stated the servers, in car computer and additional software set up with installation is approximately \$17,000. He advised these costs could be reduced using the city's existing servers if available. Genetec also can "host" the department and manage the systems at their location at a cost of \$5,500 per year versus our agency having its own server and set up. This would save the city from spending the \$17,000.

One vehicle with LPR with Auto Chalk	\$40,000
In car computer, server and set up	\$17,000
5yr Advance replacement warranty	<u>\$18,000</u>
Estimated Total (1 Car)	\$75,000

These costs are estimates and can be reduced using existing servers and by using Genetec's in house server for storage. Each additional vehicle set up would be \$40,000 to \$46,000 depending on equipment. Removing the auto chalk functions would reduce each vehicle cost by \$7,500.

### Municipalities contacted for review

### Ann Arbor

Writer spoke with Joe Morehouse, Deputy Director of the Downtown Development Authority. Mr. Morehouse stated the city currently has a combination of single space meters and multi-space Luke II kiosks. He stated they are currently in the process of purchasing additional multi-space pay stations to replace existing meters. Mr. Morehouse said all of their pay stations are pay by space and have used existing poles from parking meters to identify space numbers to be used with the pay station. He stated they currently have no zone parking in Ann Arbor.

Mr. Morehouse stated the pay stations have been very reliable and stated they are functioning correctly 99.5% of the time. He also believed there was a 5 to 10% increase in revenue when they switched to the multi-space kiosk due to most people paying for maximum time limits when using their credit cards even though they were leaving earlier. He also mentioned it was easier to collect coins since there are fewer machines and the pay station will tell you when it needs emptying.

Mr. Morehouse did say one problem was short term parking. He believed that most people making quick stops (i.e. grab a cup of coffee) don't pay the pay station due to having to walk to it and the time to make a payment. He stated before they would just drop a quarter in a meter.

### Traverse City

Writer spoke with Nicole Vannest, Parking Administrator for Traverse City. She stated they have added multi-space kiosks in surface lots only. They use the pay by space method and still use single space meters for on street parking. Ms. Vannest stated they have received numerous complaints regarding the multi-space pay stations and have talked about returning to single space meters in surface lots. The biggest complaint was inconvenience. She stated there has been no movement in either direction at this point and believes the city will continue with pay stations for the time being.

Ms. Vannest advised the reason they have transitioned to pay stations was less maintenance and reduced risk of coin theft. She stated the city is beginning to look at smart meters to replace their current single space meters. There has been no talk at this point regarding using multi-space pay stations for on street parking.

Ms. Vannest stated the city does not use zone parking or LPR technology. She pointed out that studies have shown the LPR to only be accurate 95% of the time. She also mentioned the cold weather months with snow covered plates as well as the desire to have the parking enforcement visible and in communication with the public on the sidewalks as reasons not to do zone parking.

### City of Detroit

Writer met with Norman White and Satina Maddox, director and assistant director of municipal parking for the City of Detroit. They advised the City of Detroit has been using zone parking for a while and report it has been a success. They stated the city has seen an increase in revenue and a decrease in maintenance cost. The City of Detroit uses the Cale multi-space pay stations.

They have experienced very little down time and advised the system alerts them as well as the service personnel when there is a problem with a pay station. They currently use a LPR system to read license plates and look for unpaid vehicles. They agreed that the LPR system is not always the most accurate. As a result when a parking officer is notified of a vehicle in violation with the LPR they will confirm it with their hand held units before issuing a citation. They have experienced little to no down time with the LPR equipment.

When they need to block and area of parking they use cones/barricades to do so. They are able to post messages on the pay station regarding restricted zones however, the pay station will still allow payment due to the fact you can pay at one location for any parking zone in the city.

One issue they report is when someone parks in a no parking area or handicap area within a zone and pays the pay station. They state they have dealt with angry customers as a result of being able to pay for parking in a restricted area. Since the pay station only records the plate and the zone, it cannot know where one is parked and if it is a prohibited area. The other issue they're currently working on is creating sub-zones. The issue is that some of the zones cover areas that should have different time limits. They stated due to zone parking it is difficult to create smaller zones where one street may have a different time limit than surrounding streets.

Overall the city is happy with zone parking and has no intention of doing anything different at this time.

### Michigan State University

Writer spoke with Deputy Director John Prush. Prush stated they currently have the P2 Digital Luke kiosks in several of the parking lots. They use IPS smart meters for their limited on street parking. They have had no issues with their Luke pay stations and advised they have been very reliable.

Prush stated they have installed the Genetec LPR cameras on three vehicles. He stated the installation was approximately one year ago and the system is still not operating as it should. Prush stated for the majority of the time the problem was Genetecs equipment not communicating with the Luke pay station. He stated the representatives did not seem very familiar with their equipment. Prush said the equipment now functions as it should, however they are having internal networking issues and the software is currently only available on their in car computers.

### <u>Review</u>

In addition to the above contacts writer also reviewed the reports prepared by SP+ and Ellen DeView of the police department. Writer noted the SP+ report primarily dealt with pay stations and parking using the pay by space method. DeView's report referenced smart meters and

pay stations and ultimately recommended smart meters. Neither report discussed the use of pay stations with zone parking.

After reviewing the SP+ report of pay stations, DeView's report for smart meters, and the research done by writer, the following is writer's observations:

- 1. The advantages outlined in pages 3 and 4 of the SP+ reports are the same advantages of the smart meters over the existing meters.
  - a. One advantage given by SP+ to support the pay station is it improves the streetscape as one pay station supports a full block of parking and would replace multiple standalone meters.
    - i. SP+ suggests pay by space. In reviewing other agencies using pay by space, most have converted the original meter post into a post with a sign on top identifying each parking spot number for reference when paying at the pay station. Due to this there is no real change in the streetscape except the addition of a pay station.
- 2. The cost of upgrading to pay stations versus smart meters is approximately \$1,400,000 more per DeView's report (Total 5 yr cost).
  - a. Fewer pay stations reduce the manpower needed for maintenance.
    - i. Currently the city employs two people for meter maintenance, reducing this staff by one would save the city approximately \$30,000 annually.
      - 1. Over 5 years, \$150,000.
        - a. No significant reduction in personnel cost.
- 3. Zone parking can improve the streetscape by removing all meters and replacing them with a pay station. No signs are needed to identify a single parking spot as payment is done by plate.
  - a. Three signs per block are used with zone parking. One placed at the pay station to identify its location. And one at each end of the block pointing in the direction of the pay station. All signs not only point to the pay station but also identify the zone you are currently in.
    - i. A block with 16 parking spots now has 8 posts with double meters on each.
      - 1. Zone Parking, this block would now have 3 signs giving the location of the pay station and identifying the zone number as well as the pay station itself.
- 4. Zone parking can only be enforced using LPR equipment.
  - a. LPR cameras can be used to enforce residential permit zones as well as on street paid parking.
    - i. Residential permit areas can be mapped as a specific zone. Each license plate given permission to park would be entered in the database as a permitted vehicle in that zone.
      - 1. The LPR would alert parking enforcement to those vehicles parked in that zone that are not in the database for that area.

- 2. Tickets would then be issued to vehicles not displaying a guest pass.
- b. Vendors and municipalities have advised the LPR systems are not always accurate.
  - i. The City of Detroit advised they check every plate identified with the LPR with their hand held device for accuracy.
  - ii. MSU has had the equipment for one year and still has operational issues.
- c. LPR forces parking enforcement assistants off the sidewalk and into vehicles.
  - i. Parking enforcement officers are a great public relations tool having daily contact with business owners and patrons of the city.
- d. LPR's create an additional cost to enforce parking.
  - i. The estimated cost to outfit our two parking jeeps with LPR cameras was outlined earlier.
- 5. The removal of standalone meters and posts for zone parking presents other issues.
  - a. Currently meter bags stating "No Parking by order of Police" are placed over meters when parking spots need to be blocked for numerous reasons.
  - b. Signs are also placed on meters to give notice of future restricted parking.
    - i. For instance, the night before major closures, such as Dream Cruise, signs are posted on meters to gain compliance.
  - c. Zone parking would require the use of barricades, cones and barrier tape to block off parking areas when needed.
  - d. Posted sings would have to be put up in areas to give notice of pending closures for special events.
  - e. Time limits assigned to a particular zone can also create problems.
    - i. For example, if a person paid for the maximum time in a zone while at a business they would be restricted from purchasing time near another business if they were still in the same zone.
    - ii. To address this issue very specific smaller zones would be required or extended time zones.

### **Recommendation**

Zone parking (pay by plate) has some advantages. However, the disadvantages are too great at this time, in writer's opinion, to implement zone parking in Birmingham. The inconvenience of walking to a pay station and possibly waiting to pay is a concern for the typical user and people parking with handicap passes. Streetscape can be improved with fewer meter posts but parking spots with barricades, cones and barrier tape to block spaces is unsightly.

Zone parking requires pay stations and LPR equipment that comes at a high cost. The reduced costs in manpower to maintain pay stations and enforce parking are minimal. The LPR equipment that is required for enforcement has great potential. However, at this time it appears LPR systems for parking are not the most reliable as can be seen by the MSU example. Also several vendors, including Genetec, admit the LPR is only about 95% accurate requiring a separate device for verification.

It is writer's recommendation at this time that the City of Birmingham move forward with the purchase of single space SMART meters.

### CITY OF BIRMINGHAM PARKING METER CREDIT CARD ANALYSIS SUMMARY

	WITHOUT RATE INCREASE		WITH RATE INCREASE	
2015-2016 PARKING METER REVENUE	\$	1,337,237	\$	1,337,237
PROPOSED RATE INCREASE (A)		-		811,731
INCREASE FROM USE OF CREDIT CARDS AND PARKING SENSORS (15%) (B)		267,447		322,345
REVISED PARKING METER REVENUE	\$	1,604,684	\$	2,471,313
CREDIT CARD TRANSACTIONS (30%)	\$	481,405	\$	741,394
APPROX. CREDIT CARD COSTS (C)	\$	106,000	\$	143,000
ANNUAL CIVICSMART METER MAINT. COSTS (D)	\$	115,850	\$	115,850
NET PARKING REVENUE INCREASE (A)+(B)-(C)-(D)	\$	45,597	\$	875,226

City of I	Birmingham	MEMORANDUM
		Police Department
DATE:	June 10, 2016	
TO:	Mark Clemence, Chief of Police	
FROM:	Ellen DeView, Staff & Services Coordinator	
SUBJECT:	Credit Card Parking Meters	

### **PROJECT SCOPE:**

Per your direction that I research parking meter technologies, I had meetings and discussions with industry leading multi-space pay station and smart parking meter vendors (IPS Group, Mackay Meters, CivicSmart, and Traffic & Safety Systems). Also, I spoke with representatives from several area communities (Rochester, Royal Oak, Ferndale, Grand Rapids, Detroit, East Lansing, and Ann Arbor) regarding their experiences with various parking equipment. Based upon this study, I recommend that should it be decided that new a parking meter payment system is warranted, the best solution for the police department is single space smart parking meters (with optional sensors) as opposed to multi-space pay stations. This report will summarize my research.

### CURRENT PARKING METER SYSTEM:

Our current system for curbed and surface lot parking includes 1,238 mechanical (coin only) single space parking meters. 13 additional new parking meter spaces for the proposed ADA handicap meter project would result in a new total of 1,251 meter spaces.

Parkmobile is currently available at all parking meters in the City. The growth of Parkmobile continues, with the following revenue increases noted:

Fiscal year 2014-15 revenues up 59.09% (\$40,693 increase) as compared to 2013-14. Fiscal year 2015-16 revenue projections up 36.58% (\$40,170 increase) compared to 2014-15.

### PARKING METER REVENUE SUMMARY:

REVENUE TYPE	2014-15 ACTUAL	2015-16 YTD AS OF 4/28/16	2015-16 YEAR END PROJECTION
PARKMOBILE	109,800	122,970	149,970
LOT 6	48,820	44,710	55,250
LOT 7	62,680	45,150	54,180
LOT 9	4,010	2,620	3,140
CURB METERS *	1,126,850	855,860	1,027,030
TOTAL **	1,352,160	1,071,310	1,289,570

\* Curb meter revenues are projected to decrease by approximately 4.5% in 2015-16 due to construction on North Old Woodward and Maple Roads, and also due to continued increase in Parkmobile usage in lieu of coin payments.

\*\* Note: revenues from Lot 6 permits, valet parking meter bags, and contractor / vendor parking meter bags are not included in this revenue summary.

Of the existing 1,238 parking meters, 840 spaces currently have a rate of \$1.00 per hour, and 398 spots at \$.50 per hour.

### ADVANTAGES OF MULTI-SPACE / SMART METER TECHNOLOGY:

With smart meter technology, parking mechanism faults are instantly reported via management system support software – jammed meters and dead batteries can be repaired or replaced instantly resulting in less downtime per meter space providing potential for increased revenues due to fewer broken meters. Units run on solar power and are easily programmed for rate and time limit changes. Internet based meter management for repairs, audits, space monitoring, maintenance logs, inventory, etc. is greatly enhanced over administration of traditional parking meter mechanisms such as our existing system. Vendors promise great revenue increases as motorists tend to purchase maximum allowed time via credit card vs. depositing nickels, dimes, and quarters into parking meters. This credit card driven revenue enhancement would be somewhat negated in Birmingham as 1/3 of our meters have time limits of one hour or less.

### CIVICSMART (FORMERLY DUNCAN PARKING TECHNOLOGIES)

Based upon the discussions and research conducted, the CivicSmart / Duncan Liberty single-space offers several advantages including Parkmobile and BS&A compatibility. The meter has a large high resolution LCD display and color coded payment buttons for convenience and overall ease of use. The Liberty is ADA compliant. Jeff Rock, Vice President for CivicSmart, Inc. provided information regarding the CivicSmart / Duncan Liberty single-space credit card meter as the best option for Birmingham. This device would retrofit into our existing housings and provide for coin, credit, debit, and pay by phone including Parkmobile transactions. The Liberty meters connect wirelessly to the included Parking Enterprise Management System (PEMS) for maintenance and reporting. Liberty is available only as a single space meter.

<u>CIVICSMART LIBERTY COSTS:</u> Costs associated with these meters are as follows:

CAPITAL OUTLAY: \$395 x 1,251 single space = \$494,145 INITIAL INVESTMENT

ANNUAL FEES (MAINTENANCE): includes CivicSmart PEMS management system and credit card processing\*

\$5.50 per meter per month x 1,251 meters = \$6,880.50 per month = \$82,566 per year x 5 = \$412,830

\* (additional gateway costs for credit card transactions charged by City's credit card processing company are not included in this monthly charge. An additional \$.06 per credit card transaction fee charged is charged by CivicSmart).

