

CITY COMMISSION MEETING AGENDA FEBRUARY 13, 2017 7:30 PM



Photo Credit: Carroll DeWeese

Municipal Building, 151 Martin, Birmingham, MI 48009

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- Use the bookmarks on the left to navigate through the agenda.
- <u>Tablet Users:</u> Tap the screen for available options, select "Open in", select "Adobe Reader". The agenda will open in Adobe Reader. Scroll through the bookmarks to navigate through the agenda. (The Adobe Reader application is required to download the agenda and view the bookmarks. This free application is available through the App Store on your tablet device.)

FEBRUARY 13, 2017 MUNICIPAL BUILDING, 151 MARTIN

		7:30 P.IVI.
1.	C A I	L TO ODDED AND DIEDOE OF ALLECIANCE
1.		LL TO ORDER AND PLEDGE OF ALLEGIANCE
	IVIALK	Nickita, Mayor
11.	RO	LL CALL
	Cher	yl Arft, Acting City Clerk
III.	RES	OCLAMATIONS, CONGRATULATORY RESOLUTIONS, AWARDS, APPOINTMENTS, SIGNATIONS AND CONFIRMATIONS, ADMINISTRATION OF OATHS, INTRODUCTION GUESTS AND ANNOUNCEMENTS.
		ouncements: missioners birthdays: Mayor Nickita, Commissioner DeWeese
	Ann	ointments:
	A.	Interviews for Board of Review – Alternate members (2) 1. Jill Stress, 784 Westchester Way 2. Jason Monahan, 732 Chapin 3. Todd Fleury, 1863 Hazel
		4. Padraic Mullin, 1794 Bradford
	B.	Resolution appointing to the Board of Review as an alternate member to serve a three-year term to expire December 31, 2017.
	C.	Resolution appointing to the Board of Review as an alternate member to serve a three-year term to expire December 31, 2019.
	D.	Interviews for Board of Zoning Appeals – Alternate members (2) 1. Allan J. Kovinsky, 2020 Northlawn Blvd. 2. Cynthia Grove, 584 Rivenoak 3. Kristen Baiardi, 2152 Manchester 4. Jason Canvasser, 369 Kimberly
	E.	Resolution appointing to the Board of Zoning Appeals as an alternate member to serve a three-year term to expire on February 17, 2020.
	F.	Resolution appointing to the Board of Zoning Appeals as an alternate member to serve a three-year term to expire on February 17, 2020.
	G.	Administration of Oath of Office to appointed Board members.
IV.	All i mot com	NSENT AGENDA items listed on the consent agenda are considered to be routine and will be enacted by one iton and approved by a roll call vote. There will be no separate discussion of the items unless a missioner or citizen so requests, in which event the item will be removed from the general order business and considered under the last item of new business.

- A. Approval of City Commission minutes (amended) of December 5, 2016.
- B. Approval of City Commission minutes (amended) of December 12, 2016.
- C. Approval of City Commission minutes (amended) of January 9, 2017.
- D. Approval of City Commission minutes of January 23, 2017.

- E. Approval of City Commission Long Range Planning minutes of January 28, 2017.
- F. Approval of City Commission Special Meeting minutes of February 2, 2017.
- G. Approval of warrant list, including Automated Clearing House payments, of January 25, 2017 in the amount of \$1,416,743.83.
- H. Approval of warrant list, including Automated Clearing House payments, of February 1, 2017 in the amount of \$1,705,620.55.
- I. Approval of warrant list, including Automated Clearing House payments, of February 8, 2017 in the amount of \$923,117.63.
- J. Resolution approving a request submitted by the Birmingham Bloomfield Chamber to hold the Village Fair in the Shain Park area, May 31 June 4, 2017, including the private party, 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.
- K. Resolution accepting the resignation of Phyllis Klinger from the Public Arts Board, thanking her for her service, and directing the Acting Clerk to begin the process of filling the vacancy.
- L. Resolution accepting the resignation of Maggie Mettler from the Public Arts Board, thanking her for her service, and directing the Acting Clerk to begin the process of filling the vacancy.
- M. Resolution approving the application and permit submitted by CenturyLink Communications, LLC, and authorizing the Mayor to sign the Right-of-Way Telecommunications Permit on behalf of the City.
- N. Resolution setting Monday, March 13, 2017 at 7:30 PM for a public hearing to consider amendments to Chapter 126, Zoning, Article 04, Structure Standards, Section 4.75 SS-02, to create limitations on the allowable size of dormers on single family homes; and Article 09, definitions, section 9.02, to add a definition of "Attic" and to amend the definitions of "Habitable attic" and "Story" for consistency with the Michigan Residential Code.

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

- A. Public Hearing to consider the proposed rezoning of 412-420 E. Frank.
 - 1. Resolution approving the proposed rezoning of 412 420 E. Frank Street from R3 (Single-Family Residential), B1 (Neighborhood Business), and B2B (General Commercial) to TZ1 (Transitional Zoning) for all three parcels.
- B. Public Hearing to consider amending Chapter 126, Zoning Rail District Bistros.
 - Ordinance amending Chapter 126, Zoning as follows to establish the boundaries of the Rail District and to allow bistros in B2 and B2B zone districts located within the Rail District with an approved Special Land Use Permit:
 - (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

2. Ordinance amending Chapter 126, Zoning as follows to allow the use of an Economic Development license at 2100 E. Maple with an approved Special Land Use Permit:

- (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.
- C. Public Hearing to consider amending Chapter 126, Zoning Liquor Licenses in Theaters and Chapter 10, Alcoholic Liquors, Licenses for Theaters.
 - 1. Ordinance amending Chapter 126, Zoning, Article 2, section 2.37, B-4
 Business Residential, to allow the use of liquor license in theaters in the B-4
 zoning district, and to consider the associated amendments to Chapter 10,
 Alcoholic Liquors, Article II, to add a Division 5, Licenses for Theaters.
- D. Public Hearing to consider amendments to Chapter 126, Zoning, to create new D5 Zone.
 - 1. Ordinance amending Chapter 126, Zoning, Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district, and Article 6, nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, nonconforming commercial buildings;

AND

Resolution approving 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.

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

- A. Peggy Dufault & City Manager Valentine response re: Fairway sidewalks
- B. Darin McBride re: Fairway sidewalks
- C. Renee Suchara re: Fairway sidewalks

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

X. REPORTS

A. Commissioner Reports

The City Commission intends to appoint members to the Parks & Recreation Board, Multi-Modal Transportation Board, Planning Board and Cablecasting Board on Monday, March 13, 2017.

- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. Maple Road & Southfield Road Intersection, Easterly Crosswalk, 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 (248) 530-1880 por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).



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, and one alternate member to serve the remainder of a three-year term to expire December 31, 2017. 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 www.bhamgov.org/boardopportunities. 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.

<u>Applicant(s) Presented For City Commission Consideration:</u>

Applicant Name	Criteria/Qualifications Applicants must be property owners and electors of the City of Birmingham.
Jill Stress, 784 Westchester Way	Resident and property owner
Jason Monahan, 732 Chapin	Resident and property owner
Todd Fleury, 1863 Hazel	Resident and property owner
Padraic Mullin, 1794 Bradford	Resident and property owner

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

SUGGESTED RESOLUTION:

To appoint	to the Board of Review as an alternate member to serve a three
year term to expire	December 31, 2017.
To appoint	to the Board of Review as an alternate member to serve a three-
year term to expire	December 31, 2019.



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

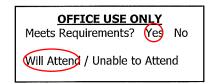
Appointed by the City Commission

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 Home Address	First 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	ı			
		e.katrib@gmail.com		
Richey	Lester	(248) 644-7143	2/9/2015	12/31/2017
1690 Stanley				
		lesrichey@yahoo.con	7	

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			alternate	12/31/2017
VACANT			alternate	12/31/2019





APPLICATION FOR CITY BOARD OR COMMITTEE

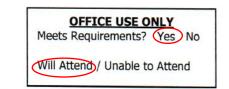
Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this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

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

(Please print clearly)

Board/Committee of Interest Board of Review	
Specific Category/Vacancy on Board Alternate Member	
Name Jill Stress	Phone 586-246-6700
Residential Address 784 Westchester Way	Email jill.stress@yahoo.com
Residential City, Zip Birmingham, 48009	Length of Residence since May 2015
Business Address 39400 Woodward Ave Suite 130	Occupation HR Executive
Business City, Zip Bloomfield Hills, 48304	
Reason for Interest: Explain how your background and skills with My HR background is inclusive of analyzing complex situations and to	
List your related employment experience Directors to make decision	ecutive for a publicly traded company. I work with the Board of ons for the company relative to Compensation and Governance items. I valuestments Client Advisory Board.
	h Cranbrook as my daughter attends pre-school there, Habitat for hich is a national non-profit focused on the prevention and early an cancer in young women.
List your related educational experience Bachelor in Science Masters Business	ce - Michigan State University Administration - Walsh College
To the best of your knowledge, do you or a member of your relationships with any supplier, service provider or contractor direct compensation or financial benefit? If yes, please explain	r of the City of Birmingham from which you or they derive
no	
Do you currently have a relative serving on the board/committee	tee to which you have applied? no
Are you an elector (registered voter) in the City of Birminghan	_{n?} <u>yes</u>
Jill Stress gell stress	January 11, 2017
Signature of Applicant C	Date





APPLICATION FOR CITY BOARD OR COMMITTEE

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(Please print clearly)

Board/Committee of Interest Board of Review Specific Category/Vacancy on Board Alternate Name Jason Alejandro Monahan Phone (586) 243-5266 Residential Address 732 Chapin Avenue Email jasonmonahan@gmail.com Residential City, Zip Birmingham, MI 48009 Length of Residence 6+ months Business Address 38500 Mound Road Occupation Attorney Business City, Zip Sterling Heights, MI 48310 Reason for Interest: Explain how your background and skills will enhance the board to which you have applied At my place of employment (General Dynamics) I serve as the VP & General Counsel and am responsible for the company's Dispute Resolution Program for employee complaints and for the company's Ethics Program. I have significant experience with internal investigations, complex commercial negotiation, and arbitration and litigation. Please see enclosed resume for complete employment List your related employment experience experience. List your related community activities Everybody Wins! DC List your related educational experience I have a Juris Doctor degree (Georgetown) and an MBA degree (IE Spain) and have completed specialized training in dispute resolution and negotiations. To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: No Do you currently have a relative serving on the board/committee to which you have applied? No Are you an elector (registered voter) in the City of Birmingham? Yes 1/12/2017 Signature of Applicant

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email Updated 01/11/17

Jason Alejandro Monahan 732 Chapin Ave., Birmingham, MI 48009 (586) 243-5266 or jasonmonahan@gmail.com

Experience

2016-Present General Dynamics Land Systems (Sterling Heights, MI) Vice President & General Counsel

- Serve as chief legal officer and member of the GDLS Senior Leadership Team.
- Lead and manage the company's legal, compliance, export/import and ethics programs.
- Manage, supervise and mentor a very diverse team of lawyers and other professionals in the U.S., Canada, U.K., Australia and Saudi Arabia.

2012-2016 General Dynamics European Land Systems (Madrid, Spain) Vice President & General Counsel

- Serve as chief legal officer and member of the GDELS Senior Leadership Team.
- Responsible for all contracts (government and commercial), litigation/arbitration, compliance, M&A and corporate secretary matters for GDELS and its subsidiaries.
- Manage, supervise and mentor a very diverse team of lawyers and other professionals in Austria, Germany, Spain and Switzerland.
- Contract negotiation and management: Lead negotiations with foreign government
 customers for contracts for the supply of equipment, technology and services.
 Particular experience negotiating with government customers in the Middle East and
 Europe. Lead negotiations with commercial customers and partners for JV agreements,
 offset support agreements, technology transfer and licensing agreements, teaming
 agreements, etc.
- International arbitration & litigation: Successfully managed multiple \$300+ million international arbitrations against sovereign states with very favorable outcomes for the company. Particular skill in managing and balancing legal, commercial, operational and political concerns.
- Compliance: Manage the company's compliance with the FCPA, U.K. Bribery Act, ITAR and other U.S., European and local laws. Perform and/or supervise periodic internal audits and interact with local enforcement agencies.
- Labor and employment: Work closely with the GDELS VP HR on contentious or otherwise complex labor and employment matters and on the General Dynamics European Works Council.
- Corporate Secretary: Serve as Corporate Secretary for GDELS' legal entities in Europe.