ANNUAL FEES (WARRANTY YEARS 2-4): YEAR 2 = \$37.50 PER METER (1,251) = \$49,912.50 YEARS 3-5 = \$45.00 PER METER PER YEAR = \$168,885.00 4 YEAR WARRANTY TOTAL = \$218,797.50 5 YEAR TOTAL COST = \$1,125,772.50 (plus costs for credit card transaction charges)

### MULTI-SPACE METERS - TRAFFIC AND SAFETY (LUKE II)

I met with Tom Neff of Traffic and Safety Control Systems, Inc. regarding the LUKE II multi-space pay stations. Tom provided a list of 19 LUKE II customers in the State of Michigan including cities, universities, parks, and private lots. Only four of those cities listed (Ann Arbor, Lansing, Flint, Pontiac) use LUKE II for on street parking, the majority use the multi-space machines in surface lots and at boat docks.

There is a cost of \$8,500 per unit for the LUKE II stations (price includes installation), and monthly fees totaling \$10.00 per unit per month for Parkmobile and Duncan Autocite parking enforcement handheld computer interfaces. Mr. Neff estimates a quantity of 153 LUKE II stations would be needed to service the entire city. The preliminary capital outlay cost estimate for this system is \$1.3 million for pay stations plus additional expenses for signage and wayfinding information for all metered areas throughout the city. Additional costs associated with this solution are \$65.00 per station per month which includes machine to machine (M2M) modem digital connection via wireless carrier and also covers fees for real time credit card processing, maintenance alerts, cash in machine data, and maintenance status using the Digital Iris management system. There are no per transaction fees charged by Traffic and Safety associated with this solution, but credit card processing fees charged by the banking institution would still apply. The Luke II machines are ADA compliant.

While this platform has the highest front end and maintenance costs, benefits include fewer number of units to collect and repair compared to single space meters. Additionally, the solar/cellular designed pay stations are easily movable to alternate locations as there are no cables or power cords required. Drawbacks include downtime when unit(s) are out of order – resulting in revenue losses and frustrated motorists and parkers having to wait in line to use a multi-space meter shared by several spaces in a block. Also, repairs of single space smart meters are completed in a much more rapid fashion – no motherboards or other critical parts located at an out of state manufacturer's location – resulting in potentially lessened downtime.

LUKE II MULTI-SPACE COSTS: Costs associated with these meters are as follows:

CAPITAL OUTLAY: \$8,500 x 153 multi-space = \$1,300,500 INITIAL INVESTMENT

ANNUAL FEES (MAINTENANCE): includes Digital Iris management system, cellular connectivity fees and real time credit card processing with no per transaction fees\*

\$65.00 per pay station per month \$65.00 x 153 = \$9,945 per month = \$119,340 per year X 5 = \$596,700

\* (additional gateway costs for credit card transactions charged by City's credit card merchant processing company fees are not included in this monthly charge.

ANNUAL FEES (WARRANTY YEARS 2-4): \$1,160 PER PAY STATION PER YEAR \$1,160 X 153 = \$177,480 X 4 YEARS 4 YEAR WARRANTY TOTAL = \$709,920

5 YEAR TOTAL COST = \$2,607,120 (plus costs for credit card merchant processing charges)

### **SMART PARKING METER COST ESTIMATES:**

VENDOR	# METERS	PRICE PER	PURCHASE PRICE	ANNUAL MAINT	5 YR MAINT COST	4 YR EXT WARR	TOTAL 5 YR COST
SINGLE SPACE:							
IPS GROUP	1,251	\$495	\$619,245	\$86,319	\$431,595	\$250,200	\$1,301,040
MACKAY - SINGLE	219	\$550	\$120,450				
MACKAY - DOUBLE	516	\$750	\$387,000				
<b>MACKAY</b> ***	735	SEE ABOVE	\$507,450	\$70,560	\$352,800	\$147,000	\$1,007,250
CIVICSMART	1,251	\$395	494,145	82,566	412,830	\$218,797.50	\$1,125,773
MULTI SPACE (LUKE):							
TRAFFIC & SAFETY	153	\$8,500	\$1,300,500	\$119,340	\$596,700	\$709,920	\$2,607,120

NOTE:

PLUS CREDIT CARD TRANSACTION AND CREDIT CARD MERCHANT PROCESSING FEES

\* PLUS CREDIT CARD MERCHANT PROCESSING FEES (NO INDIVIDUAL CREDIT CARD TRANSACTION FEES)

\*\*\* MACKAY SMART METERS ARE NOT PARKMOBILE COMPATIBLE

It should be noted that the above estimates for IPS M5, MacKay MKBEACON, or CivicSmart Liberty single space parking meters do not include the purchase of spare mechanisms. Acquisition of spares (5-10% of total spaces) would also be recommended at time of purchase.

**REPORT SUMMARY**: This City's history with experimental parking projects has included reverse angle parking on North Old Woodward, the Parkeon pay and display multi-space debacle on South Old Woodward and Pierce Streets in 2005, and the subsequent Duncan multi-space kiosk installations on North Old Woodward which also met with public loathing. Other cities that experienced negative results with multi-space meters include: Los Angeles, Berkeley (CA), Denver, Evanston, Sacramento, San Francisco, Santa Monica, Atlanta, and the District of Columbia. All of these communities now have single space credit card meters.

Single unit credit card meters are conveniently located for parkers, incorporate easier and cheaper repairs, offer streamlined enforcement tools, and are cheaper to purchase and operate. If one unit is out of service, revenues and enforcement for the adjacent spaces are not affected.

Transitioning from single-space meters to multi-space kiosks would also include significant loss of traffic control flexibility. Currently when very large areas or even single parking meter spaces need to be reserved for valet operations, special events, and construction projects meter bags are a convenient and effective way to prevent vehicles from parking at select spots. With multi-spaces kiosks, reserving spaces would require the use of barricades or traffic cones which are easily moved by parkers not authorized for those locations.

Duncan Parking Technologies (now CivicSmart), once a leader in the multi-space parking business has ceased all sales of multi-space parking solutions due to failures and public preference of single space solutions for on street parking. Single space meters have frequently proven to be more suitable and convenient than multi-space kiosks.

Throughout my many discussions with competing parking equipment vendors, various problems associated with multi-space meters were repeatedly expressed by numerous dealers. Multi-space kiosk drawbacks include:

- Motorists have to walk too far to pay for parking (a particular problem in winter months or during inclement weather)
- Combined with the inherent laziness of most parkers, wayfinding signage and kiosk directions increase motorist frustrations
- If one kiosk is out of service all spaces in the area remain unpaid or motorists must walk even further to pay for parking
- Sometimes the closest kiosk is across the street, prompting the motorist to cross the road to pay
- Repairs are more expensive than single space meters
- ADA / handicap parking compliancy issues
- Enforcement activity is more complicated
- Motorists frequently forget correct or enter wrong parking space number or license plate number – not conveniently corrected if kiosk is a far distance away
- Complex multi-space meters are not as user friendly and easy to operate as single space meters
- Units cost several thousand dollars each
- Maintenance fees, warranty costs, monthly phone connectivity expenses, and charges for interfaces to other databases (Parkmobile and Autocite enforcement) are pricey
- Single space meter modem monthly fees have reduced significantly in costs to warrant consideration of this type of technology

Should the Advisory Parking Committee and City Commission decide to make changes to our existing on street parking payment options, CivicSmart Duncan Liberty single space credit card meters may be the preferred solution for the police department. Benefits to our existing coin only / Parkmobile credit card payment would include availability of real time data reflecting usage, meter repair/collection status, remote management, and automated rate and time limit adjustments. A combination of new CivicSmart meters and new handheld computers would provide parking enforcement assistants real time information regarding status of expired meters throughout the city. New handhelds could be used to monitor and manage enforcement activity thereby increasing efficiency of parking enforcement operations. As the police department is now at full staff for parking enforcement assistants, greater enforcement activity is planned. A greater presence and increased enforcement in the metered areas of the business district should prompt additional revenues as motorists will be more motivated to pay for parking.

The costs associated with the purchase, maintenance, and warranty for this equipment could be offset by parking meter rate increases recently introduced as a topic for discussion. Based upon an evaluation of our current parking meter rates, Jeff Rock from CivicSmart projected a return on investment (ROI) with credit cards amounting to a revenue increase of \$340,000 per year. Should the rates at the current \$0.50 per hour meters increase to \$1.00 per hour, Mr. Rock projects additional revenue enhancements of \$150,000 per year for a total ROI of \$490,000.00.

An additional opportunity for the city to generate meter revenue increases would be to install pole mounted vehicle sensors in conjunction with new smart meters. Wireless vehicle detection sensors provide real-time data with over 99% accuracy to allow cities to detect vehicle occupancy in a specific space or area. This provides for heightened efficiency and productivity of metered parking operations. Also, the sensors provide reset options for metered spaces after a vehicle moves from its designated space – increasing revenues as unused time cannot be transferred to the next vehicle using the space. (Vehicle A pulls out of space, sensor resets meter to zero minutes, Vehicle B cannot use prior vehicle's unused time including grace period and must pay for parking). Vehicle sensors also prevent meter feeding – no extension of time limits past maximum are authorized. Also, sensors can integrate with wayfinding mobile phone apps used by motorists to find desired parking spaces. Cost for 1,251 vehicle

sensors at \$290 each totals an initial investment of \$362,790. CivicSmart charges a \$3.00 monthly fee per vehicle sensor for an annual total of \$44,316.

Whatever solution is deemed best for the City of Birmingham, these critical factors must be considered – ease of use for the public, system integration with Parkmobile and BS&A financial software, and compatibility with the handheld computers used by parking enforcement assistants. The 2016-17 fiscal year budget includes funding for the replacement of the existing Duncan Autocite handhelds. These projects must be jointly evaluated so that all aspects of the parking system are mutually compatible and cost effective for the City.



### MEMORANDUM

**Police Department** 

DATE: December 13, 2016

TO: Joe Valentine / City Manager

FROM: Mark Clemence / Chief of Police

SUBJECT: Bad Checks Ordinance 74-95

It has come to the attention of the police department that the penalty provision in Section 74-95 Bad Checks is erroneous. The last line of section 74-95 states that this is a "crime guilty of a misdemeanor punishable, for a first offense, by a fine of not more than \$100.00 and/or imprisonment for up to 90 days."

The penalty for this crime is for fines of not more than \$500.00 and/or imprisonment for up to 93 days.

See attached proposed amendment to correct this error.

SUGGESTED ACTION:

To amend Part II of the City Code, Chapter 74 Offenses, Article IV. Offenses Against Property, Division 2 – Theft, Section 74-95 Bad Checks to replace "fine not more than \$100.00 and/or imprisonment for up to 90 days" with "fine not more than \$500.00 and/or imprisonment for up to 93 days" and to authorize the Mayor and City Clerk to sign the ordinance on behalf of the city.

1

### CITY OF BIRMINGHAM

### ORDINANCE NO.

### AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 74 OFFENSES, ARTICLE IV. OFFENSES AGAINST PROPERTY, DIVISION 2-THEFT, SECTION 74.95 BAD CHECKS.

THE CITY OF BIRMINGHAM ORDAINS:

Part II of the City Code, Chapter 74 Offenses, Article IV. Offenses Against Property, Division 2 – Theft, Section 74.95 Bad Checks, shall be amended as follows:

ARTICLE IV. OFFENSES AGAINST PROPERTY

DIVISION 2. - THEFT

all in the

#### Sec. 74-95. - Bad checks.

Any person who, with intent to defraud, shall make or draw or utter or deliver within the city any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivering, that the maker, or drawer, has not sufficient funds in or credit with such bank or other depository, for the payment of such check, draft or order, in full, upon its presentation, or any person who, with the intent to defraud, shall make, draw, utter or deliver within the city any check, draft or order for the payment of money to apply on account or otherwise, upon any bank or other depository and who shall not have sufficient funds for the payment for same when presentation for payment is made to the drawee, except where such lack of funds is due to garnishment, attachment, levy or other lawful cause, and such fact was not known to the person who made, drew, uttered or delivered the instrument at the time of so doing, shall, if the amount payable in the check is \$100.00 or less, such persons shall be guilty of a misdemeanor punishable, for a first offense, by a fine of not more than \$500.00 and/or imprisonment for up to 93 days.

All other Sections of Chapter 74, Offenses, Article IV. Offenses Against Property shall remain unaffected.

Ordained this \_\_\_\_\_ day of \_\_\_\_\_, 2016. Effective upon publication.

Mark Nickita, Mayor

, City Clerk

I, \_\_\_\_\_, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held \_\_\_\_\_\_, 2016 and that a summary was published \_\_\_\_\_\_, 2016.

11.1.1.1.1.1.1

, City Clerk



MEMORANDUM

**Police Department** 

DATE: December 13, 2016

TO: Joe Valentine / City Manager

FROM: Mark Clemence / Chief of Police

### SUBJECT: Ordinance Amendments Regarding Indecent/Obscene Conduct

The State of Michigan does not have a state statute prohibiting urinating in public. Municipalities have looked to their disorderly conduct ordinances to deter this conduct. However, to have complete clarity, it is recommended that we add the language "including, but not limited to urinating in public" to our Indecent Exposure and Indecent or Obscene Conduct ordinances.

See attached suggested changes to Article VIII – Offenses Against Public Morals, Division 1 Generally, Section 74-241 Indecent Exposure and Section 74-242 Indecent or Obscene Conduct.

SUGGESTED ACTION:

To amend Part II of the City Code, Chapter 74 Offenses, Article VIII – Offenses Against Public Morals, Division 1 Generally, Section 74-241 Indecent Exposure and Section 74-242 Indecent or Obscene Conduct to add "including, but not limited to urinating in public" and to authorize the Mayor and City Clerk to sign the ordinance on behalf of the city.

1

### CITY OF BIRMINGHAM

### ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 74 OFFENSES, ARTICLE VII – OFFENSES AGAINST PUBLIC MORALS, DIVISION 1 GENERALLY, SECTION 74-241 INDECENT EXPOSURE AND SECTION 74-242 INDECENT OR OBSCENE CONDUCT.

THE CITY OF BIRMINGHAM ORDAINS:

Part II of the City Code, Chapter 74 Offenses, Article VII – Offenses Against Public Morals, Division 1 Generally, Section 72-241 Indecent Exposure and Section 74-242 Indecent or Obscene Conduct, shall be amended as follows:

ARTICLE VII - OFFENSES AGAINST PUBLIC MORALS

DIVISION 1. – GENERALLY

1. C. M.

### Sec. 74-241. – Indecent exposure.

It shall be unlawful for any person within the city to knowingly make any open or *indecent exposure* of his person or of the person of another, including but not limited to urinating in any public place

### Sec. 74-242. - Indecent or obscene conduct.

It shall be unlawful for any person within the city to engage in any *indecent* or obscene conduct, including but not limited to urinating in any public place.

All other Sections of Chapter 74, Offenses, Article IV. Offenses Against Property shall remain unaffected.

Ordained this \_\_\_\_\_ day of \_\_\_\_\_, 2016. Effective upon publication.

Mark Nickita, Mayor

, City Clerk

I, \_\_\_\_\_, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting

held \_\_\_\_\_\_, 2016 and that a summary was published \_\_\_\_\_\_, 2016.

-

, City Clerk



January 4, 2017

Mr. Joseph A. Valentine, City Manager *City of Birmingham* 151 Martin Street, P.O. Box 3001 Birmingham, MI 48012-3001

### Re: Amendment to the City Code at Section 1-18, Storm Water Utility Appeals Board

Dear Mr. Valentine:

In December, the City of Birmingham adopted Division 6 regarding the Storm Water Utility Fees, Sections 114-400 et seq. As part of the creation of this new methodology, pursuant to the *Wolf v Birmingham* resolution, an Appeals Board needs to be established in order to hear disputed fees that citizens may wish to contest. Section 1-18 is very similar to our current ordinance regarding our hearing officer, but is designed to follow the proposed legislation in Lansing, which would have two (2) licensed professional engineers sitting on the Board, as well as one additional individual. We deliberately set the Board up so that these individuals do not have to be residents of the City of Birmingham and have modeled it similar to the proposed legislation in Lansing. We believe this should be adopted so that a Board can be established at the earliest possible convenience to hear any disputed bills.

Attached you will also find a copy of Article VI. Storm Water to Add Division 6. Storm Water Utility Fee which sets forth the criteria to evaluating storm water fees in Section 114-402. We are providing a complete package for the Commission to evaluate the proposed ordinance amendment.

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 Enclosure

# Beier Howlett

Mr. Joseph A. Valentine, City Manager *City of Birmingham* January 4, 2017 Page 2

### A RESOLUTION TO APPROVE THE ADOPTION OF PROPOSED AMENDMENT TO ADD SECTION 1-18 TO THE BIRMINGHAM CITY CODE ESTABLISHING A STORM WATER UTILITY APPEALS BOARD FOR DISPUTED FEES

# CITY OF BIRMINGHAM ORDINANCE NO. \_\_\_\_

# AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 1. TO ADD GENERAL PROVISIONS, SECTION 1-18. STORM WATER UTILITY APPEALS BOARD FOR DISPUTED FEES.

THE CITY OF BIRMINGHAM ORDAINS:

The City Code, Part II, Chapter 1 General Provisions, Section 1-18 Storm Water Utility Appeals Board for Disputed Fees shall be amended to change certain verbage and shall read as follows:

### "Sec. 1-18. – Storm Water Utility Appeals Board for disputed fees.

- (a) Storm Water Utility Appeals Board.
  - (1) The city commission shall appoint a 3 member Storm Water Utility Appeals Board, that shall be responsible for hearing disputes to a fee or bill that a property owner or resident of the city shall receive pursuant to Storm Water Utility Fees (114-402).

The city commission shall also appoint 2 alternate members to the Storm Water Utility Appeals Board, who shall be responsible for hearing such disputes in the member's absence. At least one alternate shall be a licensed professional engineer not employed by the city.

- (2) The Storm Water Utility Appeals Board members shall be appointed for three-year terms. The initial alternate members shall be appointed for a two-year term. Terms shall begin on February 1, 2017 and shall expire on January 31 of the respective years. Thereafter, terms shall be three years so that both terms do not expire on the same year. The member and alternate shall serve at the will of the commission. The member and alternate shall hold office until their successors are appointed. The city commission shall fill a vacancy by an appointment only.
- (3) The members and alternate are not required to be residents of the city, two (2) of which should be licensed professional engineers not employed by the city.
  - a. The members and alternate shall serve without compensation, and shall not be elected officials, or persons appointed to elective office.
  - b. The Storm Water Utility Appeals Board and alternates shall establish such procedures as deemed necessary or appropriate to perform the functions as set forth in this section.
- (b) *Functions of the Storm Water Utility Appeals Board*. When there is a question or a dispute as to the applicability of any invoice received by a property owner or resident of the city pursuant to any of the fee collection ordinances of this Code, as described in

subsection 1-18(a)(1), to a particular situation, that question or dispute shall be directed to the Storm Water Utility Appeals Board. It shall then be the function of the Storm Water Utility Appeals Board to conduct a hearing and make a determination, as applicable.

The actual invoice shall notify the property owner or resident of his or her right to dispute all or any part of the bill as established in this section.

(1) Hearings. The Storm Water Utility Appeals Board shall follow the following hearing procedure:

a. The Storm Water Utility Appeals Board shall, upon receiving notice from the debtor that they are requesting a hearing within the time frames established by the appropriate fee collection ordinance, arrange for a mutually convenient date to hear the dispute.

b. Any person requesting an appearance before the Storm Water Utility Appeals Board to dispute a permissible invoice may request one extension that may be granted by the Storm Water Utility Appeals Board only under extreme circumstances.

c. All hearings at which any person shall be requested to appear shall be subject to the Open Meetings Act.

d. All findings of the Storm Water Utility Appeals Board shall be published in permanent form and communicated to the city treasurer and other appropriate city staff, the debtor, and the city commission, subject to the requirements of the Open Meetings Act.

(2) The Storm Water Utility Appeals Board shall apply the criteria of 114-402 in determining their findings.

Ordained this \_\_\_\_\_ day of \_\_\_\_\_, 2017. Effective upon publication.

Mark Nickita, Mayor

Cheryl Arft, Acting City Clerk

I, Cheryl Arft, Acting City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held \_\_\_\_\_\_, 2017 and that a summary was published \_\_\_\_\_\_, 20

Cheryl Arft, Acting City Clerk

### **Currier**, Tim

From:	Joe Valentine <jvalentine@bhamgov.org></jvalentine@bhamgov.org>
Sent:	Tuesday, January 03, 2017 12:36 PM
То:	Currier, Tim
Cc:	cheryl arft
Subject:	Re: Storm Water Utility Appeals Board Ordinance

Can you prepare a short cover memo with the suggested resolution and include the ordinance language with it. Can you also include the criteria or section from 114-402 that is referenced and send the complete packet back to us? Thanks.

On Fri, Dec 16, 2016 at 10:52 AM, Currier, Tim <<u>TCurrier@bhlaw.us.com</u>> wrote:

Joe-

Attached please find a draft Storm Water Utility Appeals Board Ordinance. Please review and advise of any changes you wish. If it is ok just let Cheryl know so she can get it on our next agenda.

-Tim

Timothy J. Currier

Beier Howlett, P.C.

### Beier Howlett, P.C.

### \*\*\*WE MOVED\*\*\*

Only our location changed. All telephone numbers.

email addresses and extensions remain the same.

3001 W. Big Beaver, Ste. 200

Troy, MI 48084

Direct Dial: (248) 282-1066

Direct Fax: (248) 282-1085

tcurrier@bhlaw.us.com

www.beierhowlett.com

Smerlasyas Best Lawyers

### CITY OF BIRMINGHAM ORDINANCE NO. \_\_\_\_

### AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 114 UTILITIES, to ADD ARTICLE VI. STORM WATER TO ADD DIVISION 6. STORM WATER UTILITY FEE

THE CITY OF BIRMINGHAM ORDAINS:

Part II of the City Code, Chapter 114 Utilities, shall be amended to add Article VI. Storm water, Division 6. Storm Water User Fee, as follows:

ARTICLE VI. STORM WATER

DIVISION 6. STORM WATER UTILITY FEE

### Sec. 114-400. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Runoff Potential:* The runoff potential from a property is based on hydrologic principles for calculating runoff that use both the impervious surface area and the pervious surface area. Runoff potential is measured in square feet using the following formula:

Runoff Potential = 0.15x [Total Area – Impervious Area] + 0.9 x [Impervious Area]

*Combined sewer system:* Public sewers, drains, ditches, roads and retention ponds used for collecting and transporting storm water and non-storm water in the City.

*Director:* The City Engineer or such other person as the City Manager may designate.

Equivalent Storm Water Unit (ESWU): A subunit of measurement which relates the volume of storm water discharged from a lot based on the amount of total and impervious lot area, compared to the standard unit. The formula for an equivalent storm water unit (ESWU) is as follows:

1 ESWU =  $(0.15 (TA_{s} - IA_{s}) + (0.90 (IA_{s})))$  where,

 $TA_s$  = total area of standard unit;

IA<sub>s</sub> = impervious area of standard unit;

0.15 = runoff coefficient for pervious area;

0.90 = runoff coefficient for impervious area.

One ESWU in the City is equal to the average runoff potential of the standard unit.

*Impervious lot area:* Impervious area means a surface area that is resistant to permeation by surface water.

*Industrial sites:* Those sites that contain industrial activities which require wastewater discharge permits as set forth in Section 114-202 of this Code.

*Nonstorm water:* All flows to the combined sewer system not defined as storm water in Section 114-199, or as determined by the director.

*Pervious lot area:* All land area that is not impervious. Pervious lot area equals the total lot area, minus the impervious lot area. Pervious lot area has a runoff coefficient equal to 0.15.

Separated Storm Water sewer system: Public sewers, drains, channels, ditches, roads and retention ponds used for collecting and transporting storm water in the City.

*Standard unit:* Single family residential parcel in the City within a lot size between 0.126 and 0.250 acres.

Storm Water: Storm water runoff, snow melt runoff and surface runoff and drainage.

*Storm Water utility fee:* The fee imposed for the use of that portion of the combined system that transports storm water, based on the number of ESWU's for a lot or parcel of land determined as provided in Section 114-402.

*Storm Water sewer system:* That portion of the combined sewer system and separated storm water sewer system that is attributable to the transportation and treatment of storm water.

*User:* An owner of property which directly or indirectly contributes to the combined sewer system.

### Sec. 114-401. – Storm Water Utility Fees.

- (a) All users shall pay a storm water utility fee proportional to the volume of storm water which is projected to discharge into the combined sewer system and storm water sewer system from their property.
- (b) The City Commission shall, by resolution, set storm water utility fees at a rate which will recover from each user its share of the costs of the storm water sewer system attributable to the discharge of storm water from the users' property to the storm water system. The City shall use the revenues of the storm water utility fees to pay the costs of the water treatment operation and maintenance of the storm water sewer system, and for necessary improvements and additions to the storm water sewer system.

- (c) The City may also collect from users fees imposed to pay the implementation and operation of any of the following:
  - (1) Monitoring, inspection and surveillance procedures;
  - (2) Reviewing discharge procedures and construction;
  - (3) Discharge permit applications; or
  - (4) Other fees as the City may deem necessary to operate the storm water sewer system.

### Sec. 114-402. - Calculation of fees and appeals.

(a) Single Family Residential ESWU. All single family residential properties in each of the lot-size categories are assigned the same ESWU for that category. The ESWU values for the single-family residential categories are summarized in the fee schedule.

PROPERTY TYPE	SFR CLASS
Single-Family Residential, 0.125 acres or less Single-Family Residential, 0.126 acres to 0.250 acres	Class A Class B
Single-Family Residential, 0.251 acres to 0.500 acres	Class C
Single-Family Residential, 0.501 acres to 0.750 acres	Class D
Single-Family Residential, 0.751 acres to 1.000 acres	Class E
Single Family Residential, 1.001 acres or larger	Class F

(b) Non-Single Family ESWU. The storm water utility fee for non-single family lots shall equal the number of ESWU's for a given lot, multiplied by the annual rate established by the City Commission per ESWU per year. The formula for determining the number of ESWU's per non-single family lot shall be calculated from the amount of pervious and impervious lot area as follows:

Number of ESWU's = 0.15 (TA - IA) + 0.90 (IA)Average runoff potential of the standard unit/ESWU

where,

TA = total area of each lot (reported in square feet);

IA = impervious area of each lot (reported in square feet).

- (c) Any property owner liable for a storm water utility fee may appeal the determination that the property utilizes the storm water system or the amount of a storm water utility fee, including a determination on a reduction in or the elimination of the fee under Section 114-402(a) and (b). An appeal may be based on the quantity of storm water runoff generated, the reductions established, the reductions allocated, or any other matter relating to the determination of the storm water utility fee.
- (d) An appeal under subdivision (c) shall be heard by a storm water utility appeals board appointed by the local unit of government. The appeals board shall consist of 3 members, 2 of whom shall be licensed professional engineers not employed by the local unit of government.
- (e) An appeal of a storm water utility fee shall not be brought more than 1 year after the fee was billed.
- (f) To prevail in an appeal of a storm water utility fee, the appellant shall demonstrate in accordance with the requirements of the plan that the use of the system by the property is less than the amount used by the local unit of government in the calculation of that property's storm water utility fee, or the classification of the property type is in error, or there was a mathematical error in the calculation of the fee.
- (g) The sole remedy for a property owner who prevails in an appeal of a storm water utility fee is a prospective correct recalculation of the storm water utility fee.
- (h) If in an appeal of a storm water utility fee the appeals board finds that the requirements of subdivision (f) have not been met, that finding is conclusive until the property is modified to either increase or decrease the utilization of the system. The property owner remains eligible for reduction or elimination of fees under the storm water utility ordinance.
- (i) A property owner making an appeal shall provide the appeals board with information necessary to make a determination.
- (j) A person aggrieved by a decision of the appeals board on an appeal under this section may appeal to the circuit court in which the property is located. An appeal to the Circuit Court must be filed within thirty (30) days of the appeals board's decision.

### Sec. 114-403. Credits.

- (a) The purpose of this section is to provide for each property owner's control over contributions of storm flows to the storm water utility system and the related storm water utility fees and to advance protection of the public health, safety, and welfare.
- (b) The City shall offer credits on an annual basis that will enable any property owner, through voluntary action, to reduce the storm water utility fees calculated for that property owner's property and will provide a meaningful reduction in the cost of

service to the storm water system, or that shall be reasonably related to a benefit to the storm water system;

- (1) Credits will only be applied if requirements outlined in this Chapter and other applicable sections of the City Code are met, including, but not limited to: completion of ongoing maintenance, guaranteed right-of-entry for inspections, and submittal of annual self-certification reports.
- (2) Credits will be defined as either set fee reduction or percent (%) reductions applied as a credit adjustment to the fee calculation equation.
- (3) Credits are additive to each credit category.
- (4) As long as the storm water facilities or management practices are functioning as approved, the credit reduction will be applied to the fee. If the approved practice is not functioning as approved or is terminated, the credit reduction will be cancelled and the fee will return to the baseline calculation. Once the credit reduction has been cancelled, a customer may not reapply for credit for a period of 12 months and only then if the deficiency has been corrected, as determined by City inspection.
- (5) Credits will be applied to the next complete billing cycle after the application has been approved.
- (c) The director shall define a method for applying and granting credits on an annual basis, as well as criteria for determining the credits a property owner may receive. The director may, by regulation, establish credits for 1 or more of the following:
  - (1) Installation and maintenance of rain barrels, rain gardens, bioswales, cisterns, dry wells, infiltration trenches, porous pavement or pavers, or disconnecting footing drains;
  - (2) Installation and maintenance of a storm water control facility, or other water quantity controls; and
  - (3) Other actions of the property owner that, in the judgment of the director, result in a measurable reduction in storm water runoff.