2010-2012 Jet Aviation (Falls Church, VA) Associate General Counsel

- Served as chief legal officer for Jet Aviation Americas with legal oversight for Jet Aviation's operations in the U.S. and Brazil.
- Oversaw all legal matters for Jet Aviation Americas, including compliance and internal investigations, litigation, ethics, U.S. government and commercial contracts, regulatory matters, and labor and employment matters.

- Developed a very strong expertise in the negotiation and drafting of complex and highvalue commercial contracts in an extremely competitive market.
- Very significant exposure to and management of a wide variety of U.S. labor and employment matters, including EEOC/ADEA, OSHA, FMLA, and WARN.

2006–2010 General Dynamics Corporation (Falls Church, VA) Assistant General Counsel & Director - International Law

- Responsible for international legal matters and compliance for General Dynamics Corporation and its subsidiaries.
- Managed compliance with the Foreign Corrupt Practices Act, International Traffic in Arms Regulations, Export Administration Regulations and other laws.
- Drafted and implemented corporate policies, conducted audits and internal investigations, and served as the corporation's primary contact with U.S. Government and foreign enforcement agencies for voluntary disclosures and other compliance matters.

2001-2006 Gibson, Dunn & Crutcher LLP (Washington, D.C.) Attorney

- Attorney in the White Collar Defense and Investigations & International Trade Regulation and Compliance Practice Groups.
- Conducted numerous investigations in the U.S. and overseas (including Europe, Latin America and Asia) into compliance with the FCPA, anti-money laundering laws and export controls. Interacted regularly with U.S. Government enforcement agencies in connection with government investigations and voluntary disclosures.

Education

2014-2015 IE Business School (Madrid, Spain)

Global Executive MBA

Class Rank: No .1

Dean's List; Beta Gamma Sigma Honor Society

1999-2001 Georgetown University Law Center (Washington, D.C.)

J.D., cum laude

Dean's List: 1999 - 2000 & 2000 - 2001.

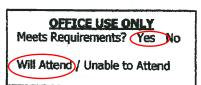
1994-1998 University of Florida (Gainesville, FL)

B.A., With Honors



to Carft@ohamgov.org or by fax to 248.530.1080.

FEB - 3 2017



Updated 01/11/17

APPLICATION FOR CLITY BOARD OR COMMITTEE

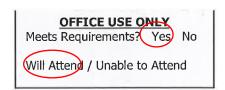
Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this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

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

(Picase print clearly)
Board/Committee of Interest BOARD OF REVIEW
Specific Category/Vacancy on Board
Name 1000 FLEURY Phone 415-533-6782
Residential Address 1863 HAZEL ST. Email Efleury@csmmfg.not
Residential City, Zip BIRMINGHAM 48009 Length of Residence & YEARS TOTAL
Business Address 24656 N. INDUSTRIAL DR Occupation ENGINEER
Business City, Zip FARMINGTON HTLLS 48335
Reason for Interest: Explain how your background and skills will enhance the board to which you have applied
have a great knowledge of the city. I also an understanding and willing to listen. List your related employment experience
Management experience
List your related community activities
List your related educational experience Masters degree
To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain:
Do you currently have a relative serving on the board/committee to which you have applied?
Are you an elector (registered voter) in the City of Birmingham?
2/3/2017
Signature of Applicant Date
Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email

3A3





APPLICATION FOR CITY BOARD OR COMMITTEE

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

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

(Please print clear	ny)
Board/Committee of Interest BOARD OF REVIEW	<u></u>
Specific Category/Vacancy on Board	
Name PAdraic MULLIN	Phone 313.452.5.68 4
Residential Address 1794 Brad Ford	Email Party for a yahoo, com
Residential City, Zip B'HAn 48009	Length of Residence 74rs +
Business Address	Occupation Educator
Business City, Zip	
Reason for Interest: Explain how your background and skills will er	
I am a problem solver and solution	as orunted.
List your related employment experience <u>Chief Contract negotiator</u> for teachers List your related community activities <u>Board member Birmingham</u> Hockey A	ssoc, Volunteer Berkshire N
List your related educational experience post grad degree in Supervision	
To the best of your knowledge, do you or a member of your in relationships with any supplier, service provider or contractor of the direct compensation or financial benefit? If yes, please explain:	
Do you currently have a relative serving on the board/committee to	which you have applied?
Are you an elector (registered voter) in the City of Birmingham?	Yes
Signature of Applicant Da	19 JAN 2017
3	

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

3 A 4



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, October 5, 2016. 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.

<u>Applicant(s) Presented For City Commission Consideration:</u>

Applicant Name	Criteria/Qualifications Applicants shall be property owners of record and registered voters.		
Allan J. Kovinsky, 2020 Property Owner & Registered Voter Northlawn Blvd.			
Cynthia Grove, 584 Rivenoak	Property Owner & Registered Voter		
Kristen L. Balardi, 2152 Manchester	Property Owner & Registered Voter		
Jason Canvasser, 369 Kimberly	Property Owner & Registered Voter		

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

SUGGESTED ACTION:

Го appoint	to the Board of Zoning Appeals as an alternate member to serv	٧e
a three-year term to	expire on February 17, 2020.	
To appoint	to the Board of Zoning Appeals as an alternate member to ser	ve
a three-year term to	expire on February 17, 2020.	



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	m	
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.co	10/12/14)	ternate 2/27/12 -
Jones	Jeffery R.	(248) 433-1127	6/12/2006	10/10/2019
1701 Winthrop L	ane			
		j_rjones@sbcglobal.net		
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. Glenhurst	İ		Attorney	
		lilliecc@sbcglobal.net		

Last Name Home Address	First Name	Home Business E-Mail	Appointed	Term Expires
Lyon	Peter	(248) 646-9337 (313) 805-5745	11/15/2002 Engineer	10/10/2017
1498 Yosemite		(313) 603-3743	Liigiileei	
Miller	John	(248) 703-9384	1/23/2012	10/10/2018
544 Brookside		feymiller@comcast.net	(Served as alternate 01/11/10- 01/23/12)	
Morganroth	Erik	(248) 762-9822	10/12/2015	10/10/2018
631 Ann		emorganroth@comcast.i	net	

CITY BOARD/COMMISSION ATTENDANCE

Board/Commission: Board of Zoning Appeals

	1	1	r	1	r	1	r		
Member Name	1/12	2/9	3/8	4/12	5/10	6/14	7/12	8/9	9/13
Kevin Hart	Р	Α	Р	Р	Р	Α	Р	Α	Р
Jeffery Jones	Р	Р	Р	Р	Р	Р	Р	Р	Α
Randolph Judd	Р	Р	Α	Α	Р	Р	Р	Р	Р
Charles Lillie	Α	Α	Р	Р	Р	Р	Α	Р	Р
Peter Lyon	Α	Р	Р	Р	Р	Р	Р	Р	Р
John Miller	Р	Р	Р	Α	Р	Α	Р	Р	Α
Erik Morganroth	Р	Р	Р	Р	Р	Р	Р	Р	Р
ALTERNATES									
Cynthia Grove	Р	Р		Р					Р
Jason Canvasser	Р	Р	Р	Р		Р	Р	Р	Р
Members in attendance	7	7	7	7	7	6	7	7	7

KEY: A = Absent

P = Present

NM = No Meeting

RECORD

Year: 2016

10/13	11/8	12/13	Total Mtgs. Att.	Total Absen t	Percent Attend
Р	Р		8	3	73%
Р	Р		10	1	91%
Р	Р		9	2	82%
Р	Р		8	3	73%
Α	Р		9	2	82%
Р	Α		7	4	64%
Р	Р		11	0	100%
			4	0	36%
Р	Р		10	0	91%
7	7	0			

Department Head Signature

CITY BOARD/COMMISSION ATTENDANCE

Board/Commission: Board of Zoning Appeals

	-	1	1	r	Т		Т	r	T I
Member Name	1/13	2/10	3/10	4/14	5/12	6/9	7/14	8/11	9/8
Kevin Hart	Р	Р	Р	Р	Р	Р	Р	NA	Р
Jeffery Jones	Р	Р	Р	Р	Р	Α	Р	NA	Р
Thomas Hughes	Р	Р	Α	Р	Р	Р	Р	NA	Р
Randolph Judd	Р	Р	Α	Α	Р	Р	Р	NA	Р
Charles Lillie	Р	Α	Р	Р	Р	Р	Р	NA	Р
Peter Lyon	Р	Р	Р	Р	Α	Р	Р	NA	Р
John Miller	Α	Р	Α	Р	Р	Р	Р	NA	Α
Erik Morganroth	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ALTERNATES									
Cynthia Grove		Р	Р						Р
Rachel Loughrin	Р		Р	Р		Р			
Members in attendance	7	7	6	7	6	7	7	0	7

KEY: A = Absent

P = Present

NM = No Meeting

RECORD

Year: 2015

10/13	11/11	12/8	Total Mtgs. Att.	Total Absen t	Percent Attend
Р	Р	Р	11	0	100%
Р	Р	Р	10	1	91%
NA	NA	NA	7	1	88%
Р	Р	Р	9	2	82%
Р	Р	Р	10	1	91%
Р	Α	Р	9	2	82%
Р	Р	Р	8	3	73%
N/A	Р	Р	2	0	100%
Р			4	0	36%
			4	0	36%
7	6	7			

Department Head Signature

CITY BOARD/COMMISSION ATTENDANCE

Board/Commission: Board of Zoning Appeals

Member Name	1/14	2/11	3/12	4/8	5/13	6/10	7/8	8/12	9/9
David Conlin	Р	Α	Р	Α	NM	Р	Р	Р	Р
Jeffery Jones	Р	Р	Р	Р	NM	Р	Р	Р	Р
Thomas Hughes	Р	Р	Р	Р	NM	Р	Р	Α	Α
Randolph Judd	Р	Р	Р	Р	NM	Α	Р	Α	Р
Charles Lillie	Α	Р	Р	Р	NM	Р	Р	Р	Р
Peter Lyon	Α	Р	Α	Р	NM	Р	Р	Р	Α
John Miller	Р	Р	Р	Р	NM	Р	Α	Р	Α
Kevin Hart									
ALTERNATES									
Cynthia Grove	Р	Р	Р		NM			Р	Р
Kevin Hart	Р			Р	NM	Р			Р
Rachel Loughrin									
Members in attendance	7	7	7	7	0	7	6	6	6

KEY: A = Absent

P = Present

NM = No Meeting

RECORD

Year: 2014

10/14	11/11	12/9	Total Mtgs. Att.	Total Absen t	Percent Attend
NA	NA	NA	6	2	75%
Р	Р	Р	11	0	100%
Р	Р	Р	9	2	82%
Р	Р	Α	8	3	73%
Р	Р	Р	10	1	91%
Р	NA	Р	7	3	70%
Α	Р	Р	8	3	73%
Р	Р	Р	3	0	100%
Р		Р	7	0	88%
NA	NA	NA	4	0	36%
	_				
7	6	7			