### Sec. 114-404. - Billing.

The billing for the storm water utility may be combined with the billing for other utility services. Final determinations on measurements per ESWU will be determined by the director.

### Sec. 114-405. - Collection.

Unpaid storm water utility fees shall constitute a lien against the property affected. Fees which have remained unpaid for a period of six months prior to April 30 may be certified to the City Treasurer who shall place the fees on the next tax roll of the City. In the alternative, the City Commission may direct the City Attorney to take appropriate legal action to collect unpaid fees.

Ordained this \_\_\_\_\_ day of \_\_\_\_\_, 2016. Effective upon publication.

Rackeline J. Hoff, Mayor

Laura M. Pierce, City Clerk

I, Laura M. Pierce, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held \_\_\_\_\_\_, 2016 and that a summary was published \_\_\_\_\_\_, 2016.

Laura M. Pierce, City Clerk

#### FEE SCHEDULE

PROPERTY TYPE	<u>SFR CLASS</u>	<u>AVERAGE</u> <u>RUNOFF</u> POTENTIAL	<u>ESWU</u>
Single-Family Residential, 0.125 acres or less	Class A	3,166	0.7
Single-Family Residential, 0.126 acres to 0.250 acres	Class B	4,317	1.0
Single-Family Residential, 0.251 acres to 0.500 acres	Class C	6,716	1.6
Single-Family Residential, 0.501 acres to 0.750 acres	Class D	10,552	2.4
Single-Family Residential, 0.751 acres to 1.000 acres	Class E	13,094	3.2
Single Family Residential, 1.001 acres or larger	Class F	20,496	4.6

Non-Single Family ESWU. The storm water utility fee for non-single family lots shall equal the number of ESWU'S for a given lot, multiplied by the annual rate established by the City Commission per ESWU per year. The formula for determining the number of ESWU'S per non-single family lot shall be calculated from the amount of pervious and impervious lot area as follows:

Number of ESWU's = 0.15 (TA - IA) + 0.90 (IA)4317 square feet/ESWU

where,

TA = total area of each lot (reported in square feet);

IA = impervious area of each lot (reported in square feet).

City of B	irmingham A Walkable Community	MEMORANDUM
		Office of the City Manager
DATE:	January 3, 2017	
то:	City Commission	
FROM:	Joseph A. Valentine, City Manager	
SUBJECT:	City Clerk Position	

The recruitment process for a new City Clerk has begun and in accordance with the City Charter, the City Clerk is an appointed position by the City Commission. To help facilitate a selection process that can recommend a finalist candidate, I am proposing the creation of a sub-committee of the Commission comprised of 2 to 3 Commissioners to work with the City Manager and HR Manager during the final round of interviews to develop a recommended candidate for Commission approval.

The plan is to conduct interviews with qualified candidates over the next few weeks with the intent to present a recommendation to the Commission by March 13th. The final round of interviews would be conducted by the sub-committee during the week of February 6<sup>th</sup> followed by a supplemental meeting to formalize a recommendation. Accordingly, the sub-committee is expected to meet twice during the month of February.

Suggested Resolution:

1

To appoint a sub-committee comprised of Commissioners \_\_\_\_\_\_, the City Manager and the HR Manager to conduct final interviews and recommend a finalist candidate for the position of City Clerk for approval by the City Commission.

City of H	Sirmingham A Walkable Community	MEMORANDUM
		Office of the City Manager
DATE:	January 6, 2017	
то:	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.)



#### NOTICE OF INTENTION TO APPOINT TO ARCHITECTURAL REVIEW COMMITTEE

At the meeting of Monday, January 23, 2017 the Birmingham City Commission intends to appoint one member to the Architectural Review Committee to serve the remainder of a three-year term to expire April 11, 2017. Members of this Committee will be appointed by the Commission. The Committee shall consist of three Michigan licensed architects who reside in the City of Birmingham.

The purpose of this committee is to review certain public improvement projects initiated by the City and referred to the committee by the City Manager or his/her designee. The Committee is expected to offer opinions as to what physical alterations or enhancements could be made to these projects in order to improve the aesthetic quality of the project and the City's overall physical environment.

Interested citizens may submit an application available at the City Clerk's Office or online at <u>www.bhamgov.org/boardopportunities</u>. Applications must be submitted to the City Clerk's office on or before noon on Wednesday, January 18. 2017. These applications 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 the appointments.

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

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Michigan Licensed Architect &	1/18/17	1/23/17
Resident of the City of Birmingham		



# ARCHITECTURAL REVIEW COMMITTEE

Resolution #: 03-101-04

Purpose: To review certain public improvement projects initiated by the city and referred to the committee by the city manager or his/her designee. The committee is expected to offer opinions as to what physical alterations or enhancements could be made to these projects in order to improve the aesthetic quality of the project and the city's overall physical environment.

Members: The committee shall consist of three Michigan licensed architects who reside in the City of Birmingham.

Term: Three years

Last Name Home Address	First Name s	Home Business E-Mail	Appointed	Term Expires
Bertollini	Larry	(248) 646-6677	6/25/2012	4/11/2018
1275 Webster		lbertollini@att.net	Michigan License of Birmingham	ed Architect & Resident
Longe	Christopher	(248) 258-6940	5/24/2004	4/11/2019
1253 Yosemite		(248) 258-6940 <i>cjlonge@cjlongeaia.com</i>	Michigan Licensed Architect & Residen of Birmingham	
VACANT			5/24/2004	4/11/2017
			Michigan License of Birmingham	ed Architect & Resident



#### NOTICE OF INTENTION TO APPOINT TO PUBLIC ARTS BOARD

At the regular meeting of Monday, January 23, 2017 the Birmingham City Commission intends to appoint two members to the Public Arts Board to serve three-year terms to expire January 28, 2020.

In so far as possible, the members shall represent a major cultural institution, a registered architect of the State of Michigan, an artist, an art historian, and an art consultant. Members may also be members of the Historic District Commission, Design Review Board, the Parks and Recreation Board, or the Planning Board. At least four members of the Board shall be residents of the City of Birmingham.

The objectives of the Public Arts Board are to enrich the City's civic and cultural heritage; to promote a rich, diverse, and stimulating cultural environment in order to enrich the lives of the City's residents, business owners, employees, and all visitors; and to establish an environment where differing points of view are fostered, expected, and celebrated by providing the opportunity for such expression through the display of public art.

Interested citizens may apply for this position by submitting an application available from the City Clerk's office. Applications must be submitted to the City Clerk's office on or before noon on Wednesday, January 18, 2017. 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.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Members shall, in so far as possible, represent a major cultural institution, a registered architect of the State of Michigan, an artist, an art historian, and an art consultant. Members may also be members of the Historic District Commission, Design Review Board, the Parks and Recreation Board, or the Planning Board.	1/18/17	1/23/17
At least four members of the Board shall be residents of the City of Birmingham.		

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.



# PUBLIC ARTS BOARD

City Code - Chapter 78, Article V

Terms - 3 years

Members - At least 4 members shall be residents of the City of Birmingham. The remaining members may or may not be residents of Birmingham. In so far as possible, the members shall represent a major cultural institution, a registered architect of the State of Michigan, an artist, an art historian, and an art consultant. Members may also be members of the HDDRC, the Parks and Recreation Board, or the Planning Board.

Objectives -

- to enrich the City's civic and cultural heritage;
- to promote a rich, diverse, and stimulating cultural environment in order to enrich the lives of the City's residents, business owners, employees, and all visitors;
- to establish an environment where differing points of view are fostered, expected, and celebrated by providing the opportunity for such expression through the display of public art.

Last Name Home Address	First Name	Home Business		
		E-Mail	Appointed	Term Expires
Eddleston	Jason	(248) 703-3808	12/5/2016	1/28/2017
892 Purdy				
Birmingham	48009	jason28@yahoo.com		
Heller	Barbara	(248) 540-1310	1/28/2002	1/28/2018
176 Linden		(313) 833-7834	Resident Member	
Birmingham	48009	bheller@dia.org		
Klinger	Phyllis	(248) 594-4240	3/18/2013	1/28/2018
1844 Bowers			Resident Member	
Birmingham	48009	pklingerlawfirm@yahoo	o.com	
Mettler	Maggie	(248) 703-8006	1/12/2015	1/28/2019
544 Wallace			Resident Member	
Birmingham	48009	mlmettler@gmail.com		

Last Name Home Address	First Name	Home Business E-Mail	Appointed	Term Expires
Ritchie	Anne	(248) 635-1765	9/12/2016	1/28/2017
1455 South Etor	า			
Birmingham	48009	a_ritchie@msn.com		
Roberts	Mary	(248) 535-9871	9/12/2016	1/28/2019
2352 Buckingha	m			
Birmingham	48009	maryroberts49@gmail.co	om	
<b>Suchara</b> 2160 Fairway	Ava	(248) 645-1319	2/8/2016 Student Represen	12/31/2016 tative
Birmingham	48009	asuchara@comcast.net		
Wells 588 Cherry Ct.	Linda	(248) 647-1165	2/11/2013 Resident Member	1/28/2019
Birmingham	48009	lawells126@gmail.com		



#### NOTICE OF INTENTION TO APPOINT STORM WATER UTILITY APPEALS BOARD

At the regular meeting of Monday, January 23, 2017, the Birmingham City Commission intends to appoint 3 board members to serve a three-year term to expire January 31, 2020, and 2 alternate members who shall be appointed initially for a two-year term to expire on January 31, 2019, and thereafter appointed for three-year terms. Members and alternates shall serve at the will of the commission. Members and alternates shall hold office until their successors are appointed. The City Commission shall fill a vacancy by an appointment only.

2 of the 3 regular members appointed shall be licensed professional engineers not employed by the local unit of government. 1 of the 2 alternate members shall also be a licensed professional engineer not employed by the city. The board members shall serve without compensation.

The Appeals Board 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 Storm Water Utility ordinance (Section 114-402(c). The board members shall schedule periodic meetings for appeals as needed.

Interested citizens may submit a form available from the City Clerk's office on or before noon on Wednesday, January 18, 2017. 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.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Two of the regular members shall be licensed professional engineers not employed by the local unit of government, and have legal, administrative or other desirable qualifications that will aid him or her in the performance of the duties of the board members.	1/18/17	1/23/17
One of the alternate members shall be a licensed professional engineer not employed by the local unit of government, and have legal, administrative or other desirable qualifications that will aid him or her in the performance of the duties of the board members.		

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.

### R10A3

# STORM WATER UTILITY APPEALS BOARD

Resolution No. 12-360-10 – December 5, 2016.

Members shall be comprised as follows: 2 of 3 regular members shall be licensed professional engineers not employed by the City of Birmingham.

At least 1 of the 2 alternate members shall be a licensed professional engineer not employed by the City of Birmingham. The board members shall serve without compensation.

Board responsibilities:

To hear disputes to a fee or bill that a property owner or resident of the city shall receive pursuant to the Storm Water Utility ordinance (Section 114-402(c). The board members shall schedule periodic meetings for appeals as needed.

Last Name Home Address	First Name	Home Business Fax E-Mail	Appointed	Term Expires
VACANT				1/31/2020
VACANT			Alternate	1/31/2019
VACANT				1/31/2020

Last Name Home Address	First Name	Home Business Fax E-Mail	Appointed	Term Expires
VACANT				1/31/2020

VACANT

1/31/2019

Alternate



#### NOTICE OF INTENTION TO APPOINT TO BOARD OF BUILDING TRADES APPEAL

At the regular meeting of Monday, January 23, 2017 the Birmingham City Commission intends to appoint one member to serve a three-year term to expire May 23, 2019. Applicants shall be qualified by experience or training.

Interested citizens may submit an application available at the City Clerk's office or online at <u>www.bhamgov.org/boardopportunities.</u> Applications must be submitted to the City Clerk's office on or before noon on Wednesday, January 18, 2017. 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.

The Board of Building Trades Appeal hears and grants or denies requests for variances from strict application of the provisions of the Michigan Building, Residential, Mechanical and Plumbing Codes and the National Electrical Code. The board will decide on matters pertaining to specific code requirements related to the construction or materials to be used in the erection, alteration or repair of a building or structure.

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.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Members shall be qualified by experience or training. (such as architect, engineer, mechanical engineer, building contractor, electrical contractor, plumbing contractor, heating contractor, and refrigeration contractor)	1/18/17	1/23/17



# BOARD OF BUILDING TRADES APPEALS

Chapter 22, Article II, 1972 PA 230, MCL 125.1514

Members shall be qualified by experience or training (such as Architect, Engineer, Mechanical Engineer, Building Contractor, Electrical Contractor, Plumbing Contractor, Heating Contractor, and Refrigeration Contractor).

Term: Three years - 6 members

The Board of Building Trades Appeal hears and grants or denies requests for variances from strict application of the provisions of the Michigan Building, Residential, Mechanical and Plumbing Codes and the National Electrical Code. The board will decide on matters pertaining to specific code requirements related to the construction or materials to be used in the erection, alteration or repair of a building or structure.

Last Name Home Address	First Name	Home Business		
		E-Mail	Appointed	Term Expires
Force	David	(248) 644-1724	12/11/2006	5/23/2018
1099 N. Cranbro	ok		Building Contra	ctor
Bloomfield Hills	48301	force0621@ameritec	h.net	
Mando	Dennis	(248) 767-0515	1/30/2006	5/23/2017
2225 Ironwood Dr		(248) 669-4338	Heating Contra	ctor
Clarkston	48348	denny@dennysonline.com		
Partridge	A. James	(248)642-1739	7/8/1996	5/23/2018
3916 Cottontail L	ane	(248) 645-1465	Mechanical Eng	ineer
Bloomfield Hills	48301	jim@jpconsulting-llc.	сот	
Stahelin	Benjamin	(248) 210-7764	2/22/2016	5/23/2017
1832 East Lincol	n			
Birmingham	48009	stahelinbenjamin@gi	mail.com	
				E /22 /2010

#### VACANT

5/23/2019

Last Name Home Address	First Name	Home Business E-Mail	Appointed	Term Expires
White	Ronald	(248) 543-5532	7/15/1991	5/23/2018
1898 Tahquame	non	(810) 543-5532	Electrical Contra	octor
Bloomfield Hills	48302	offices@rdwhiteco.com	1	



#### NOTICE OF INTENTION TO APPOINT TO BOARD OF ZONING APPEALS

At the regular meeting of Monday, February 13, 2017 the Birmingham City Commission intends to appoint two alternate members to the Board of Zoning Appeals to serve three-year terms to expire February 17, 2020.

Interested parties may recommend others or themselves for these positions by submitting a form available from the City Clerk's office. Applications must be submitted to the city clerk's office on or before noon on Wednesday, February 8, 2017. Applications will appear in the public agenda at which time the commission will discuss recommendations, and may make nominations and vote on appointments.

#### Duties of Board

The Board of Zoning Appeals acts on questions arising from the administration of the zoning ordinance, including the interpretation of the zoning map. The board hears and decides appeals from and reviews any order, requirement, decision or determination made by the building official.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Members shall be property owners of record and registered voters.	2/8/17	2/13/17

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.



# **BOARD OF ZONING APPEALS**

Chapter 126 – Section 126-671 – Seven Members – Three Year Terms Requirements – Property owners of record and registered voter

The Board of Zoning Appeals acts on questions arising from the administration of the zoning ordinance, including the interpretation of the zoning map. The board hears and decides appeals from and reviews any order, requirement, decision or determination made by the building official.

Last Name Home Address	First Name	Home Business E-Mail	Appointed	Term Expires
Canvasser	Jason	(248) 231-9972	11/23/2015	2/17/2017
369 Kimberly			alternate	
		jcanvasser@clarkhill.co	om	
Grove	Cynthia	(248) 760-6219	2/14/2011	2/17/2017
584 Rivenoak			Alternate	
		cvgrove@comcast.net	,	
Hart	Kevin	(248) 4967363	2/27/2012	10/10/2017
2051 Villa		khartassociates@aol.c	10/12/14)	lternate 2/27/12 -
Jones	Jeffery R.	(248) 433-1127	6/12/2006	10/10/2019
1701 Winthrop L	ane			
		j_rjones@sbcglobal.ne	et	
Judd	A. Randolph	(248)396-5788	11/13/1995	10/10/2017
1592 Redding		(248) 396-5788	Attorney	
		arjudd@comcast.net		
Lillie	Charles	(248) 642-6881	1/9/1984	10/10/2019
496 S. Glenhurs	:		Attorney	
		lilliecc@sbcglobal.net		

Last Name Home Address	First Name	Home Business E-Mail	Appointed	Term Expires
<b>Lyon</b> 1498 Yosemite	Peter	(248) 646-9337 (313) 805-5745	11/15/2002 Engineer	10/10/2017
<b>Miller</b> 544 Brookside	John	(248) 703-9384 feymiller@comcast.net	1/23/2012 (Served as alter 01/23/12)	10/10/2018 nate 01/11/10-
Morganroth 631 Ann	Erik	(248) 762-9822 emorganroth@comcast.	10/12/2015 net	10/10/2018



#### NOTICE OF INTENTION TO APPOINT TO BIRMINGHAM TRIANGLE DISTRICT CORRIDOR IMPROVEMENT AUTHORITY

At the regular meeting of Monday, February 13, 2017 the Birmingham City Commission intends to appoint one member to the Birmingham Triangle District Corridor Improvement Authority to serve a four-year term to expire December 15, 2020.

## Members shall be appointed by the Mayor, subject to approval by the City Commission.

Not less than a majority of the members shall be persons having an ownership or business interest in property located in the Development Area. Not less than 1 of the members shall be a resident of the Development Area, or of an area within 1/2 mile of any part of the Development Area.

The authority shall operate to correct and prevent deterioration in business districts, to redevelop the City's commercial corridors and promote economic growth, pursuant to Act 280 of the Public Acts of Michigan, 2005, as amended.

Interested parties may recommend others or themselves for these positions by submitting a form available from the city clerk's office. Applications must be submitted to the city clerk's office on or before noon on Wednesday, February 8, 2017. Applications will appear in the public agenda at which time the commission will discuss recommendations, and may make nominations and vote on appointments.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Applicants shall be persons having an ownership or business interest in property located in the Development Area.		2/13/17

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.

### R10A6

# BIRMINGHAM TRIANGLE DISTRICT CORRIDOR IMPROVEMENT AUTHORITY

Resolution # 11-363-08

The authority shall operate to correct and prevent deterioration in business districts, to redevelop the City's commercial corridors and promote economic growth, pursuant to Act 280 of the Public Acts of Michigan, 2005, as amended.

The Authority shall be under the supervision and control of the Board. The Board shall consist of the Mayor, or his or her assignee, and six additional members. Members shall be appointed by the Mayor, subject to approval by the City Commission. Not less than a majority of the members shall be persons having an ownership or business interest in property located in the Development Area. Not less than 1 of the members shall be a resident of the Development Area, or of an area within 1/2 mile of any part of the Development Area.

Members shall be appointed to serve for a term of four years.

Upon completion of its purposes, the Authority may be dissolved by the City Commission. The property and assets of the Authority, after dissolution and satisfaction of its obligations, shall revert to the City.

Last Name Home Address	First Name	Home Business Fax E-Mail	Appointed	Term Expires
<b>Cantrick Jr.</b> 774 Lakeside	Кір	248-540-3741 (248) 644-7622	1/28/2013 has an ownership or	
Birmingham	48009	gcantrick@kipcantrickc	a resident of the dev area within 1/2 mile	he development area OR /elopment area or of an of any part of the
Cataldo	J.C.	(248) 496-9096	12/15/2008	12/15/2019
271 Chesterfield			has an ownership or property located in t	business interest in he development area
Birmingham	48009		,	·
		jccataldo4@gmail.com		
Fuller	Edward	(248) 642-0024	12/15/2008	12/15/2019
255 Pierce St			has an ownership or property located in t	business interest in he development area
Birmingham	48009			
		ted@fullercentral park.	com	

Last Name Home Address	First Name	Home Business Fax E-Mail	Appointed	Term Expires
<b>Hays</b> 954 Chestnut Birmingham	<b>Curtis</b> 48009	(248) 639-8709		12/15/2018 T (a resident of the r of an area within 1/2 he development area)
		chays77@gmail.com		
<b>Sherman</b> 1252 Stanley Birmingham	<b>Stuart</b> 48009	(248) 645-1142	City Commission me	11/1/2017 mber (appointed by Mayor)
ge		stuart.sherman@sbcglc	bal.net	
VACANT				12/15/2020
<b>Ziegelman</b> 468 Stratford La Bloomfield Hills	<b>Robert</b> ne 48304	(248) 760-5650 (248) 644-0600	12/15/2008	12/15/2017

rziegelman@lzarch.com



#### NOTICE OF INTENTION TO APPOINT TO BOARD OF REVIEW

At the regular meeting of Monday, February 13, 2017, the Birmingham City Commission intends to appoint one alternate member to serve a three-year term to expire December 31, 2019. Applicants must be property owners and electors of the City of Birmingham.

The Board of Review, consisting of two panels of three local citizens who must be property owners and electors, is appointed by the City Commission for three-year terms. Although a general knowledge of the City is very helpful, more important are good judgment and the ability to listen carefully to all sides of an issue before making a decision. Approximately three weeks in March are scheduled for taxpayers to protest their assessments and one day each in July and December for correcting clerical errors and mutual mistakes of fact. Two training sessions in February are also required.

Interested citizens may submit an application available at the Clerk's office or online at <u>www.bhamgov.org/boardopportunities</u>. Applications must be submitted to the City Clerk's office on or before noon on Wednesday, February 8, 2017. These documents will appear in the public agenda for the regular meeting at which time the City Commission will interview applicants and may make nominations and vote on appointments.

Board members are paid \$110 per diem.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Members must be property owners and electors (registered voters) of the City of Birmingham.	2/8/17	2/13/17

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.

### R10A7



## **BOARD OF REVIEW**

City Charter – Chapter III, Section 14 Terms: Three Years Members: Members must be property owners and electors of the City of Birmingham Appointed by the City Commission

The Board of Review hear appeals from property owners regarding their assessments. Approximately three weeks in March are scheduled for taxpayers to protest their assessments and one day each in July and December for correcting clerical errors and mutual mistakes of fact. Two training sessions in February are also required.

Last Name F Home Address	irst Name	Home Business E-Mail	Appointed	Term Expires
Devereaux	Kathleen	(248) 840-5310	2/22/2016	12/31/2019
1019 Rivenoak				
		kddevereaux@woww	ay.com	
Di Placido	Guy	(248) 644-1708	1/10/1994	12/31/2017
726 Lakeside Dr.				
Feiste	Leland	(248) 644-3948	1/22/2001	12/31/2019
1474 Maryland				
		lwfeiste@yahoo.com		
Katrib	Elicia	(248) 379-3577	2/22/2016	12/31/2018
1832 East Lincoln				
		e.katrib@gmail.com		
Richey	Lester	(248) 644-7143	2/9/2015	12/31/2017
1690 Stanley				
		lesrichey@yahoo.com	1	

Last Name Home Addres	First Name s	Home Business E-Mail	Appointed	Term Expires
Rose	Cynthia	(248) 752-2667	3/2/2009	12/31/2018
1011 Clark				
		crose@cbwm.com		
VACANT			8/10/2015	12/31/2017
			alternate	
VACANT				12/31/2019
			alternate	

City of T	Birmingham A Walkable Community	MEMORANDUM
DATE:	January 5, 2017	Engineering Dept.
TO:	Joseph Valentine, City Manager	
FROM:	Paul T. O'Meara, City Engineer	
SUBJECT:	Elm St. Parking Space Directly South of Maple Rd. Interse	ection

1

At the October 27, 2016 City Commission meeting, Ms. Delphine Scott, a resident of the All Seasons building (located at Maple Rd. & Elm St.) approached the Commission requesting the removal of the first parking space on southbound Elm St., south of Maple Rd. The matter was referred to the Multi-Modal Transportation Board (MMTB) for further review.

Staff asked our traffic consultant, F&V, for input as to whether the parking space met current standards. The attached report from F&V determined that the parking space was sufficiently located far enough away from the intersection and adjacent driveway to meet current standards. However, they suggested that the double yellow line that is painted to mark a centerline on Elm St. was painted too long in relation to the parking space, and that 8.5 ft. of it should be removed.

This matter was discussed at the December 1, 2016 MMTB meeting. Ms. Scott was present, and explained her concerns with the present situation (unapproved minutes are attached). The Board agreed with Ms. Scott's position, and voted 5-0 to recommend the removal of the first parking space.

The other adjacent property owner is the Law Firm of Victoria, an office building located at 772 E. Maple Rd. Although they were not represented at the MMTB meeting, I personally discussed this proposal with the office manager. She indicated that she would wholeheartedly support removal of the parking space. She said she felt confident that she could speak for the entire building that this section of Elm St. is often very congested, and that removal of the parking place would be an improvement. She also indicated that the building has sufficient parking capacity on site, and they will not miss the ability to park there.

Given that this is a relatively small issue, and given that there appears to be consensus on the part of the adjoining properties and the MMTB, staff plans to proceed with the removal of the parking space within the next few weeks, unless there is input to the contrary from the Commission.

City of P	Birmingham	MEMORANDUM
DATE:	November 23, 2016	Engineering Dept.
TO:	Multi-Modal Transportation Board	
FROM:	Paul T. O'Meara, City Engineer	
SUBJECT:	Parking Space on Elm St., South of I	Maple Rd.

At the October 27, 2016 City Commission meeting, a resident of the All Seasons building located at the southeast corner of Maple Rd. and Elm St. approached that body for an item not on the agenda. Concern was expressed relative to the first parking space on southbound Elm St., south of Maple Rd. The resident expressed concern that the space makes maneuvering in the area difficult, as the road is narrow. The matter was referred to staff for study. A brief reference to this exchange is noted in the attached minutes from that meeting.

The matter was referred to F&V, to be reviewed by the Multi-Modal Transportation Board (MMTB). The attached analysis was conducted by F&V. They summarized that the parking space as located is a sufficient distance from Elm St. However, it was noted that the short section of double yellow line installed to help keep northbound vehicles waiting for the traffic signal to be lined up appropriately, is extended too close to the subject space. F&V is suggesting that if 8.5 ft. of the double yellow line was removed, thus providing the minimum length required, the southbound lane would not appear so narrow.

Knowing that street parking is in high demand in the area, staff feels that this is an appropriate first step. The adjacent resident will be invited to the meeting. It is hoped that they can help add information for the board's consideration, before a final decision is made.

A suggested recommendation is provided below, based on the information presently available. Since the recommendation is a minor action, staff can proceed with this change based on the Board's direction. Further, this agenda package and the subsequent minutes of this meeting (once approved) can be forwarded to the Commission for their information.

#### SUGGESTED RECOMMENDATION:

1

To recommend to staff that 8.5 ft. of the double yellow line on Elm St. south of Maple Rd. be removed at its southerly end.



November 21, 2016

VIA EMAIL

Mr. Paul O'Meara City Engineer City of Birmingham 151 Martin Street Birmingham, MI 48012

#### RE: Elm Street at Maple Road On-Street Parking Review

Dear Mr. O'Meara,

The purpose of this letter is to provide a review of the existing on-street parking and intersection striping on Elm Street at the Maple Road approach. The following guidance regarding on street parking design is provided in the Michigan Manual of Uniform Traffic Control Devices (MMUTCD) and shown on the attached MDOT standard plans PAVE 955-B:

- The no parking zone on Elm Street south of Maple should be a minimum of 30 feet from the crosswalk. The existing 50 foot no parking zone exceeds the minimum requirement.
- The existing parking space is 8 feet x 20 feet, which meets the minimum requirements.

The intersection approach striping on Elm Street provides a 10-foot northbound lane, delineated with a double yellow line, which begins approximately 10 feet north of the on-street parking. For southbound drivers on Elm Street this striping configuration is perceived as a 6-foot lane, and thus the on-street parking space also appears to be in conflict. It is recommended that approximately 8.5 feet of the double yellow line be removed. This will maintain the necessary delineation at the northbound approach and provide additional lane width for southbound traffic. The existing lane widths and the recommended improvement are shown on the attached Figure 1.

If you have any questions, please feel free to contact us.