Department Head Signature

CITY BOARD/COMMISSION ATTENDANCE

Board/Commission: Board of Zoning Appeals

	Ī								
Member Name	1/10	2/12	3/12	4/9	5/14	6/11	7/9	8/13	9/10
David Conlin	NM	Р	Р	Α	Р	Р	Р	Р	Р
Jeffery Jones	NM	Р	Р	Р	Р	Р	Р	Р	Р
Thomas Hughes	NM	Р	Α	Р	Р	Р	Α	Р	Р
Randolph Judd	NM	Р	Α	Р	Р	Р	Р	Р	Р
Charles Lillie	NM	Р	Р	Р	Р	Р	Р	Р	Р
Peter Lyon	NM	Р	Α	Р	Α	Р	Р	Р	Р
John Miller	NM	Р	Р	Р	Р	Р	Р	Р	Р
ALTERNATES									
Cynthia Grove	NM	Р					Р		
Kevin Hart	NM	Р	Р	Р	Р				
Members in attendance	0	9	5	7	7	7	7	7	7

KEY: A = Absent

P = Present

NM = No Meeting

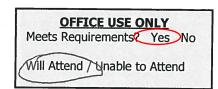
RECORD

Year: 2013

10/8	11/12	12/10	Total Mtgs. Att.	Total Absen t	Percent Attend
Р	NM	Р	9	1	90%
Р	NM	Р	10	0	100%
Р	NM	Р	8	2	80%
Α	NM	Р	8	2	80%
Р	NM	Р	10	0	100%
Р	NM	Р	8	2	80%
Р	NM	Р	10	0	100%
	NM		2	0	20%
Р	NM		5	0	50%
7	0	7			

Department Head Signature





APPLICATION FOR CITY BOARD OR COMMITTEE

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

(Please print clearly	(y)
Board/Committee of Interest	9 Appeals
Specific Category/Vacancy on Board	
Name AlleNJ. KOVINSKY	Phone 2487630436
Residential Address 2020 NORTH AUN BIUD.	Email CIKOVINSKY D. GMRIL
Residential City, Zip BIRMING NAM 11, 4809	Length of Residence 1012 YEARS
Business Address 1700 TOWN 59 UMRP	Occupation ATTORNOY
Business City, Zip 50 A Marie 14 11 11 11 11 11 11 11 11 11 11 11 11	
Reason for Interest: Explain how your background and skills will end HAR RESEARCH HOS ETO WASHINGTON List your related employment experience ROMES WASHINGTON List your related community activities NOW W BINMER List your related community activities NOW W BINMER Reason for Interest: Explain how your background and skills will end HAR RESEARCH HOS ETO WASHINGTON List your related community activities NOW W BINMER REASON FOR INTEREST. REASON FOR INTEREST. LIST YOUR RELATION OF THE PROPERTY OF THE P	hance the board to which you have applied I
List your related educational experience Company (1) List your related Education (1) List your related	MFORD HOR SCHOL-COMPHAND PST PROPERTY ON VICE BUSINESS AND SOMME mediate family have any direct financial or business e City of Birmingham from which you or they derive
Do you currently have a relative serving on the board/committee to v Are you an elector (registered voter) in the City of Birmingham? Signature of Applicant	which you have applied?

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

48009 or by email to Updated 10/12/16



RECEIVED BY

FEB - 2 2017

OFFICE USE ONLY

Meets Requirements? Yes No

Will Attend / Unable to Attend

APPLICATION FOR CITY BOARD OR COMMITTEE CITY CLERK'S OFFICE

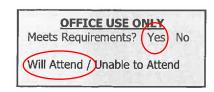
Thank you for your interest in serving on a Board of Committee HThe purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this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

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(Please print clearly)
Board/Committee of Interest Board of Zowing Appeals
Specific Category/Vacancy on Board Alternate Member
Name Cynthia Grove Phone 248-760-6219
Residential Address 584 Riveroak Email CV9rove Com Cast and
Residential City, Zip Birmingham 48009 Length of Residence 21 years
Business Address 4777 North Field & Kwy Occupation teacher
Business City, Zip Troy, 48098
Reason for Interest: Explain how your background and skills will enhance the board to which you have applied I teach government and criminal law. I am interested in the Workings of government - I have been on the BZA as an alternate For
List your related employment experience H.S. teacher
List your related community activities Alternative Momber of the BZA, volunteer at Forgothen Harvest
List your related educational experience BA=V of M, Masters in Law Related Education, Wayne State University
To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain:
No
Do you currently have a relative serving on the board/committee to which you have applied?n
Are you an elector (registered voter) in the City of Birmingham?
Signature of Applicant Date
Signature of Applicant \ Date

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to Updated 10/12/16





APPLICATION FOR CITY BOARD OR COMMITTEE

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(Please print clearly)

Board/Committee of Interest Board of Zoning Appeals	8
Specific Category/Vacancy on Board Alternate Member	
Name Kristen L. Baiardi	Phone 313-234-6228
Residential Address 2152 Manchester	Email kbaiardi@gmail.com
Residential City, Zip Birmingham, MI 48009	Length of Residence 6 years
Business Address 1900 W. Big Beaver, Suite 203	Occupation Attorney
Business City, Zip Troy, MI 48084	
Reason for Interest: Explain how your background and skills will See attached.	Il enhance the board to which you have applied
List your related employment experience See attached.	7
List your related community activities See attached.	
List your related educational experience See attached.	
To the best of your knowledge, do you or a member of your relationships with any supplier, service provider or contractor of direct compensation or financial benefit? If yes, please explain:	of the City of Birmingham from which you or they derive
No.	
Do you currently have a relative serving on the board/committee	e to which you have applied? No.
Are you an elector (registered voter) in the City of Birmingham?	Yes.
Signature of Applicant	Feb. 6, 2017

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

Updated 01/11/17

Attachment to Application for City Board or Committee -- Kristen L. Baiardi

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

I have lived in or around Birmingham for most of my life. My family has longstanding connections to Birmingham. For example, I am the third-generation of my family to live in the Pembroke Park neighborhood (my grandparents lived on Dorchester in the 1960s, my aunt lived on Manchester in the 1980s, and I have lived on Manchester for the last 6 years). Because of this background, I am very knowledgeable about the different areas of the City and how they have developed and changed over the years. My professional training as an attorney would be an asset as an Alternate Member of the Board of Zoning Appeals because I am well-versed in municipal law and property law matters. Finally, I come from a family that has embraced service in local government for many years. My mother is currently a township clerk in northern Michigan, and my father is a former township supervisor, member of board of review, and member of zoning board of appeals in the same northern Michigan community. I understand the importance of sound zoning policy in local government.

List your related employment experience.

I have been practicing as an attorney at a medium-sized law firm named Abbott Nicholson, P.C. with offices in Detroit and Troy since 2008. My primary area of focus is business litigation, with an emphasis on counseling motor vehicle dealerships on regulatory and compliance matters, and also representation of municipal clients in regulatory, compliance, and civil rights matters. I routinely advise municipal and private sector clients on matters involving municipal ordinances, including zoning ordinances. I have also assisted municipal clients in the drafting of ordinances. I believe that my background advising both public and private sector clients on local government matters would be unique skillset that I could bring to the Board of Zoning Appeals as an Alternate Member.

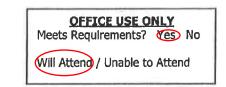
List your related community activities.

- Auburn Hills Community Foundation (Member of Board 2011-present, Chair of Board 2014-present)
- Cranbrook Schools Board of Governors (Member 2011-present)
- Cranbrook Kingswood Alumni Association (Member of Board 2014-present; Past President 2012-2013)
- Baiardi Family Foundation (Vice President and Director, 2003-present)

List your related education experience.

- BA, English, Boston College, 2005
- JD, Wayne State University Law School, 2008





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(Please print clearly)

Board of Zoning Appeals Board/Committee of Interest Re-election as an Alternate Member Specific Category/Vacancy on Board Name Jason Canvasser 248-231-9972 Phone. jcanvasser@clarkhill.com 369 Kimberly St. Residential Address Birmingham, MI 48009 Residential City, Zip Length of Residence Business Address 500 Woodward Ave., Suite 3500 Attorney Occupation . Detroit, MI 48226 Business City, Zip Reason for Interest: Explain how your background and skills will enhance the board to which you have applied in my legal practice, I routinely help businesses navigate complex zoning issues. As a resident of Birmingham, I am interested in utilizing this knowledge to help regulate land use and act on questions regarding the proper use of land as zoned, List your related employment experience Zoning and land use attorney at Clark Hill PLC from June 1, 2012 through present. Alternate member of Birmingham BZA from November 2015 to the present, Member of the List your related community activities Quarton Lakes Neighborhood Association and editor of the Quacker Newsletter. List your related educational experience 2003 University of Michigan, Ann Arbor, graduated with a BA in political science. 2006 Wayne State University Law School, graduated with a JD. To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: No Do you currently have a relative serving on the board/committee to which you have applied? No Are you an elector (registered voter) in the City of Birmingham? Signature of Applicant

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

Updated 10/12/16

BIRMINGHAM CITY COMMISSION MINUTES DECEMBER 5, 2016 MUNICIPAL BUILDING, 151 MARTIN 7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Mark Nickita called the meeting to order at 7:30 PM

II. ROLL CALL

ROLL CALL: Present, Mayor Nickita

Commissioner Bordman Commissioner Boutros Commissioner DeWeese Mayor Pro Tem Harris Commissioner Hoff Commissioner Sherman

Absent, None

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

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

12-353-16 APPOINTMENT TO THE BIRMINGHAM SHOPPING DISTRICT BOARD

City Manager explained that this is a City Manager's appointment and Mr. Fehan has been one of the initial members of the BSD Board and is interested in continuing as a member.

MOTION: Motion by Hoff, seconded by Sherman:

To concur in the City Manager's appointment of Douglas Fehan to the Birmingham Shopping District Board, as the resident member, to serve a four-year term to expire November 16, 2020.

VOTE: Yeas, 7

Nays, None Absent, None

12-354-16 APPOINTMENT TO THE BOARD OF REVIEW

MOTION: Motion by Sherman:

To appoint Leland Feiste to the Board of Review to serve a three-year term to expire December 31, 2019.

VOTE: Yeas, 7

Nays, None Absent, None

1

MOTION: Motion by DeWeese:

To appoint Kathleen Devereaux to the Board of Review to serve a three-year term to expire December 31, 2019.

VOTE: Yeas, 7

Nays, None Absent, None

City Manager Valentine confirmed for Commissioner DeWeese that a position remains open on this board as an alternate member.

12-355-16 APPOINTMENT TO THE TRIANGLE DISTRICT CORRIDOR IMPROVEMENT AUTHORITY

City Manager Valentine explained that Mr. Cantrick is currently a member of the authority and is interested in continuing his service.

MOTION: Motion by Bordman, seconded by Boutros:

To concur in the Mayor's appointment of G.A. "Kip" Cantrick, Jr. to the Corridor Improvement Authority to serve a four-year term to expire December 15, 2020.

VOTE: Yeas, 7

Nays, None Absent, None

Commissioner Hoff noted that there will be a vacancy on this board which will be posted at a future date.

12-356-16 APPOINTMENT TO THE PUBLIC ARTS BOARD

Mayor Nickita explained that this appointment is to fill a vacancy on the board which expires January 28, 2017. He added that the Commission previously interviewed MaryAnn Schlie and Heather Duggan for the position on the board. Mr. Eddleston is present tonight for his interview.

MOTION: Motion by Harris:

To appoint Jason Eddleston to the Public Arts Board to serve the remainder of a three-year term to expire January 28, 2017.

MOTION: Motion by Sherman:

To appoint MaryAnn Schlie to the Public Arts Board to serve the remainder of a three-year term to expire January 28, 2017.

VOTE ON NOMINATION OF EDDLESTON:

VOTE: Yeas, 5

Nays, 2 (Sherman, Nickita)

Absent, None

Mr. Eddleston was appointed.

Ms. Schlie was not appointed.