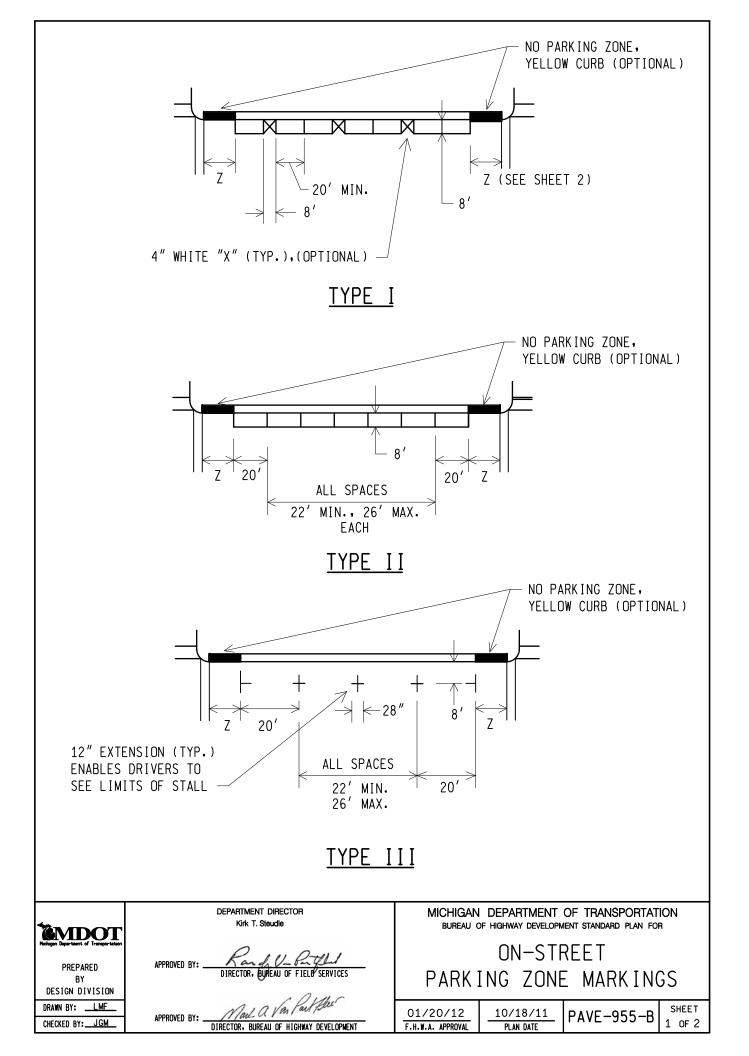
Sincerely,

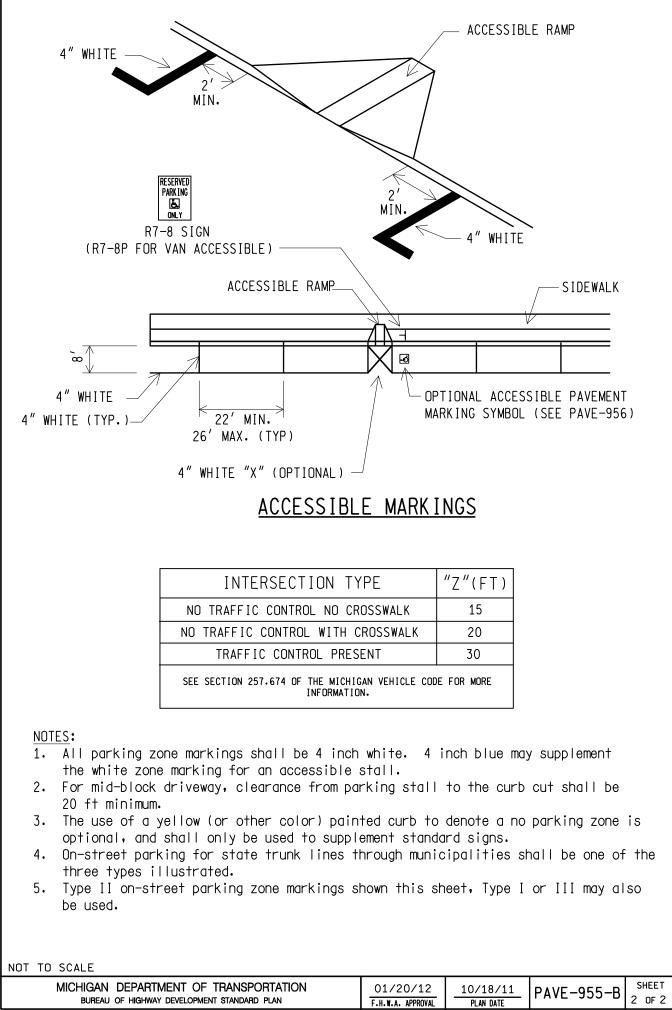
FLEIS & VANDENBRINK

Michael J. Labadie, PE Group Manager

Attached: PAVE-955-C Figure 1

> 27725 Stansbury Boulevard, Suite 150 Farmington Hills, MI 48334 P: 248.536.0080 F: 248.536.0079 www.fveng.com





NOTE: THE ORIGINAL SIGNED COPY IS KEPT ON FILE AT THE MICHIGAN DEPARTMENT OF TRANSPORTATION.



NORTH SCALE: 1"=20'

FIGURE 1



- 2.5% from the effective date to April 30, 2017;
- 2.25% from May 1, 2017 April 30, 2018; and,
- 2% from May 1, 2018 to the termination of the Agreement

BE IT FURTHER RESOLVED, such approval by the City is given only because it is required by the Act, and is not an indication of the City's Agreement with or assent to any provisions of the Act or Agreement.

BE IT FURTHER RESOLVED, that by approving the Agreement, the City shall not be found to have waived its rights to challenge any provisions of the Act and/or any related provisions of the Agreement on the basis that such provisions are invalid and unenforceable as violations of law, including on the grounds of unconstitutional impairment of contractual rights, and further reserves any and all rights stemming from any successful challenge to such provisions undertaken by any other local franchising entity.

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

#### VII. REMOVED FROM CONSENT AGENDA 10-326-16 CITY COMMISSION MEETING MINUTES OF OCTOBER 10, 2016

Commissioner Bordman requested the Clerk review the tape to clarify language in Resolution #10-310-16 regarding the addition of alternates on the Multi-Modal Transportation Board and to add additional information regarding the funding of the bus shelter in Resolution #10-316-16.

The Commission agreed to return this item at the next meeting.

#### VIII. COMMUNICATIONS

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

#### 10-327-16 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

Delphine Scott, resident, expressed concern with the location of the parking space on Elm, near Maple. She suggested it be eliminated as it is difficult to navigate around with oncoming traffic.

City Manager Valentine stated that staff will review the parking space.

#### X. REPORTS

#### 10-328-16 COMMISSIONER REPORTS

The Commission intends to appoint members to the Advisory Parking Committee on November 14, 2016.

#### 10-329-16 COMMISSIONER COMMENTS

Mayor Pro Tem Nickita clarified a comment from October 10<sup>th</sup> regarding the Old Woodward Master Plan. He noted that at time of the meeting, his firm had previously entered into an RFP with MKSK, however did not receive the official notice that they did not get the project until later that week. City Attorney Currier commented that it would not have made any difference in the vote, however for purposes of transparency, Mayor Pro Tem Nickita clarified the timing.

Commissioner Harris commented on the RTA presentation at the Townsend Hotel which he attended this month.

## DRAFT

#### CITY OF BIRMINGHAM MULTI-MODAL TRANSPORTATION BOARD THURSDAY, DECEMBER 1, 2016 City Commission Room 151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Multi-Modal Transportation Board held Thursday, December 1, 2016.

Chairperson Vionna Adams convened the meeting at 6:04 p.m.

#### 1. ROLL CALL

Present:	Chairperson Vionna Adams; Board Members Lara Edwards, Amy Folberg, Daniel Rontal, Michael Surnow
Absent:	Vice-Chairman Andy Lawson, Johanna Slanga
Administrat	ion: Lauren Chapman, Asst. City Planner Jana Ecker, Planning Director Austin Fletcher, Asst. City Engineer Scott Grewe, Operations Commander

Carole Salutes, Recording SecretaryAlso Present:Mike Labadie from Fleis & Vandenbrink

Paul O'Meara, City Engineer

#### ("F&V"), Transportation Engineering Consultants

#### 2. INTRODUCTIONS

Mr. Labadie introduced Ms. Jennifer Sahab, a new employee with his firm.

3. **REVIEW AGENDA** (no change)

#### 4. APPROVAL OF MINUTES, MEETING OF NOVEMBER 21, 2016

Motion by Ms. Folberg Seconded by Mr. Surnow to approve the Minutes of November 21, 2016 as presented.

Motion carried, 5-0.

Multi-Modal Transportation Board Proceedings December 1, 2016 Page 2

VOICE VOTE Yeas: Folberg, Surnow, Adams, Edwards, Rontal Nays: None Absent: Lawson, Slanga

#### 5. ELM ST. SOUTH OF MAPLE RD. PARKING ANALYSIS

Mr. O'Meara advised that at the October 27, 2016 City Commission meeting, Ms. Delphine Scott, a resident of the All Seasons building, approached that body for an item not on the agenda. She expressed concern that the first parking space on southbound Elm St., south of Maple Rd. makes maneuvering in the area difficult, as the road is narrow.

The matter was referred to F&V, to be reviewed by the MMTB. F&V summarized that the parking space as located is a sufficient distance from Elm St. according to National standards. However, it was noted that the short section of double yellow line installed to help keep northbound vehicles waiting for the traffic signal to be lined up appropriately is extended too close to the subject space. F&V is suggesting that if 8.5 ft. of the double yellow line was removed at the south end, thus providing the minimum length required, the southbound lane would not appear so narrow.

Ms. Scott said if someone is turning off of Maple Rd. and a car is parked there they have to wait for the traffic going north to clear before pulling out around the parked car and turn in. There is no time limit as to how long a car can park in that spot. Deliveries, mail trucks, or emergency vehicles cannot go around the parked car and turn left unless ongoing traffic has cleared. Ms Scott said she hopes the MMTB will consider removing that one parking place in order to make it convenient to turn left onto Elm St. from Maple Rd.

Mr. Labadie explained that removing part of the double yellow line opens up the throat there. During peak periods there may be a queue of about four cars.

Ms. Edwards expressed the thought that ambulances turning onto Elm St. toward All Seasons should take precedence over keeping one parking space. Ms. Folberg did not think that eliminating part of the double line would help, because many times drivers would not hesitate to cross over the double line if needed. Therefore she was in favor of removing the parking space.

#### Motion by Ms. Edwards

Seconded by Mr. Surnow to recommend removing the one parking spot on Elm St., furthest north on the west side.

Multi-Modal Transportation Board Proceedings December 1, 2016 Page 3

#### Motion carried, 5-0.

VOICE VOTE Yeas: Edwards, Surnow, Adams, Folberg, Rontal Nays: Absent: Lawson, Slanga

# 6. POPPLETON AVE. RECONSTRUCTION KNOX AVE. TO MAPLE RD.

Mr. O'Meara advised the above block is proposed for complete reconstruction in 2017. Due to the relatively high traffic movements on this block, F&V was asked to perform a traffic analysis to make sure that the road is designed with the appropriate lane assignments, lengths, etc.

The project includes the reconstruction of the Knox Ave. intersection, but stops short of any work within the Maple Rd. traffic lanes. This block serves as the preferred entrance for both customers and trucks to the parking lot serving the adjacent Kroger grocery store, as well as several smaller businesses located on the same property. Traffic counts were taken recently for both the a.m. and p.m. peak periods.

Due to the skewed alignment of this street compared to Elm St. to the south, a right turn lane is being suggested (similar to the existing condition), as well as a shared/through lane in the middle. Storage of right turning vehicles is suggested back to the Kroger driveway north of Maple Rd., followed by a taper back to a more traditional residential street width (two lanes).

This section of Poppleton Ave. was identified to be part of a Neighborhood Connector Route for bicyclists in Phase 3. The original pavement was widened later near Maple Rd. to allow for a separate right turn lane. It is thought that traffic difficulties would result if the right turn lane was not present because the existing lanes are narrow and are especially tight when large trucks from Kroger are present.

Rebuilding the street to a basic three lane width will improve the current situation for bikes so that they can feel more comfortable waiting alongside motor vehicles, if desired. It is also felt that it is important to narrow the street south of the Kroger driveway back to a normal residential cross-section as it heads north to Knox Ave. Doing so will help signal to motorists that this is the entrance to a subdivision.

RECEIVED BY

#### STATE OF MICHIGAN BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION NOTICE OF HEARING FOR THE ELECTRIC CUSTOMERS OF DTE ELECTRIC COMPANY CASE NO. U-18150

DEC 1 5 2016

CITY CLERK'S OFFICE

- DTE Electric Company requests Michigan Public Service Commission approval of depreciation accrual rates and other related matters.
- The information below describes how a person may participate in this case.
- You may call or write DTE Electric Company, One Energy Plaza, Detroit, Michigan 48226-1279, (800) 477-4747, for a free copy of its application. Any person may review the application at the offices of DTE Electric Company.
- A public hearing will be held:

DATE/TIME:	<b>Tuesday, January 10, 2017, at 9:00 a.m.</b> This hearing will be a prehearing conference to set future hearing dates and decide other procedural matters.
<b>BEFORE:</b>	Administrative Law Judge Sharon L. Feldman
LOCATION:	Michigan Public Service Commission 7109 West Saginaw Highway Lansing, Michigan
PARTICIPATION:	Any interested person may attend and participate. The hearing site is accessible, including handicapped parking. Persons needing any accommodation to participate should contact the Commission's Executive Secretary at (517) 284-8090 in advance to request mobility, visual, hearing or other assistance.

The Michigan Public Service Commission (Commission) will hold a public hearing to consider DTE Electric Company's (DTE Electric) November 1, 2016 application requesting 1) determination that DTE Electric has substantially complied with the Commission's June 16, 2011 Order in Case No. U-16117 and July 8, 2014 Order in Case No. U-16991; 2) authorization for DTE Electric to retain and continue its present depreciation accrual rates from Case Nos. U-16117 and U-16991 during the self-implementation period in DTE Electric's next general rate case filed subsequent to November 1, 2016; 3) authorization or the implementation of the new depreciation accrual rates approved in this case prospectively for financial reporting and rate making purposes effective with a final Commission Order in DTE Electric's next general rate case filed subsequent to November 1,2016; 4) granting all relief described and requested in the Company's testimony, studies and exhibits; and 5) granting DTE Electric such other and further relief as may be just and reasonable.

#### INFORMATION ONLY

All documents filed in this case shall be submitted electronically through the Commission's E-Dockets website at: <u>michigan.gov/mpscedockets</u>. Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. Documents may also be submitted, in Word or PDF format, as an attachment to an email sent to: <u>mpscedockets@michigan.gov</u>. If you require assistance prior to e-filing, contact Commission staff at (517) 284-8090 or by email at: <u>mpscedockets@michigan.gov</u>.

Any person wishing to intervene and become a party to the case shall electronically file a petition to intervene with this Commission by January 3, 2017. (Interested persons may elect to file using the traditional paper format.) The proof of service shall indicate service upon DTE Electric's attorney, Jon P. Christinidis, One Energy Plaza, Detroit, Michigan 48226-1279.

Any person wishing to appear at the hearing to make a statement of position without becoming a party to the case may participate by filing an appearance. To file an appearance, the individual must attend the hearing and advise the presiding administrative law judge of his or her wish to make a statement of position. All information submitted to the Commission in this matter becomes public information, thus available on the Michigan Public Service Commission's website, and subject to disclosure. Please do not include information you wish to remain private.

Requests for adjournment must be made pursuant to the Michigan Administrative Hearing System's Administrative Hearing Rules R 792.10422 and R 792.10432. Requests for further information on adjournment should be directed to (517) 284-8130.

A copy of DTE Electric's request may be reviewed on the Commission's website at: michigan.gov/mpscedockets, and at the office of DTE Electric Company. For more information on how to participate in a case, you may contact the Commission at the above address or by telephone at (517) 284-8090.

Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.54 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Michigan Administrative Hearing System's Administrative Hearing Rules, 2015 AC, R 792.10401 et seq.

December 8, 2016

Page 2 U-18150





December 9, 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 a change to the channel lineup.

Previously, you were notified that Viceland and FYI Network would move to the Digital Preferred tier on or about November 17, 2016. This change will now take place on or about December 22, 2016. Customers are being notified of this change via bill message.

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

### **INFORMATION ONLY**



### **RECEIVED BY**

DEC 2 8 2016

CITY CLERK'S OFFICE

December 20, 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 a change to the channel lineup.

Previously, you were notified that Viceland and FYI Network would move to the Digital Preferred tier on or about December 22, 2016. This change will now take place on or about January 24, 2017. Customers are being notified of this change via bill message.

Additionally, pursuant to P.A. 480 of 2006, Section 9 (4), Comcast Cable's local operating entity hereby reports that Comcast does not deny access to services to any group of potential residential subscribers because of the race or income of the residents in the local area. A similar report will be filed with the Michigan Public Service Commission.

As always, feel free to contact me directly at 734-254-1557 with any questions you may have

Sincerel

Kyle V. Mazurek Manager of External Affairs Comcast, Heartland Region 41112 Concept Drive Plymouth, MI 48170

### **INFORMATION ONLY**

#### STATE OF MICHIGAN BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

#### NOTICE OF HEARING FOR THE ELECTRIC CUSTOMERS OF CONSUMERS ENERGY COMPANY AND DTE ELECTRIC COMPANY CASE NO. U-18195

RECEIVED	BY
----------	----

**DEC** 2 1 2016

CITY CLERK'S OFFICE CITY OF BIRMINGHAM

- Consumers Energy Company and DTE Electric Company requests that the Michigan Public Service Commission grant accounting approval of depreciation practices for the Ludington Pumped Storage Plant.
- The information below describes how a person may participate in this case.
- You may call or write Consumers Energy Company, One Energy Plaza, Jackson, Michigan 49201, (800) 477-5050; or DTE Electric Company, One Energy Plaza, Detroit, Michigan 48226-1279, (800) 477-4747 for a free copy of its application. Any person may review the documents at the offices of Consumers Energy Company, or the DTE Electric Company.
- A public hearing will be held:

DATE/TIME:	<b>Thursday, January 12, 2017, at 9:00 a.m.</b> This hearing will be a prehearing conference to set future hearing dates and decide other procedural matters.
<b>BEFORE:</b>	Administrative Law Judge Mark D. Eyster
LOCATION:	Michigan Public Service Commission 7109 West Saginaw Highway Lansing, Michigan
PARTICIPATION:	Any interested person may attend and participate. The hearing site is accessible, including handicapped parking. Persons needing any accommodation to participate should contact the Commission's Executive Secretary at (517) 284-8090 in advance to request mobility, visual, hearing or other assistance.

The Michigan Public Service Commission (Commission) will hold a public hearing to consider the November 10, 2016 joint application of Consumers Energy Company (Consumers Energy) and the DTE Electric Company (DTE Electric), which seeks approval of their proposed depreciation accrual rates, depreciation expense, and depreciation rate change implementation timing requested by the Companies for accounting and ratemaking purposes for the Ludington Plant; and grant Consumers Energy and DTE Electric such other and further relief as may be just and reasonable. DTE Electric and Consumers Energy are requesting an increase in annual depreciation expenses of \$13.8 million and \$14.5 million, respectively.

#### **INFORMATION ONLY**

All documents filed in this case shall be submitted electronically through the Commission's E-Dockets website at: <u>michigan.gov/mpscedockets</u>. Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. Documents may also be submitted, in Word or PDF format, as an attachment to an email sent to: <u>mpscedockets@michigan.gov</u>. If you require assistance prior to e-filing, contact Commission staff at (517) 284-8090 or by email at: <u>mpscedockets@michigan.gov</u>.

Any person wishing to intervene and become a party to the case shall electronically file a petition to intervene with this Commission by Thursday, January 5, 2017. (Interested persons may elect to file using the traditional paper format.) The proof of service shall indicate service upon Consumers Energy's attorney, Mr. Bret A. Totoraitis, One Energy Plaza, Jackson, Michigan 49201, and DTE Electric's attorney, Mr. Jon P. Christinidis, One Energy Plaza, Detroit, Michigan 48226-1279.

Any person wishing to appear at the hearing to make a statement of position without becoming a party to the case may participate by filing an appearance. To file an appearance, the individual must attend the hearing and advise the presiding administrative law judge of his or her wish to make a statement of position. All information submitted to the Commission in this matter becomes public information, thus available on the Michigan Public Service Commission's website, and subject to disclosure. Please do not include information you wish to remain private.

Requests for adjournment must be made pursuant to the Michigan Administrative Hearing System's Administrative Hearing Rules R 792.10422 and R 792.10432. Requests for further information on adjournment should be directed to (517) 284-8130.

A copy of Consumers Energy's application may be reviewed on the Commission's website at: <u>michigan.gov/mpscedockets</u>, and at the offices of Consumers Energy Company and DTE Electric Company. For more information on how to participate in a case, you may contact the Commission at the above address or by telephone at (517) 284-8090.

Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.54 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Michigan Administrative Hearing System's Administrative Hearing Rules, 2015 AC, R 792.10401 et seq.

December 12, 2016



# **Great Lakes Water Authority**

### **Summary of 2016 Financing Results**

October 26, 2016

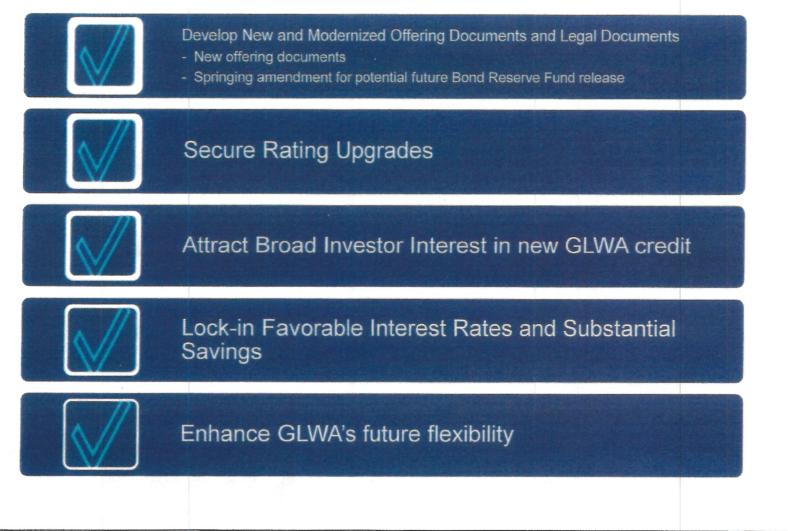








All the goals set for Great Lakes Water Authority's manufural issuance were met.





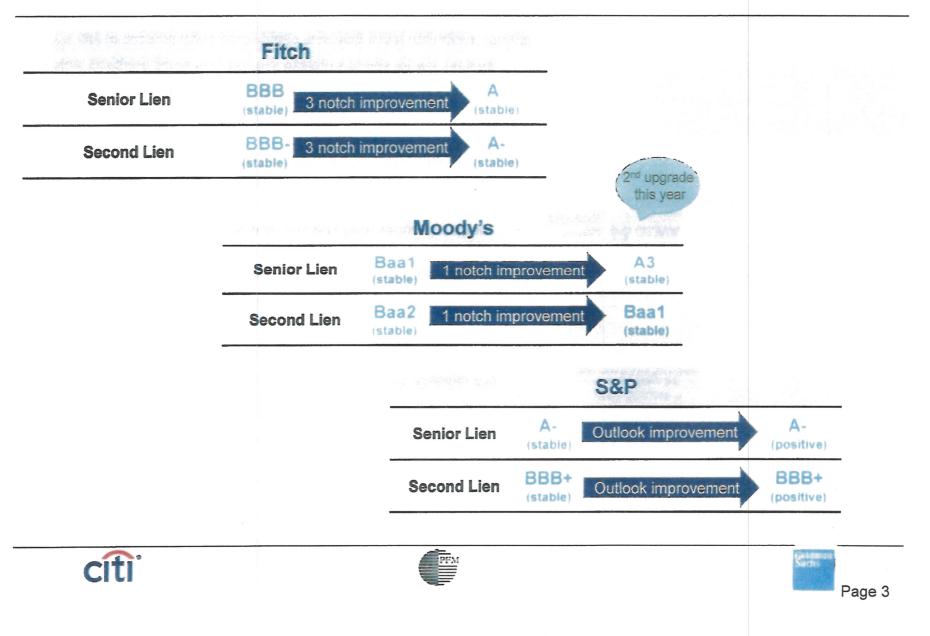


Page 2

### Bond Rating Upgrades Attained



As part of the financing process, the Great Lakes Water Authority team sought and received rating improvements from all three rating agencies



### **Comprehensive Marketing Outreach**



Citigroup and Goldman Sachs utilized a comprehensive marketing campaign including a investor function and site tour in Detroit an internet roadshow presentation, and one-on-one investor calls to educate investors and explain the transaction

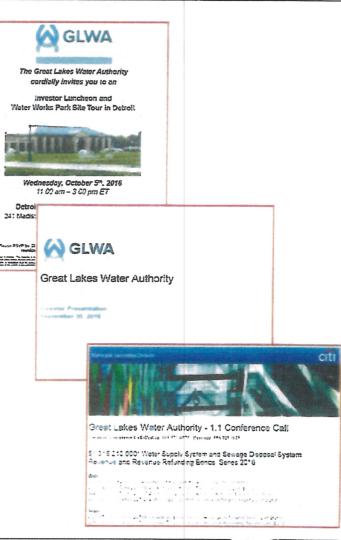
#### **Marketing Outreach**

- 1. Internet Roadshow (October 3rd October 12th)
  - 46 institutional investors viewed the electronic roadshow
- 2. Live Investor Presentation and Site Tour in Detroit, MI (October 5th)
  - Presentations from GLWA Management
  - 12 investors attended
  - Site Visit to Waterworks Park in Detroit, MI
- One-on-One Calls with Key Institutional Accounts (October 5th October 12<sup>th</sup>)
  - 8 individual one-on-one calls with analysts from various investors

#### Results

- Over \$2.1 billion of orders were received for the Series 2016 bonds, including \$1.6 billion of Water System orders and \$531.3 million of Sewer System orders
- · 48 distinct institutional investors placed orders
  - Existing holders added to positions
  - New investors came in to buy the System's bonds for the 1st time
  - Variety of account types participated including asset managers, mutual funds, insurance companies, SMAs, and relative value funds
- "Top Tier" investors, including the some of the largest bond funds and insurance companies in the municipal market, came in for significant orders







### 2016 Refunding Produced Substantial Savings



Refinancing produced \$309 million aggregate cashflow savings, representing a present value savings of 15% of the bonds refunded

Refunding Results	Sewer	Water	Total
Senior Lien Cashflow Savings	\$42,048,719	\$110,997,590	\$153,046,309
Second Lien Cashflow Savings	81,661,830	74,426,793	156,088,623
Total Cashflow Savings	\$123,710,549	\$185,424,383	\$309,134,932
Senior Lien PV Savings	\$10,016,172	\$69,418,665	\$79,434,837
Second Lien PV Savings	61,139,030	51,361,818	112,500,848
Total PV Savings	\$71,155,202	\$120,780,483	\$191,935,685
Amount of Bonds Refunded	\$480,140,000	\$773,800,000	\$1,253,940,000
PV Savings as % of Bonds Refunded	14.82%	15.61%	15.31%
Senior Lien Reserve Release	\$23,804,512	\$14,367,220	\$38,171,732
Second Lien Reserve Release	19,927	10,795,798	10,815,725
Total Reserve Release	\$23,824,439	\$25,163,018	\$48,987,457

For purposes of this analysis reserve releases are treated as an upfront adjustment (reduction) to PV savings. Second Lien savings include the savings associated with refunding certain Second Lien Bonds onto the Senior Lien.







### Series 2016 - Aggregate Cashflow Savings



The refinancing structure achieves \$140 million of the savings in FY 2017-2023 to assist in addressing legacy GRS payments and in leveling the overall debt service payments for the respective systems

	Sewer D	ebt Service Sa	vings	Water Debt S	Service Saving	IS		
Fiscal			•					Total
Year	Senior Lien	Second Lien	Total Sewer	Senior Lien	Second Lien	Total Water		Appregate Savings
2017	\$4,667,944	\$2,051,273	\$6,719,218	\$3,997,736	\$6,674,918	\$10,672,654		\$17,391,872
2018	6,306,275	4,288,381	10,594,656	10,960,554	5,088,488	16,049,041		26,643,698
2019	1,434,275	4,232,881	5,667,156	12,723,494	7,360,988	20,084,481		25,751,638
2020	1,434,275	4,207,381	5,641,656	8,017,194	5,709,963	13,727,156	10.20	19,368,813
2021	1,434,275	4,461,206	5,895,481	5,775,044	4,324,538	10,099,581		15,995,063
2022	1,434,275	4,236,756	5,671,031	5,095,394	8,934,888	14,030,281		19,701,313
2023	1,434,275	4,484,956	5,919,231	5,234,019	4,384,700	9,618,719		15,537,950
2024	5,469,275	1,993,219	7,462,494	23,644	8,766,613	8,790,256		16,252,750
2025	7,447,350	13,594	7,460,944	11.644	7,775,750	7,787,394		15,248,338
2026	859,000	6,604,356	7,463,356	6,194	6,246,563	6.252.756		13,716,113
2027	859,000	6,600,619	7,459,619	5,819	7,874,000	7,879,819		15,339,438
2028	859,000	6,603,094	7,462,094	8,192,969	9,188	8,202,156		15,664,250
2029	859,000	6,471,469	7,330,469	7,376,919	7,125	7,384,044		14,714,513
2030	859,000	6,997,294	7,856,294	6,188,925	8,563	6,197,488		14,053,781
2031	859,000	18,347,844	19,206,844	6,077,944	3,500	6,081,444		25,288,288
2032	4,574,000	12,619	4,586,619	6,090,988	12,438	6,103,425		10,690,044
2033	1,258,500	15,619	1,274,119	6,392,838	9,275	6,402,113		7,676,231
2034	-	12,369	12,369	1,004,225	1,217,913	2,222,138		2,234,506
2035	-	12,700	12,700	17,822,050	8,350	17,830,400		17,843,100
2036	-	14,200	14,200	-	9,038	9,038		23,238
Total	\$42,048,719	\$81,661,830	\$123,710,549	\$110,997,590	\$74,426,793	\$185,424,383		\$309,134,932

Second Lien savings include the savings associated with refunding certain Second Lien Bonds onto the Senior Lien.