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

IV. CONSENT AGENDA

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

12-357-16 APPROVAL OF CONSENT AGENDA

The following items were removed from the Consent Agenda:

- Item A (Minutes of November 14, 2016) by Commissioner Hoff.
- Item F (Purchase and planting of trees) by Commissioner Bordman.

MOTION: Motion by Sherman, seconded by DeWeese:

To approve the Consent Agenda as follows, removing Item A, Item F and excluding warrant 246526 for Commissioner Hoff (election inspector payment), and paying special note to the service rendered by Victor Saroki and thanking him for his service

- B. Approval of warrant list, including Automated Clearing House payments, of November 23, 2016 in the amount of \$764,134.84.
- C. Approval of warrant list, including Automated Clearing House payments, of November 30, 2016 in the amount of \$357,941.01.
- D. Resolution approving purchase of multi-function printer from Xerox, using MiDEAL extendable contract, in an amount not to exceed \$9,280.00 and charging the purchase against the 636-228-000-971.0100, Machinery & Equipment account.
- E. Resolution approving the 2016 Michigan Medical Marijuana Operation and Oversight Grant Subrecipient Agreement between the City of Birmingham and Oakland County. Further, authorizing the Mayor and City Manager to sign the agreement on behalf of the City.
- G. Resolution authorizing the City Manager to sign the Proposal and Scope of Work for Technical Services, to enlist the services of Data Partner Inc. for the installation and configuration of the brocade network infrastructure utilizing pricing for installation services under MiCTA Contract 134AN-TISA2013-0416 at a cost not to exceed \$7,200.00. Funds are available in the IT Network Upgrade fund account #636-228.000-973.0400.
- H. Resolution accepting the resignation of Victor Saroki from the Triangle District Corridor Improvement Authority, thanking Mr. Saroki for his service, and directing the Acting Clerk to begin the process to fill the vacancy.

ROLL CALL VOTE: Yeas, Commissioner Sherman

Commissioner DeWeese

Commissioner Hoff Commissioner Boutros Commissioner Bordman Mayor Pro Tem Harris

Mayor Nickita

Nays, None

Abstention, 1, Hoff (from Warrant 246526 for payment as an election inspector)

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

12-358-16 GREENWOOD CEMETERY – REQUEST FOR EXEMPTION TO RULES & REGULATIONS – FLUSH MARKER SECTION

Acting Clerk Arft explained that Section F-North is a section in which only flush markers are permitted. Mr. Paul Robertson asked the Greenwood Cemetery Advisory Board for permission to construct an upright monument on the two plots that he owns in the section. She explained that Mr. Robertson purchased the plots several years ago in a private sale, and at the time of the purchase, he was unaware of the flush marker restriction. He learned about it after his wife passed, and he is asking for permission to erect an upright monument in the section.

City Manager Valentine noted that the regulation at issue is in regard to the section of the cemetery that stipulates that all markers shall be set flush. Research has been done to find the history to explain the reason for the restriction. He said we have been able to determine that in 1971, regulations were adopted by the City Commission and that restriction was included at that time. It also was included in subsequent communications between staff that managed the cemetery in 1990 that the restriction was placed in Section F North to facilitate maintenance by the Department of Public Service.

Acting Clerk Arft added that over the years there have been other requests to construct upright monuments in Section F North, all of which have been denied. Mayor Nickita confirmed it is a relatively small area. Commissioner DeWeese noted that it is in the north area of the cemetery where the land drops off next to the river.

Mayor Pro Tem Harris clarified that this regulation was in place from 1990 to August 2015.

Commissioner Bordman said the letter distributed to the City Commission by the Acting Clerk seems to indicate that two other individuals had upright monuments in this section. Acting Clerk Arft said there are no upright monuments in Section F North. She added that she has not visited the particular section in question personally, but has received confirmation from city staff that there are no upright monuments in the section. City Manager Valentine noted that photos were provided with Mr. Robertson's request, and Acting Clerk Arft said the monuments visible there are located in the adjacent section.

Commissioner Hoff said the photos indicate there are upright monuments very close to the flush markers. She asked what the outcome was of the Stenger family's request.

Commissioner Bordman also expressed concern whether or not there are upright monuments in Section F North, and suggested tabling this item until someone can confirm visually there are no upright monuments.

Commissioner Boutros said there have been previous requests regardless of the individual who is here tonight, and said there will be more in the future. He said it seems the rationale behind the regulation was a staff-driven request because of maintenance. City Manager Valentine clarified that it was at the time. City Manager Valentine added that since that time, the maintenance of the entire cemetery has been contracted out so the city is no longer doing that

work. The condition that existed at the time the regulation was put in place may not be analogous to what we have today.

Commissioner Boutros agreed, and believes it would not have a big impact on how we maintain the cemetery today, as opposed to 1971 when the regulation was in place.

Mayor Nickita said there does not seem to be a determined policy or directive from the cemetery board to give direction to what would be the intention for the long term. He would like the board to give the commission the insight and recommendations, and the commission does not have that relative to the general approach to this. The board has provided their recommendation as to this issue, but he is talking about the larger vision for the area.

Commissioner Hoff reviewed the survey that was taken by our contractor prior to taking over the cemetery management. One of the questions asked was what the preference would be for a full burial memorial, and an upright monument was definitely the majority. She said when we passed the flush marker restriction, it was her understanding that we passed it because the flush markers were going to go in the historic sections primarily in between the existing gravesites, many of them with markers. What we were approving was flush markers in those areas, and she said this section was not mentioned. She said section F North is in the rear of the cemetery where a monument would not block something. She expressed concern about the topography there, and if it can hold an upright marker.

Commissioner Sherman said that this regulation has been in place for 40 years and has nothing to do with Sections B and C and what the commission discussed. The regulation pre-dates the commission's discussion on adding plots in the cemetery. The issue appears to be what does the rest of the section look like. The pictures presented appears to show that everything is flush, and his concern is how they are going to interact, and how will that section then appear. Because this is such an old regulation, we have to take into account the rest of the section. If this were something we just adopted, and we were making a change to it, and no one had been affected previously, it is an easier decision. This becomes a more difficult decision, and because it has been around so long, it is presumed that people would be able to go back and look at the regulations. He has no issue with an elevated monument, provided it is not going to look unusual in the space. He would like to know where it is exactly and what the appearance will be with it.

Commissioner Bordman said this regulation has been in place a long time, and apparently other people have been told they could not erect upright monuments in that section. If there are already monuments there, that would undermine the reason for refusing another request. That is why she thinks this should be tabled, and allow someone to look at the section and determine if it is all flush markers or if there are any upright monuments.

Mayor Pro Tem Harris asked if we are able to investigate Section F North, and determine that there are upright monuments there, can we determine if they were placed before 1971. Acting Clerk Arft confirmed that our records reflect monument construction.

Commissioner DeWeese said if there are monuments that are not flush, he would like to know that history as well.

The applicant, Paul Robertson explained that when the need arose to use the graves he had purchased, he was told by the funeral director that the section was a flush marker only section.

He said it is difficult when at the cemetery to determine where you are, and he does believe that the markers are all flush in that section. He thinks the section was added later to the cemetery. It has a slight downward grade, but that is not a problem. He guessed that it was a money-saving decision to allow only flush markers. He said the cemetery board did not have a reason for the restriction. He explained the design of his proposed monument.

Mayor Pro Tem Harris asked when Mr. Robertson discovered the restriction. Mr. Robertson said he discovered it when his wife passed last year. He said there is no question that the restriction is printed on the deed. He said after visiting the section three or four times before purchasing it privately, he had no idea it was a flush monument only section. Mr. Robertson confirmed that he had no discussion with the seller about the restriction.

Commissioner Hoff expressed concern that other people have been denied, and that may cause problems and should be considered.

Commissioner DeWeese said that everyone in that section should be informed of the opportunity to do it. He is supportive of Commissioner Bordman's suggestion to postpone a decision until we have more information and context. He is uncomfortable with proceeding tonight.

Mayor Pro Tem Harris agrees with those comments and asked whether we can dig deeper into the rationale, and if it is a policy we no longer need, perhaps it is prudent to re-visit the regulations.

City Manager Valentine said the rationale given in 1990 as being a maintenance issue may allow for additional consideration.

Mayor Nickita said the larger issue is will there be another applicant down the road. He agrees that the board should look at this issue in the larger context, and provide clarity to what we will do if these requests come up again.

City Manager Valentine asked if the commission would want to exclude sections B and C because those have already been reviewed and considered.

Commissioner DeWeese said in the historical areas, there definitely is a reason for flush markers only on the new graves created in those areas.

Commissioner Sherman said he is uncertain that this needs to go back to the cemetery board, as the questions are what is the layout of this area currently, are the stones all flat, or are monuments there. He also questioned how many graves are in the section. He would like a staff report.

Commissioner Bordman said this is actually two different requests. The first is the immediate need for Mr. Robertson's request, and the second is further direction to the cemetery board for an overall look.

Commissioner Hoff agrees that this is a separate issue, and we also want to know if there are monuments there, and when the section was created.

Mayor Pro Tem Harris clarified if this is direction to staff or GCAB. Mayor Nickita said there are two different issues, one for staff and the broader question we have is more a cemetery board issue.

Mayor Pro Tem wondered if this issue could be incorporated with the cemetery board's action list.

Mayor Nickita restated that relative to Mr. Robertson's request, staff is directed to bring back more information to better understand the situation. The commission is not asking for anything from the cemetery board at the moment.

Commissioner Bordman said the assumption is there have been more requests, but when did they occur and who made them. If we make a change for Mr. Robertson, those people will need to be contacted as well.

Commissioner DeWeese requested that if there were any monuments installed in the section, what were the circumstances of how that occurred.

Commissioner Sherman suggested that the topic could be discussed during the Long Range Planning.

Commissioner Hoff said the commission was told that there were no other gravesites in any of the sections, except the ones that were approved for flush markers. She said that this is our first knowledge of specific requirements in Section F North. Otherwise, everything else is filled, except for the new graves in Sections B, C, D, K, L and O where flush markers are required. She said people who own lots in other sections can install monuments.

Mayor Nickita suggested any restrictions should be reviewed and verified.

Commissioner Hoff asked what would be needed if the commission decided to allow markers in Section F North. City Manager Valentine stated Section VI, Flush Memorial – F North only would have to be amended. He said he believes that when this became part of the Rules and Regulations in 1971, this may have been the newest section of the cemetery, and that is why Section F North has its own specific section in the Rules and Regulations delineating what is permitted in that section of the cemetery. He noted that no other section is mentioned specifically in the regulations other than F North.

Mayor Pro Tem Harris commented to the extent possible, he would like to know the level of demand for elevated monuments compared to availability.

Commissioner DeWeese suggested that since there is no immediate rush on this, long range planning is appropriate. He thinks it is a question of looking at priorities and ahead to the future.

No action was taken at this time, pending further information discussed.

12-359-16 PUBLIC HEARING TO CONSIDER THE ALLOCATION OF 2017 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Commissioner Bordman noted that this is a Federal Housing and Urban Development Grant, and under Section 570.611, Conflict of Interest, Title 24 of the Housing and Urban Development

program, she is conflicted, because she is appointed to the NEXT Board, and she cannot engage in discussion or vote on this block grant.

Commissioner Bordman left the meeting at 8:31 PM.

Finance Director Gerber said this is a Public Hearing to invite public comment for the 2017 program year CDGB that is required by HUD regulations.

Mayor Nickita opened the Public Hearing at 8:31 PM.

There were no comments from the public.

Mayor Nickita closed the Public Hearing at 8:32 PM.

Commissioner Hoff represents the commission on the Foundation for Seniors Board. It provides interest-free loans to income-qualifying seniors. She understands that we are proposing to give \$22,000 for rehab of privately-owned homes; she is concerned because the Foundation has funds available for that purpose, but funds are not being requested. She spoke with Chris Braun, NEXT Director, and was told that this is broken down into three categories. The first is Yard Services, the next is Senior Services for administration of the grant funds, and the \$22,414 amount is for small repairs, such as garbage disposals, electric fixtures, etc. NEXT has been doing this but with very limited funds. These funds will enable recipients to do more which is different than what the Foundation funds are used for which are major repairs and purchases, such as furnaces, hot water tanks, etc. She wanted to offer that for clarification.

Mr. Gerber said the more we can offer the individuals to assist them and keep them updated, the better, and between the two organizations, more can be done.

Mr. Gerber noted we usually try to include a barrier-free improvement each grant year, but we were unable to identify a barrier fee project for this year. Work is being done on developing future projects.

MOTION: Motion by Sherman, seconded by Hoff:

To authorize the Finance Director to complete the 2017 Program Year Community Development Block Grant application and conflict of interest certification, and authorize the Mayor to sign the application and conflict of interest certification and other documents resulting from this application on behalf of the City and submit them to Oakland County. The project(s) to be included in the application and the respective allocations of Community Development Block Grant Funds are as follows:

TOTAL		\$ 32,020
3.	Minor Home Repair	22,414
2.	Public Services – Senior Services	3,300
1.	Public Services – Yard Services	\$ 6,306
		2017
		APPROVED

ROLL CALL VOTE: Yeas, Commissioner Sherman

Commissioner Hoff Commissioner Boutros Commissioner DeWeese Mayor Pro Tem Harris

Mayor Nickita

Nays, None Absent, None

Abstention, 1 (Bordman, due to conflict of interest-NEXT

Board)

Commissioner Bordman returned to the meeting at 8:36 PM.

12-360-16 PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 114 OF THE CITY CODE.

City Manager Valentine explained that the City Commission was presented with a Storm Water Utility Fee Apportionment Report prepared by the engineering firm of Hubbell, Roth & Clark (HRC) in response to a legal challenge of the city's storm water billing methodology. He noted that Birmingham, along with several other cities received class action lawsuits beginning in 2014 challenging the billing methodology used for storm water charges. As a result of a court order, Birmingham was required to have a new methodology in place by January 1, 2017.

HRC was tasked with the creation of a new billing methodology for storm water charges that complied with several criteria established under the Bolt v. City of Lansing lawsuit challenging storm water charges. HRC worked with city staff, the city attorney and in concert with pending legislation (HB 5991) intended to address this issue on a state-wide level being developed by State Representative Mike McCready, the Michigan Municipal League and the Oakland County Water Resource Commissioner's office. The new methodology developed in the Storm Water Utility Fee Apportionment Report addresses the criteria of the Bolt case and comports with the pending legislation.

Using this new methodology and the pending legislation that has been recently introduced by State Representative McCready, the city attorney has prepared a Storm Water Utility Ordinance that incorporates these components and is recommended for adoption by the City Commission.

Hubbell, Roth and Clark representative Jim Surhay, explained that the HRC report contains the Executive Summary, Background, General Methodology, Single Family Methodology, Non-single Family Residential Methodology, Apportionment, and Administrative Recommendations. The Appendix includes Figures, the Apportionment Roll, and Low Impact Development Guidelines and Details. The List of Figures includes the Major Drainage District Map, Single Family Residential Parcel Map, and Non-Single Family Residential Parcel Map.

He explained how storm water enters the sewers. Birmingham is a mostly combined sewer community, so most of the flow in the sewers during wet weather is from surface run-off that gets to catch basins and inlets in the streets. Inflow also occurs from homes that have foundation drains, footing connections and yard drains. Infiltration occurs through the pipes themselves from cracks and defects and manhole structures that occur with age of those structures. Some runoff will be intercepted by trees and plants and never reach the ground, or will be collected in pools and puddles and eventually evaporate. Some is absorbed by the soil itself and some will infiltrate into the soil so it will exceed what can be absorbed and infiltrate to the ground water table. The remainder becomes surface run-off and has to be addressed.

Primarily run-off comes from impervious surfaces, or areas that do not allow infiltration, such as roofs and pavements. Also, pervious areas such as lawns and planting areas will also generate some run-off to a lesser extent. Run-off co-efficients are developed that describe that relationship showing what percentage of rainfall that occurs will generate run-off.

The General Methodology categorized type of properties, defining the standard unit, determining the run-off potential for those properties and equating that run-off potential to equivalent storm water units. The categories are Single-family residential (SFR) and Non-single family residential parcels. The SFR parcels are 91% of the parcels by number in the city, and 72% by area.

The SFR parcels were split into six categories based on lot size. Each parcel's average development characteristics determine how it would generate run-off.

Non-single family parcels include all two family parcels, multi-family residential, condominium properties, public properties, schools, churches, commercial, office and parking lots. There are 719 non-single family residential parcels. For these properties, the unique parcel by parcel characteristics are reviewed.

The formula for the Run-off Potential for each property equals $0.9 \times [Impervious Area] + 0.15 \times [Total area – Impervious Area.]$ The .9 and .15 are the run-off co-efficients that are used for impervious surfaces and pervious surfaces, respectively. This part of the formula is one part of the engineering calculations that we would use when determining flows in the sewers and determining run-off.

The areas were measured for each of the properties starting with the county tax data records for the city, and included all the parcel identification numbers and their associated area. For the metes and bounds parcels, the public road right-of-way was deducted to adjust the size of the parcel so the road was not being considered part of the property. The impervious area was based on SEMCOG's GIS data provided to all communities that are members. An aerial survey was conducted to determine the impervious area of tree cover and other physical data for the city's benefit. The larger parcels consisted of an independent visual check of current aerials and assessed the data received from the SEMCOG aerials.

This method attempts to apportion the storm water charges that are part of the sewer fee and have them be proportional to how that sewage is generated, based on run-off potential from that property. An assumption is made that rainfall falls across the city in equal amounts to all the parcels.

The equivalent storm water concept attempts to define a standard unit, which is the SFR Class B, which is the most numerous. The run-off potential was determined for the average of those types of parcels, and in this case, was 4,317 square feet. The Equivalent Storm Water Unit (ESWU) was then calculated for each of the six SFR categories. The ESWU will be assigned to all the parcels within that class regardless of how each was developed. The unique characteristics of the Non-single family residential parcels, were considered and used to calculate the run-off potential to determine their individual ESWU value.

To determine the share of the Apportionment for each of two major Drainage Districts, Evergreen-Farmington and South Oakland, the ESWU values were summed up for all the parcels within each one, and the percentage share of the total amount is determined.

Discussions were included in the report for the city regarding credits and methods for reducing fees that might be employed. Credits will be used by the city to reduce an individual's storm water utility fee. Any measure to be considered has to reduce the amount of storm water that enters the sewer system. Some of the suggestions include rain gardens or bio-swales, dry-wells or infiltration trenches, porous pavement, cisterns, and disconnecting footing drains. Any of the measures that rely on infiltration will require an evaluation on each particular site for the ability of the soil to allow percolation of the storm water, and will vary from site to site depending on soil conditions and existing groundwater table. The property owner is responsible for applying for the credits, and also for certifying that they are continually used and maintained and performing as designed to reduce the amount of storm water that is entering the sewer.

Finance Director Gerber described how the new methodology will impact the bills. Currently, storm water costs are included as a component of the overall sewer rate charged to all users of the water and sewer system. The amount a user of the system pays for storm water is dependent on the amount of water that is consumed based on a water meter reading. The water rate will remain the same for the same amount of consumption, the sewer rate will be lower because the storm water portion is taken out of the sewer rate, and the meter charge will remain the same. The quarterly storm water fee will be included with the bill.

City Attorney Currier said Birmingham was not the only city that faced this litigation as a result of the Bolt case. The court ordered required new methodology for storm water run-off. He explained that the last year has been spent drafting an ordinance to comply with the court order, and develop the new methodology which establishes proportionality among all of the citizens with respect to water, sewer, and storm water usages, and also to create a user fee that is proportional to actual usage. There has been a very large refund to citizens as a result of the Wolf case settlement, and the methodology has been changed and is being recommended for adoption.

Mayor Nickita opened the Public Hearing at 8:55 PM.

Dan Shecter expressed his concern about additional costs, not being permitted to add a fee to recover the costs, and the risk management fund and sewer fund.

Jonathon Hofley expressed concern about storm water costs and credits.

Peter Lyon expressed concern about accuracy and the methodology.

Mayor Nickita closed the Public Hearing at 9:05 PM.

Commissioner Hoff noted that there is a structure for appeal within the proposed ordinance which will consist of three members appointed by the city, and asked when the board would be established. Mr. Valentine said the Appeals Board will be established after adoption of the Storm Water ordinance.

Commissioner Sherman said no ordinance is going to be perfect, and this is what is being ordered as a result of the Wolf case.

MOTION: Motion by Sherman, seconded by DeWeese:

To amend part II of the City Code, Chapter 114 Utilities, adding Article VI. Storm Water to add Division 6. Storm Water Utility Fee.

Commissioner DeWeese said this is a big change in the right direction and can be tweaked for the future. He said the city is committed to an on-going process of re-evaluation for the whole as well as for specific properties.

Commissioner Hoff said she has been hearing from concerned residents about their water bills for watering, lawn maintenance, and irrigation systems. Mr. Valentine said the storm water piece will be charged differently now. It will be broken out of the sewer charge and shown as a separate line item cost on the water bill.

Commissioner Hoff said the storm water is different than the water used to water the lawn. It is important for people to understand the difference.

Mayor Pro Tem Harris said there will now be a stronger correlation between the water meter rate and the actual bill because the storm water will be part of this formula, whereas the sewer and water will still be tied to usage.

Mayor Nickita said the city has moved forward with this since becoming aware of this. We are under deadline as it must be in place by the end of the year. We can refine and enhance it over time to strengthen what we are doing tonight.

City Manager Valentine said it is a reallocation of how it has been done. Certain properties are going to be advantaged and others will be disadvantaged by the change. It is a result of having to put in a system that is looking at the problem in totality based on our two sewage districts. It does not look at individual parcels, so it is not perfect, and it will not make everyone happy. It does comply with the law.

VOTE: Yeas, 7

Nays, None Absent, None

12-361-16 AMENDMENT TO SCHEDULE OF FEES, CHARGES, BONDS AND INSURANCE-SEWER RATES.

City Manager Valentine explained this sets the fee portion to accompany the methodology adopted in the Storm Water Utility ordinance tonight.

Commissioner DeWeese noted that this report has each property identified specifically.

MOTION: Motion by DeWeese, seconded by Boutros:

To amend the Schedule of Fees, Charges, Bonds and Insurance, Water and Sewer Service Sections, for changes in sewer rates and the addition of a storm water utility fee as outlined in the report dated November 21, 2016, to be effective for bills on or after January 1, 2017.

Eric Fris expressed concern about condominium common area fees.

Mayor Nickita noted that a board will be created that is able to review these issues to get clarity. City Manager Valentine added that the Finance Department can be contacted as well.

VOTE: Yeas, 7

Nays, None Absent, None

12-362-16 RECOMMENDATION OF MMTB – OAK ST

City Engineer O'Meara explained in 2014 began to look at Oak Street between Glenhurst and Lakepark, hoping to remove and replace all pavement from the 1930 era. A design was developed for the area. The block in front of Quarton Elementary School had some needs with respect to how the school functions for its student drop-off each morning and afternoon. That safety issue that is ongoing there today required some creativity. A proposal was crafted and the MMTB worked with the school board to advance it. The school board was not ready to move as quickly as the city, so the decision was made to cut out that part of the project in 2015 and move on with the rest of the project. In 2016, Oak Street was rebuilt from Chesterfield to the east. The MMTB would like to address the remaining block as a 2017 project. The school board agreed to a plan as to how that would be addressed.

Some of the highlights include narrowing Oak to a two lane street with parking on the north side in front of the homes existing there. There would be enough room to have a two lane drop off area that is separated from the road by a median across the entire frontage of the school. That would also be used as the entrance to their parking lot that exists today. The median is proposed to be 7 or 8 feet wide at its west end to allow it to be large enough that drivers could make u-turns from westbound Oak Street into the parking area, as well as to allow eastbound traffic to make a simple right turn as is done today. The right lane of the two lane area would be used for parents to stop and unload or pick up children and then return to the left lane to proceed out, making a right turn only to eliminate a backup in the area. Mr. O'Meara said the school feels it is best solution for the area and is ready to move forward, and an agreement with the school district is presented tonight for consideration by the commission.

Subsequent to the School Board approval, the finalized plan was returned to the Multi-Modal Transportation Board (MMTB) for a final review. When the Board reviewed this plan in 2014, there were discussions about installing bike lanes both in front of the school and to the west of the school, and this question was never fully resolved. The City has since constructed Oak St. to the east with bike lanes, and plans to implement a neighborhood connector route loop that will direct Oak St. bike traffic south on Chesterfield Ave. As explained in the attached MMTB documents, the plan agreed to by the School Board does not leave sufficient space for bike lanes (parking on the north side is an important component of the package).

Plans depicting two options were prepared for the MMTB. Option A leaves Oak St. to the west of the school in its present form. Option B uses the existing wide street to install bike lanes for a block and one half (to the City's westerly limit). Option A features bump outs at the N. Glenhurst Dr. intersection, considered appropriate given the large number of students crossing from the neighborhood walking to and from school. If Option B is implemented, the intersection would be reconstructed similar to its present form, and existing parking in this area would be eliminated. The MMTB agreed unanimously that Option A was the preferable choice for the following reasons: 1) Installing bump outs at the Glenhurst Dr. intersection would be beneficial to pedestrians and students using this area; and 2) Given the neighborhood connector route being implemented, plus the lack of bicycle facilities to the west of this area, there does not appear to be much benefit to installing bike lanes to the west of the school.

City Manager Valentine noted that this solution is a significant improvement and makes it a safer environment for children, while taking into context our opportunities for improving the road through our multi-modal means. The resulting agreement utilizes part of the school's property in order to build and facilitate this project and worked with the city on that. It was really a cooperative effort with Birmingham Public Schools.

Commissioner Hoff asked what happened to the traffic light. Mr. O'Meara confirmed the traffic light will remain.

Commissioner Hoff asked will children have to cross the lanes. Mr. O'Meara said they will be encouraged to cross at the Glenhurst intersection as they hopefully do today, walk in front of the tennis courts, and the city sidewalk will curve down to walk right past the front door. She confirmed the sidewalk will be closer to the school.

Commissioner Bordman asked about the timing on construction starting and ending times. Mr. O'Meara said they are planning for the 10 week summer window in 2017.

Commissioner DeWeese noted that this Option A plan is no disadvantage for bikes and is a huge improvement in safety for everyone else.

MOTION: Motion by DeWeese, seconded by Bordman:

To accept the recommendation of the Multi-Modal Transportation Board, approving the conceptual plans for the reconstruction of Oak St. between Glenhurst Dr. and Chesterfield Ave. in 2017.

Jonathon Hofley expressed concern about current and future costs.

Mayor Pro Tem Harris clarified that the school district has agreed to pay a portion of the construction costs. The ongoing costs of maintaining that easement for the intended purposes will be solely the responsibility of the city.

City Manager Valentine clarified that under the easement agreement, the city will handle the ongoing repair and replacement of the concrete.

City Attorney Currier said the city addressed the safety issue with this agreement. Mayor Nickita asked if this sets a precedent going forward on other projects. Mr. Currier said it is not a precedent.

VOTE: Yeas, 7

Nays, None Absent, None

MOTION: Motion by Harris, seconded by DeWeese:

To authorize the Mayor and City Clerk to sign the Intergovernmental Agreement between Birmingham Public Schools and the City authorizing the construction of a parent drop off lane within the Oak St. right-of-way and an easement to be dedicated by the School District for this purpose.

VOTE: Yeas, 7

Nays, None

12-363-16 QUARTON ROAD STORAGE SEWER PROJECT

City Engineer O'Meara explained that the city has been working with the Oakland County Water Resources Commissioner's office on various sewer projects that will occur to the north of us on the Evergreen-Farmington sewer. The projects undertaken by the OCWRC earlier this year in the areas of Municipal Parking Lot #6 and Springdale Golf Course were considered Phase I projects. The significant project that occurred at the intersection of Adams Rd. and Wattles Rd. to the north of Birmingham was also a Phase I project. This is the last Phase I project to be undertaken by the OCWRC. Mr. O'Meara explained the need for the project to address a known capacity deficiency in the County sewer system. The point of failure has been identified as a manhole in the Redding Rd. and Lakeside Dr. intersection. The construction impact will be next summer, resulting in the Quarton closure at the Lakeside Dr. intersection for about two weeks, and is expected to occur in approximately June. All four lanes of Woodward are being planned to remain open the majority of the time, and an effort will be made to be essentially finished before Dream Cruise in August.

The city's share is estimated to be 0.2% of the total drainage area, which is about \$11,000.

Commissioner Hoff suggested the estimated cost be included in the resolution. City Manager Valentine noted that the amount and percentage is included by reference in Exhibit B of the contract. Mr. O'Meara confirmed that the city would be responsible for overages on a percentage basis.

MOTION: Motion by Hoff, seconded by Bordman:

To approve the contract between the County and the Municipalities relating to the acquisition and construction of the Evergreen Farmington Sewage Disposal System North Evergreen Interceptor Quarton Road Storage Improvements (the "Contract"), which Contract provides that the City will pay its share of the cost of the Project in cash; that for the making of such payment thereunder the City will pledge its full faith and credit and limited taxing power; and for other matters relating to the Project and the acquisition, construction, financing and operation thereof, all under and pursuant to Act No. 342, Public Acts of Michigan, 1939, as amended. Further, approving the preliminary plans for the Project, and the estimates of the cost and period of usefulness thereof, as contained in Exhibits A and B to the Contract. Further, authorizing and directing the Mayor and the City Clerk to execute and deliver the Contract for and on behalf of the City. Further, authorizing and directing the City Clerk to publish the notice hereunto attached in the Birmingham Eccentric and so as to be prominently displayed therein.

John Hofley asked about lifespan of this project.

VOTE: Yeas, 7

Nays, None Absent, None

12-364-16 2017 ANNUAL REVIEW OF FEE SCHEDULE

City Manager Valentine explained the fee schedule is the way the city adjusts the fees and charges provided for under ordinance. A review is provided by staff and a recommendation for potential changes is included which will be effective for January 2017.

15

MOTION: Motion by Sherman, seconded by Boutros:

To amend the Schedule of Fees, Charges, Bonds and Insurance, Engineering

Department/Department of Public Service section, and Building Department section, as stated in the report and adopting the revised Public Records Policy.

VOTE: Yeas, 7

Nays, None Absent, None

12-365-16 CLOSED SESSION – ATTORNEY/CLIENT PRIVILEGE COMMUNICATION

MOTION: Motion by Boutros, seconded by Hoff:

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

ROLL CALL VOTE: Yeas, Commissioner Boutros

Commissioner Hoff Commissioner Sherman Commissioner DeWeese Commissioner Bordman Mayor Pro Tem Harris

Mayor Nickita

Nays, None Absent, None

VII. REMOVED FROM CONSENT AGENDA

12-366-16 CITY COMMISSION MINUTES NOVEMBER 14, 2016

Commissioner Hoff suggested changing the word on page 6 from "contest" to "context". On page 7, change the word from "changing" to "doing". On page 8, change the word "experiences" to "experienced".

MOTION: Motion by Hoff, seconded by DeWeese:

To approve the minutes of November 14, 2016, as amended.

VOTE: Yeas, 7

Nays, None Absent, None

Commissioner Hoff asked about the October 27, 2016 minutes that were requested to be amended and returned for approval. They will be brought back to the commission for approval on December 12, 2016.

12-367-16 2016 TREE PLANTING PROJECT - WOODWARD (NORTH OF OAKLAND)

Commissioner Bordman requested clarification on the size of the trees to be planted in the location. City Manager Valentine explained that these are for the Woodward median as part of our annual transplant program. This one is unique because of the participation from MDOT to fund half the cost of the tree purchase.

She also expressed concern about the tree species, and a replacement guarantee. She said these trees are balled and burlapped, and there is a big issue whether the burlap is removed upon planting, because if the burlap is not removed, the trees will eventually die. which may cause the trees to die.

Mr. Valentine noted that we have a tree list of acceptable trees. He will direct Director Wood to prepare a response to Commissioner Bordman's concerns and questions, and requested that this item be approved tonight, so that the trees can be planted in a timely fashion.

Mayor Nickita suggested that all of the standards be included in the future.

MOTION: Motion by Bordman, seconded by DeWeese:

To approve the purchase and planting of fifty-three (53) trees from KLM Landscape for the 2016 Woodward North of Oakland tree planting project for a total project cost not to exceed \$12,310.00; further authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of all required insurances. Funds are available from the Major Streets Fund-Forestry Service Contract account #202-449.005-819.0000 in the amount of \$6,155 and the Major Streets Fund-Operating Supplies account #202-449.005-729.0000 in the amount of \$6,155 for these services.

VOTE: Yeas, 7

Nays, None Absent, None

VIII. COMMUNICATIONS

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

X. REPORTS

12-368-16 COMMISSIONER REPORTS

The Commission intends to appoint members to the Public Arts Board on January 9, 2017.

12-369-16 COMMISSIONER COMMENTS

Commissioner Harris noted that he has received a number of complaints on what is believed to be a dangerous condition at Woodward and Oak. He has walked it himself recently, and he agrees it is dangerous. He understands the city does not have jurisdiction over that area, and wondered if the commission might discuss it in the future.

City Manager Valentine said he has spoken with MDOT about this crossing, and they have a plan for changing crossings on a state-wide level. The crossings that are planned for 2019 include Maple and 14 Mile, based on prior discussions with the city going back about five years. Signal modification is the focus which effectively improves the crosswalk in the intersection. He indicated the issue of Oak and other intersections and how to include them on the list. MDOT's response was when it begins the next bid process, MDOT will come to the city for its requests. The alternative is to improve it on our own at the city's own cost. At this time, no improvements are included on the MDOT list for Oak and Woodward.

Commissioner Harris suggested the city investigate all options; we have to consider either paying for it ourselves, or adjusting the state's priorities.

Commissioner Bordman shares the same concern, and encouraged the city to write a stern letter to the state because of the unsafe condition. There is a traffic light; there is no crosswalk. We expect the state to address and correct the unsafe condition.

Mayor Nickita said he and the City Manager have had discussions about this unsafe condition. He explained that Woodward Avenue is a state road under the state's control. It runs through our city, and if it is a concern for us and our residents for the use that we have, the city needs to make it clear to the state that it needs to be addressed. He believes our discussion would be whether to wait for the state to go through their process, or be more proactive and pay the cost ourselves. He suggested that long range planning or the budget discussions would be the place to discuss this.

Commissioner DeWeese would like the city to look at it and others that have this need.

Commissioner Bordman said there is a difference between an improvement to a traffic signal and putting a crosswalk where there is none. It should be evaluated by the state in a different manner.

City Manager Valentine said he will stress her concerns with the state. He noted the state has a more regimented approach in dealing with our crossings.

Commissioner Bordman believes a letter from our City Attorney notifying MDOT that there is a safety concern will get a certain kind of attention that is not available otherwise.

Mayor Nickita said we need to evaluate the best way to deal with this issue.

City Manager Valentine said getting MDOT to actually make changes is going to be a long-term proposition, and he believes there are things the city can do locally to mitigate some of the safety concerns, including changing the crosswalk patterns along Woodward Avenue to make them more visible.

Mayor Nickita agreed, and suggested long range planning for a report providing options to pursue and strategies to implement.

The Commission recessed to closed session at 10:17 PM. The Commission reconvened in open session at 11:10 PM.

XI. ADJOURN

The meeting adjourned at 11:10 PM.

Cheryl Arft Acting City Clerk

BIRMINGHAM CITY COMMISSION MINUTES DECEMBER 12, 2016 MUNICIPAL BUILDING, 151 MARTIN

7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Mark Nickita called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL: Present, Mayor Nickita

Commissioner Bordman Commissioner Boutros Commissioner DeWeese Mayor Pro Tem Harris Commissioner Hoff Commissioner Sherman

Absent, None

Administration: City Manager Valentine, City Attorney Currier, Acting Clerk Arft, DPS Director Wood, Police Chief Clemence, Finance Director Gerber, City Engineer O'Meara, City Planner Ecker, Fire Chief Connaughton

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

12-370-16 APPOINTMENT TO THE HISTORIC DISTRICT STUDY COMMITTEE

MOTION: Motion by Hoff:

To appoint Paul Beshouri to the Historic District Study Committee to serve a three year term to expire June 25, 2019.

VOTE: Yeas, 7

Nays, None Absent, None

Commissioner DeWeese added that there are still open positions on this committee, and suggested individuals contact the Clerk's Office for more information.

12-371-16 APPOINTMENT TO THE CABLECASTING BOARD

MOTION: Motion by Harris:

To appoint Scott Weller to the Cablecasting Board to serve the remainder of a three-year term on the Cablecasting Board to expire March 30, 2017.

VOTE: Yeas. 7

Nays, None Absent, None

Commissioner DeWeese noted this board has an alternate position available.

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.

12-372-16 APPROVAL OF CONSENT AGENDA

MOTION: Motion by Hoff, 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 December 7, 2016 in the amount of \$1.851,265.14.
- C. Resolution approving a request submitted by the Community House to hold the Bates Street Block Party on Merrill and Bates on August 12, 2017, 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.
- D. Resolution approving a request submitted by the Memorial Day Committee to hold the Memorial Day Ceremony and aerial fly over on May 29, 2017 at 10:00AM, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.
- E. Resolution accepting the resignation of Adam Charles from the Board of Trades Appeals, thanking Mr. Charles for his service, and directing the Acting Clerk to begin the process to fill the vacancy.
- F. Resolution authorizing Bowen Electric, LLC to install electrical and communications wiring in four parking structures in preparation for the installation of Skidata traffic control equipment at all entrance and exit gates, at a total cost of \$38,426, according to the following schedule:

 Pierce St. Structure
 585-538.002-981.0100
 \$10,478

 Park St. Structure
 585-538.003-981.0100
 \$9,360

 Peabody St. Structure
 585-538.004-981.0100
 \$9,200

 N. Old Woodward Ave.
 585-538.005-981.0100
 \$9,388

G. Resolution appointing Mayor Mark Nickita to serve as the City's delegate to SEMCOG and City Manager, Joe Valentine, to serve as the alternate.

ROLL CALL VOTE: Yeas, Commissioner Hoff

Commissioner Boutros Commissioner Sherman Commissioner DeWeese Commissioner Bordman Mayor Pro Tem Harris

Mayor Nickita

Nays, None Absent, None

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

12-373-16 POPPLETON PARK CONCEPT SITE PLAN DATED SEPTEMBER 19, 2016.

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DPS Director Wood provided the history of this project to date. The city hired M. C. Smith Associates and Architectural Group, Inc. to provide professional landscape architectural services to Poppleton Park in order to create a concept site plan. The services included an existing site analysis, attending meetings and developing a concept site plan based on public input.

The concept site plan is the first step to establish a "wish list" for a particular city park, which then becomes a tool to assist with planning efforts followed by more public discussions. It also makes for an ideal opportunity to incorporate the Poppleton Park concept site plan in the comprehensive 2012-2016 Parks and Recreation Master Plan, which is set to be updated during 2017. Once included in the overall Master Plan document, such Concept Plans can then be utilized for additional planning, budgeting and assist in applying for grants. Plus, it is a great opportunity to use to encourage donations for possible site amenities in the years ahead.

By way of some background, Poppleton Park is a 17.21 acre City property classified as a community park. Community parks typically contain a wide variety of recreation facilities to meet the diverse needs of residents from the community. They may include areas of intense active recreation as well as passive recreation opportunities not commonly found in neighborhood parks. Community parks can be large in size, but also include smaller parks meant to serve the entire community.

The City of Birmingham Parks and Recreation Master Plan 2012-2016 has identified Poppleton Park as part of the park improvement plan for a variety of potential updates. In addition, the fiscal year 2015-2016 budget planned for the creation of a concept site plan for Poppleton Park. Plus, as the result of a joint meeting of the City Commission and Parks and Recreation Board from September 15, 2014 Poppleton Park was highlighted among others as a priority. This called for the evaluation of parking options to relieve neighborhood impacts and to improve existing park conditions over and above general maintenance. So, as a result of planned initiatives the outcomes of this ongoing process to prepare a park concept site plan assists the administration in planning for long-term recreational improvements. This helps with a variety of tasks such as establishing priorities, timelines, budgeting and preparing action plans to address community concerns over the upcoming years.

During the course of this year, public input meetings about Poppleton Park included a Public Workshop held at the February 2, 2016 Parks and Recreation Board meeting. A second public input session was held on the October 5, 2016 meeting at the Parks and Recreation Board meeting to review a proposed concept site plan for Poppleton Park. The end result based on the Public Workshop held on February 2, 2016 and October 5, 2016, including public communications, neighborhood requests, review of parking options and the Parks and Recreation Master Plan is included herewith as a concept site plan which was adopted and endorsed on October 5, 2016 by the Parks and Recreation Board. In an effort to provide some additional details pertaining to the Poppleton Park Concept Site Plan a letter dated November 7, 2016 to Birmingham Community Members is enclosed as additional material.

The attached public notices were mailed out to all Homeowner Association Presidents and other interested parties including print media and various electronic media sources such as E-notify, City website and social media about the February 2, 2016 and October 5, 2016 public meetings. Also included with the material is a very rough cost estimate for Poppleton Park improvements based on the layout and design of the proposed concept site plan. The estimates are strictly projections for construction costs and do not represent actual bids. They serve as a guide to help determine project scope, phasing opportunities and for budgeting park priorities

community-wide. The approved minutes from the February 2, 2016 and October 5, 2016 Parks and Recreation Board meetings are attached to serve as a reference to the Public Workshops. Also, included in this agenda packet are the various community emails from the public and communications regarding Poppleton Park, submitted in advance of this report being assembled.

Next steps going forward would be to include the accepted Concept Plan with the updated Parks and Recreation Master Plan in the upcoming year. The Concept Plan will also serve as a placeholder for future planning, budgeting opportunities and a starting point for design and development for ongoing park improvements.

Michael Smith, Tiffany Smith, and Melinda Whitten of M.C. Smith Associates and Architectural Group were present to describe the Concept Plan. Mr. Smith described the park's existing conditions after evaluations were made of the site and with the DPS staff. He described it as not a very extensive park. It is a green space with an outdated playground and a couple of recreation activities.

One of the most important things was to develop appropriate spatial allocation for the barrier-free play area for both upper and lower level age groups to be used for both neighborhood and community use. Shelter buildings are always included for the playgrounds for shade shelter. Accessible walks were designed to provide access into the playground. The ballfield is utilized a great deal and needs some improvements. The open space could be significantly improved for better drainage for multi-use open space. Mr. Smith is aware of the controversy over trees that are in the field, and there is no interest in taking out trees where not appropriate. Once a detailed topographic survey and soil evaluation are done, then further determinations can be made on how they fit in a regrading plan and as far as saving and maintaining the trees. They have designed a picnic shelter for group utilization at the end of the open area. The accessible walkways around the entire park with good connections to the neighborhoods are an important aspect in the plan. Parking needs were discussed with safety in mind.

Mr. Smith said this park is not consistent with the community's quality and stature at this time. It has the opportunity to be an outstanding neighborhood and community resource. Parks are quality of life issue for communities.

Commissioner Boutros asked for the location of new trees.

Commissioner Hoff asked to establish experience in Birmingham. Mr. Smith said that he worked on the Master Plan for the Rouge River Trail, and the Design/Master plan and the engineering for Barnum Park.

Mayor Pro Tem Harris asked if any component is necessarily dependent on another. Mr. Smith said if the playground is improved, then the city needs to provide barrier-free walkways to the playground of a maintainable hard surface material. He said the other pieces are somewhat the city's prerogative. Parking is an evolution of additional analysis. From a priority perspective, he suggested undertaking the playground first, then the open field, then walkways.

Commissioner Bordman confirmed Mr. Smith said that if we improve the playspace/playground area, we would have to add to barrier-free accessibility to the play areas.

Commissioner Hoff asked how the Concept Plan was developed. Mr. Smith received an outline that came from the Parks & Recreation Master Plan and the Park Board and was given a list of appropriate kind of program elements that were desirable from the city's perspective. Their job was to facilitate those ideas and show how much space it takes to do the playground and how much open space would be appropriate for a park of this size and how it best orients on the land.

Commissioner DeWeese said that this plan comes across as a single package, but if we choose some things over others, he asked if another Concept Plan is needed. Mr. Smith said the next step is to determine the direction the city wants to take to improve the park. A topographic survey would be done to be precise about the drainage and conduct soil borings; then he would start a design/development or master plan to receive additional input from everyone in the community on the playground, landscaping, etc.

Mayor Nickita said this park has not been addressed in many years. Mr. Smith has identified the deficiencies in terms of drainage, slope, etc. He asked Mr. Smith to explain site lighting upgrades and how that would be incorporated. Mr. Smith said the security lighting would be set so they are visible to prevent possible vandalism or inappropriate activities.

Mayor Nickita noted that this plan includes and discusses the issues of the current playground, drainage, soil, grading, and ADA accessibility. He added that the proposed Concept Plan discusses the current day standards for the park to bring it up to the standard that allows for basic functions, and not just the addition of elements.

Mayor Nickita asked how Mr. Smith arrived at the need for 88 parking spaces, and if that was based on the number thought to be needed, or was it based on the capacity that the design allowed for in the way it was configured. Mr. Smith said the number of spaces grew slightly based upon input from MDOT planners. He said parking is a highly negotiable element, and while the park is city land, their roadway is being accessed and MDOT has appropriate input into how, and with what access occurs.

Mayor Nickita said that once the parking lot is accessed from Woodward, we now have included MDOT in the discussion as to what the requirements are because it is now part of the roadway responsibility. He explained that Woodward Avenue is not controlled by the city, since it is a state street. Mr. Smith said the city will have the benefit of MDOT's expertise in terms of access.

Mayor Nickita said he is trying to determine the different drivers in determining that number. Mr. Smith said with the parking being as sensitive an issue, the total quantity of additional parking is something that needs to be further evaluated and substantiated based upon the community needs and standards. He considers it a community park because of the features it has and the size of it in the city.

Commissioner Sherman commented that it was good to see so much interest in this issue to assist in the decision the commission will be asked to make. He said we are being asked to accept the Concept Plan or reject it. There is also a third option to accept and remove elements of the plan. Concept Plans are not adopted; they are only accepted, rejected or modified. The plan is held for a more in-depth discussion when the opportunity arises. It is viewed as a placeholder or a wish list of things that we want to think about when we want to develop. The city has a history of doing it this way.

Commissioner Sherman said they have received much communication about the Concept Plan which has been very helpful. He noted that the entire community has been talking about this plan before the Commissioners had seen it, and that is how a Concept Plan is supposed to be developed. The Commissioners' opinions, while relevant because of funding and budgeting, is not as important as the public's is.

Commissioner Sherman suggested that this is a park Concept Plan, and he believes the parking should be removed from the park Concept Plan.

MOTION: Motion by Sherman, seconded by Bordman:

To remove the parking element from the park Concept Plan, and move on to discuss the park and recreation elements of the park Concept Plan.

Commissioner Hoff said she is supportive, because that is the element that has appeared in most communications. There is a cohesive voice against the 88 spots on Woodward.

Commissioner Boutros said he is pleased with the motion.

Commissioner DeWeese is supportive of the motion. This park is due for getting close to its potential.

Mayor Nickita is in support of the idea of removing the parking. This sets the city in a position to be ready to go to the next level of identifying funding, and budgeting for improvements to enhance the parks.

Mayor Nickita said as opposed to having everyone in the audience come up to speak on the motion, and after having taken an informal show of hands that indicated that the public is unanimously in support of the motion on the floor, to remove the parking element from the park Concept Plan.

Jeff Hagen commented on Woodward access. Mayor Nickita said that access from Woodward would be included.

John Rushe commented about drinking fountains and picnic shelter.

Christine Fields expressed concern about the process. Mayor Nickita indicated that will be discussed next.

John Barry suggested amending the motion. Mayor Nickita clarified the motion is only about the park Concept Plan which includes the proposed parking element.

Commissioner Hoff called the question.

VOTE: Yeas, 7

Nays, None Absent, None

Mayor Nickita suggested having a productive dialog about the other items, keeping in mind a major component is general upgrade of items that have been overlooked for a while. By

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moving the plan forward in some way, the city is able to look at funding. He suggested starting off the discussion with the play structure and playground area element.

Commissioner Hoff said she saw the most support for an updated playscape area to make it accessible for all.

Commissioner Bordman said she received communications from those who have special needs children. There is nowhere in the city for those children to play. She is supportive of universally acceptable playscapes.

Commissioner Sherman said it definitely belongs in the Concept Plan, and it would be interesting to hear if there is any opposition to it.

Mayor Nickita experienced the dramatic difference in the play structure that was updated at the park near his home.

Commissioner Hoff said tonight we are just approving an upgrade to the play area, but not selecting. She asked Mr. Smith if there are currently paths to get in to the area, and that paths should be included to be accessible.

Commissioner Boutros thinks the new play area is a must. It must be safe for everyone.

Mayor Nickita asked for comments about the drainage upgrade.

Commissioner DeWeese <u>said that the drainage upgrade</u> will help make greenspace more usable. It is not now living up to its potential.

Mayor Nickita said that leads to the idea of the open, multi-use level play area in the space.

Commissioner DeWeese said people would like more trees to enhance certain areas of the park, and prefer that mature trees not be removed. The proposal calls for 90 new trees in various locations to replace some that are diseased and dying.

Mayor Nickita said the site lighting deals with security issues. Mr. Smith added that he prefers input from the Police Department.

Commissioner Hoff said the walking path and the shelter are two of the other elements that are more controversial and the Commission should discuss.

Commissioner Bordman asked what is the intention for the shelters. Mr. Smith said that most shelters are used by families for picnics, neighborhood picnics, teachers, educators for classes, lunches, and the community. Most communities schedule their utilization. He believes without the parking, the shelter still has value for neighborhood school groups and people who want to utilize the shelter. That location provides proximity to view the entire field area and shade from the sun.

Mr. Smith said the playground shelter is essential for sun protection, and they rarely do a playground of this type without some shade shelter.

Commissioner Bordman asked Ms. Wood about renting the pavilion in Springdale and asked if this is the intent for the shelters being discussed. Mr. Smith added that the shelter in the play area should not ever be rented as it will be used for people to sit as their children play. Ms. Wood added the larger one was placed for the activities there. If the city were to permit it for rentals, it would follow the policy of the city.

Commissioner Bordman feels we do not really need the larger shelter, and we should encourage the shelter designed for the play structure for the reasons given.

Mayor Pro Tem Harris concurred with Commissioner Bordman about the large shelters. He said he has heard that walking paths are almost universal in new parks in the metro area. Mr. Smith said walking is the number one activity now. The path provides a great recreation opportunity for everyone.

Commissioner DeWeese noted that the Barnum master plan contains a picnic shelter. He is supportive of Commissioner Bordman's suggestion about the shelters.

Commissioner DeWeese suggested that walking paths are a very good way to get people into the park. He heard concerns about the closeness of the north side path to the homes there. The path could be designed to be moved away from the homes, and he does not want to eliminate the path because of a concern which could be alleviated or resolved.

Commissioner Boutros suggested that since the parking along Woodward has been eliminated, we may want to consider benches along the walking path, rather than the shelter.

Mayor Nickita agreed that the shelter in the play area is a must. He found the other one less a value to the park. Given the fact that there are other areas that they exist or will exist at some point, he is not sure it is necessary. He finds the walking paths valuable and uses the Barnum paths a great deal. He anticipates that Wimbleton residents that live near Abbey would like to have some type of path to get to the park rather than walking on grass. He thinks adjustments could be made to the path to provide a level of comfort to the residents in the homes near the pathway.

Commissioner Hoff is in favor of the walking path in the Concept Plan, and agrees with the one shelter. She asked about the restrooms. Mr. Smith said the current plan has enclosures or a screen for portable toilets to soften the look. They would be placed on a pad, and would be ADA accessible with a paved walkway to them.

Commissioner DeWeese said the drinking fountains and improvements to the ball field seem to be popular.

Mayor Pro Tem Harris asked Ms. Wood about outfield improvements. Ms. Wood said general improvements include a new fence, new grass and a warning path.

Mayor Nickita invited the public to offer brief comments.

Ruby Teegarden is concerned about the walking path near the home and cutting down any healthy trees and is supportive of all the other details discussed.

Anne Bray suggested using hydrology relative to drainage issues.

Heidi Geissbuhler commented on the location of the walking paths near the homes, and is concerned about the ball field and street parking.

David Wilner commented on communication, walking paths, and safety of the park.

Joern Buss commented on ongoing costs, other forms of walkways, and opening up competition for design.

Glen Maylath commented on the playground and is against walking paths inside the park.

Stacy Miller commented on the play structure and is against walkways.

Margaret Kowal commented on green open space and is against paths inside the park.

Clinton Baller commented on community involvement.

Steve Howell commented on increasing accessibility, improving drainage, and changing the character of the park.

Tim Teegarden commented on the ball field and the value of green space and trees, and limiting walkways.

Commissioner Bordman suggested investigating why the field is wet and based upon results, we may want to consider something else. She does not want to overlook it.

DPS Director Wood responded that would be done as a normal course of action for any projects, with a site survey. When design and development plans are underway, that would be looked at then.

Commissioner Hoff said much of what has been discussed has been acceptable, except for the five comments against walkways. She would like to discuss moving forward on this motion.

Commissioner Sherman said a number of comments were concerned about materials that might be used whether or not there is an extensive pathway system through the area or something less elaborate; that is beyond the detail we have to get to here. The question is should there be some accessibility into the playgrounds and ballfield. We are not designing the park, so he is not sure we should pull that out.

City Manager Valentine said the question is whether these are the elements we want to study further.

Commissioner Hoff said we have to be very clear on what we are accepting.

City Manager Valentine said accepting this Concept Plan with the elements that have been included in it affords it the opportunity to move forward in the Master Plan update. Then the Parks & Recreation Board will look at these elements for further study and prioritization. During that process, consensus is reached on the elements to move forward on, and then the final design and development aspect would be implemented at a later date. That would get into the detail level of the elements in the Concept Plan.

MOTION: Motion by Hoff, seconded by Bordman:

To accept the Poppleton Park concept site plan dated September 19, 2016.

Commissioner Boutros said we are not itemizing and will set the details later.

Commissioner Mayor Nickita said he gathered from a few Commissioner and public comments, we were not necessarily in favor of the shelter. He suggested making a revision to the Concept Plan if that is the case. As far as the walking path, he is sensitive to the fact that this park has a tendency to have a somewhat natural condition, and some of the comments were in favor of maintaining that situation. At the same time, the walking paths refer to access to the playground, and when looking at the plan, there are paths around the playground and the ballfield. There are walking paths that are important for access, and he is reluctant to say we want to take out the walking paths without being specific. He suggested making clarification in the Concept Plan that the accessibility to those areas are important and perhaps not as important in other areas which would be studied further when it gets to that point. He asked if Commissioner Hoff would refine her motion to address the shelter.

Commissioner Hoff agreed and offered the following motion:

MOTION: Motion by Hoff, seconded by Bordman:

To accept the Poppleton Park Concept Plan, including one shelter near the play area, and ensuring walking paths accessible to the play area and ballfield.

Mayor Pro Tem Harris suggested the motion be refined to approve the plan and exclude the picnic shelter on the west side of the park dated September 19, 2016. Commissioner Hoff agreed to that restatement.

Commissioner Bordman agreed to second the refined motion.

Commissioner DeWeese pointed out that the comments are public record to direct staff and future consultant activities.

Sherman called the question. The clerk read the motion.

MOTION: Motion by Hoff, seconded by Bordman:

To accept the Poppleton Park Concept Plan, excluding the picnic shelter in the western corner of the park dated September 19, 2016.

Commissioner DeWeese confirmed with City Attorney Currier that the parking is excluded with this motion.

Mayor Nickita said the Concept Plan will be used as the basis for implementation. There will be opportunity to refine the plan, to bring those concepts together, and to include some of the ideas about a refinement of the design.

Cynthia Rose commented about a picnic shelter.

Margaret Kowal commented that she would like the walking path removed that goes behind the houses on Wimbleton Drive.

VOTE: Yeas, 7

Nays, None Absent, None

Commissioner Sherman left meeting at 9:42 PM.

12-374-16 PUBLIC HEARING TO CONSIDER THE PROPOSED LOT SPLIT OF 1286 WILLOW LANE.

Matthew Baka, Assistant Planner, explained the request of the applicant, who is the owner of the property known as 1286 Willow Lane, as seeking approval for a division of property in order to split the existing parcel into two (2) single family lots. The parcel at 1286 Willow Lane had previously been altered from its original size and therefore requires City Commission approval in order to execute the requested lot split. The current proposal is to split the existing large parcel into two lots with the majority of the property creating a 142.5' wide parcel on the southern portion and an 85' wide parcel on the northern portion. There is currently a large single family home on the property that would be demolished if the requested lot split is approved. The lots would then be developed with one single family home on each. The new homes would be subject to all R-1 zone regulations as required by the Zoning Ordinance. Enclosed are copies of surveys provided by the applicant depicting existing and proposed conditions.

The Subdivision Regulation Ordinance (Chapter 102, Section 102-53) requires that the following standards be met for approval of a lot division:

(1) All lots formed or changed shall conform to minimum Zoning Ordinance Standards.

The subject property is zoned R1, Single Family Residential. The minimum lot size per unit in the R1 zone is 9,000 sq. ft. The altered parcels that result from the lot split would conform to minimum Zoning Ordinance standards as set out in Article 02, Section 2.06 of the Zoning Ordinance, for the R-1 Zoning District. The proposed split would create an 11,900 sq. ft. parcel on the northern portion and a 19,950 sq. ft. parcel on the southern portion on the property. Accordingly, both of the proposed parcels would be in excess of the required 9,000 sq. ft. minimum lot size for the R-1 Single Family Residential District. Accordingly, the proposal meets this requirement.

(2) All residential lots formed or changed by the division shall have a lot width not less than the average lot width of all lots on the same street within 300 feet of the lots formed or changed and within the same district.

The proposed parcel to the north would be 85' wide and the proposed parcel to the south would be 142.5' wide. The average lot width of lots in the area is 126.42' wide. Accordingly, the parcels created by the lot split will not meet this requirement.