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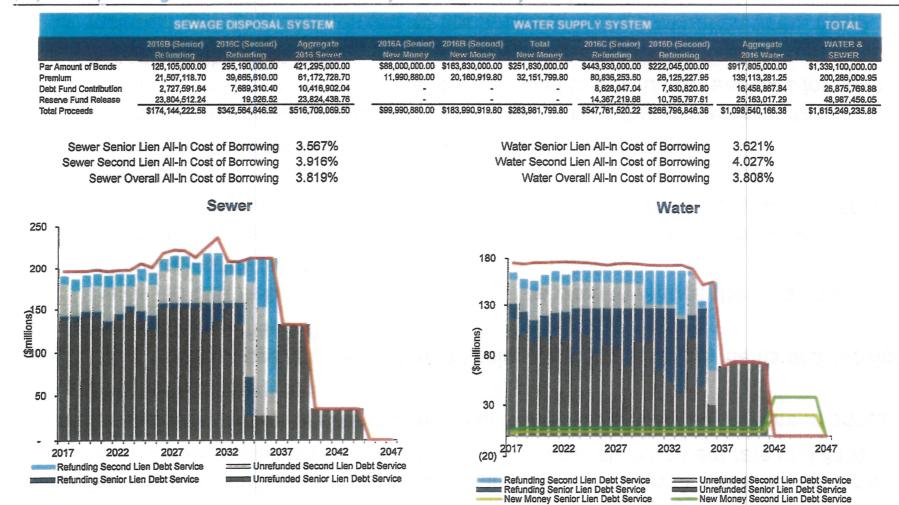




### Series 2016 - Overview of Financing & Structure



The optimized structure lowers annual debt service payments, and reduces maximum annual debt service payments providing enhanced financial flexibility for the Authority.



For purposes of this analysis reserve releases are treated as an upfront adjustment to PV savings. Second Lien savings include the savings associated with refunding certain Second Lien Bonds onto the Senior Lien.



GLWA's inaugural 2016 financing achieved multiple goals and enhanced future flexibility

- □ Issued \$421.3 million of sewer bonds, and \$917.8 million of water bonds, for a total overall issuance of \$1.34 billion at an overall all-in interest rate of 3.81%.
- Issued \$284 million of new money water bonds while reducing maximum annual debt service payments
- \$309 million in savings generated to assist offsetting GRS payments and provide future financial flexibility
- Released \$49 million of Bond Reserve Funds used to reduce the amount of refunding bonds issued. The releases are a result of:
  - More level annual debt service payments resulting from the refunding structure
  - Reduced maximum annual debt service payments by \$17.2 million for sewer and \$9.8 million for water
- □ Increased debt service coverage levels on both GLWA credits
- Purchased a small surety policy for the reserve fund that increases in face amount over time to proactively avoid the need to use future revenues for cash deposits in the near term
- Included springing amendment for the potential future elimination of the Bond Reserve Funds once GLWA attains two AA category ratings.





### GLWA's Credit Fundamentals Warrant an A+/A1 Rating

An essential service regional enterprise with a proven record of improvements in key rating sensitivities supports return to higher ratings.

#### Strong and Experienced Leadership

 Seasoned team provides continuity in management and is deploying multiple optimization initiatives, including Asset Management, EUM, Research & Innovation and a Lean Culture
 Regional Board of Directors with professional requirements provide sound oversight

#### Proven Track Record of Improving Financial Results

- 4-Year management track record of increased debt service coverage and internal liquidity
- Willingness to raise customer service charges as needed
- Biennial budget and newly approved CIP with increased pay-go and reduced debt financing

GLWA

Page 9

- New benefit design with no risk of future unfunded liabilities

#### Successful and On-going Implementation of Optimization Initiatives

- Operational efficiencies continue to reduce and optimize operating expenses
- Master planning process focused on efficiency and capital cost avoidance
- Wholesale charge reform has increased revenue predictability and certainty

#### Expansive System with a Strong Competitive Position

- Largest essential service provider in Michigan
- Economically robust service area
- Plentiful water supply and flexible asset base
- New opportunities for customer additions to the system

Strong Bondholder Protections and Conservative Capital Structure - Legally independent and financially insulated from Detroit - No liquidity risk, put risk, or counterparty risk

Conclusion

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### Financial Metrics Have Followed Operational Improvements

GLWA's management team has a well-established record of positive operational results and sustained improvement in debt service coverage and other key financial metrics that support a return to higher ratings.

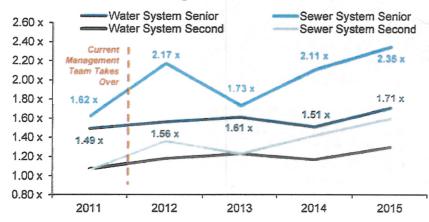
#### \$ 550 (mus) \$ 500 Current Management Team Takes Over \$450 \$400 \$ 358 \$ 351 \$ 345 \$ 330 \$ 350 \$ 312 Water System \$ 300 Sewer System \$250 2011 2012 2013 2014 2015

#### **Operation & Maintenance Expenses**

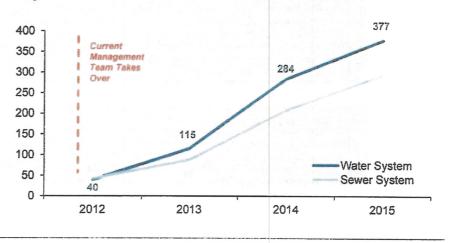


#### **Debt Service Coverage**

**Total Service Revenues** 



#### **Days Cash on Hand**



Accomplishments

Page 10

💫 GLWA

### Diverse Customer Base Supported by Strong Regional Economy

#### **Regional Customer Base**

 GLWA is among the largest water and sewer systems in the nation with approximately two thirds of operating revenues coming from wealthy suburbs

	Water System	Sewer System	
Population Served	3.8 million	2.8 million	
% of State	38%	28%	
Wholesale Customers	87	18	
Communities Served	127	76	
% Revenues from Suburban & Industrial Customers (2017	Budget)		
Wholesale System Revenues	95%	60%	
Total Revenues	77%	52%	
Southeastern Michigan Economy		Detroit MSA	
GLWA is supported by a broad and growing regional	Population <sup>(2)</sup>	4,302,043	
	Unemployment Rate <sup>(3)</sup>	5.2%	
<ul> <li>Year-over-year employment increases every month since June 2010 in the Detroit-Warren-</li> </ul>	Median Household Income <sup>(4)</sup>	\$52,305	
Dearborn MSA <sup>(1)</sup>	Median Household Income as % of US 97.5		
<ul> <li>The City of Detroit continues to emerge from its economic challenges</li> </ul>	% of Adults with H.S. Degree or More <sup>(4)</sup>	87.9%	
Major employers in the region come from a diverse set of industries	% of Adults with Bachelors Degree or More	e <sup>(4)</sup> 27.6%	

Source: Great Lakes Water Authority. (1) Bureau of Labor Statistics. (2) US Census Bureau 2010. (3) Michigan Department of Technology, Management and Budget, Labor Market Information as of May 2016 (4) US Census Bureau and Detroit Regional Chamber of Commerce.

**GLWA Business Profile** 



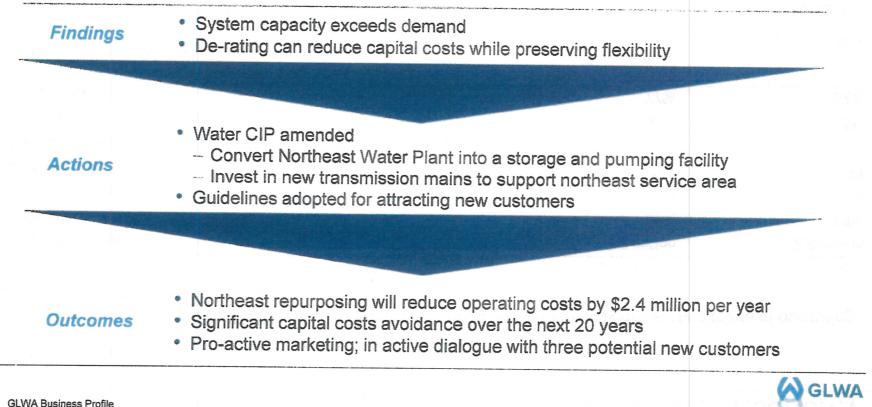
💫 GLWA

### Strategic Planning – Water System

The Authority has completed a Water Master Plan Update to provide for system optimization and opportunities to market GLWA's services to additional wholesale customers.

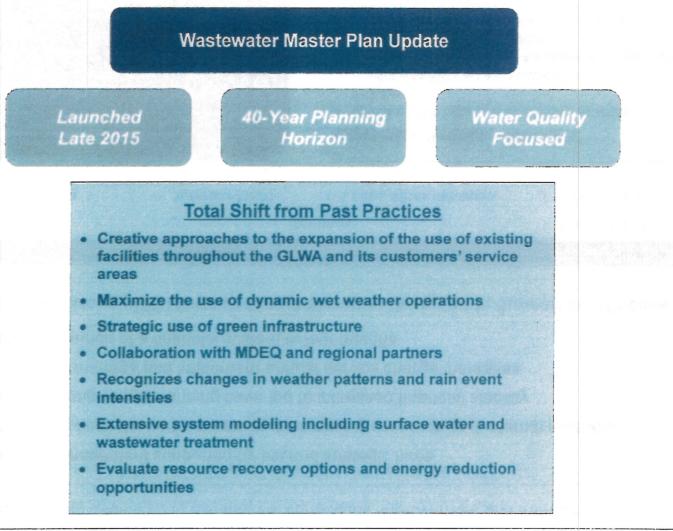
- Completed Water Master Plan Update in August 2016
- Master planning process represents a shift from past practices
  - Recognizes national trend of declining water usage
  - Leverages region's entire public infrastructure

### Water System Updated Master Plan



### Strategic Planning – Sewer System

The Authority has launched a master planning process for Sewer focused on water quality and the strategic use of existing facilities and green infrastructure.



GLWA

**GLWA Business Profile** 

### GLWA is Committed to Prudent Financial Management

Financial Services Group is dedicated to excellence, continuous improvement and transparency.

- Experienced senior management supported by several strategic hires
- Track record of positive financial performance and increasing coverage and internal reserves
- Financial reforms and long-range planning have led to increased financial stability
- Demonstrated ability to manage and implement annual service charge increases
- Successful phased-in launch of a financial system in four months

#### Financial Services Group (FSG) Organizational Structure Designed to Support an Effective Utility

	Primary Functions	
Finance	Treasury	Public Finance
Procurement     ·	Internal Audit  • Lease Administration	• Transformation
eveloping a Lean Culture	Deploying a Strategic	Framework
22 Green Belts in 2015 5 are now Black Belts Led by Master Black Belt and 2 experience Developing in-house training Efficiencies in water plant operations, supp project management, and construction cont	- Established by EPA water and wastewate	ar Strategic Plan and six associations representing er sector one Key Performance Indictors



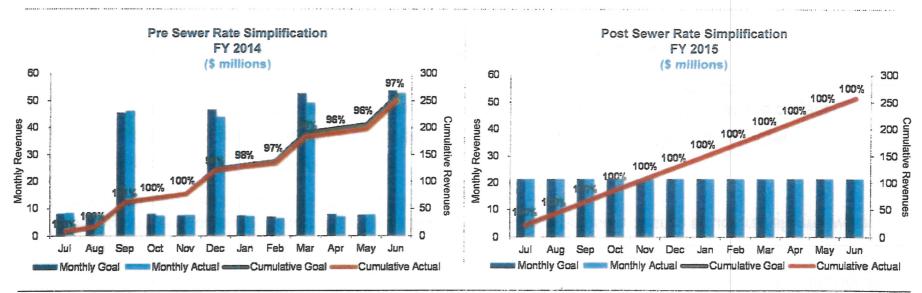
**GLWA Financial Profile** 

Page 14

### Sewer Wholesale Charge Structure Reforms

2015 reforms to the wholesale charge structure for sewer customers continue to yield positive results and have increased the reliability of cash flows and will continue to stabilize customer bills.

- The simplified analysis relies on historical data to establish relative assignment of operating and capital revenue requirements to cost pools from which to compute "SHAREs" for each customer
- Aligned cost recovery with cost allocation principles, recognizing that over 90% of the annual revenue requirement is fixed irrespective of variable flow volumes and weather conditions
- · Eliminated the need for "look-back" adjustment
- Wholesale revenue requirement is billed at 100%
- Instituted a monthly wholesale customer billing cycle rather than quarterly, which significantly improves cash flow



Source: The Foster Group.

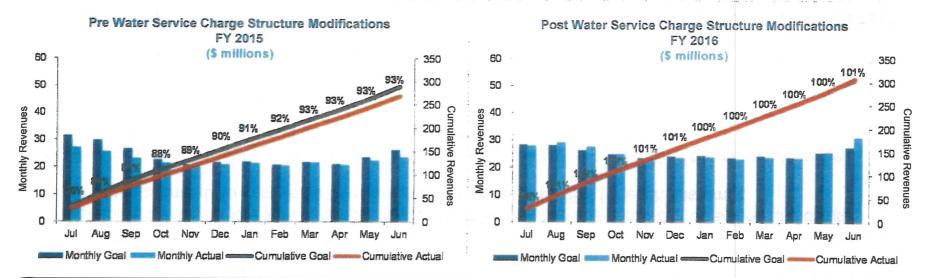
**GLWA Financial Profile** 

GLWA

### Water Wholesale Charge Structure Reforms

Reforms for FY 2016 to the wholesale charge structure for water customers have increased the equitability of charges amongst customers and the reliability of cash flows.

- Following on the successful Sewer Rate Simplification Initiative, wholesale charge structure reforms were implemented with water customers in FY 2016
- FY 2016 approved charge structure included:
  - Fixed to commodity charge structure converted from approximately 40% / 60% to 60% / 40%
  - Uniform forecasting model applied to low demand period average water sales data used to project "budgeted" water sales (rather than planning amounts contained in customer contracts)
- These modifications were designed to significantly stabilize water revenue levels



#### For the first time this century, FY 2016 water revenues exceeded projected levels

Source: The Foster Group.

**GLWA Financial Profile** 



GLWA

Page 16

## **GLWA Bond Ratings**

GLWA (Formerly DWSD) Rating History Since 2010:

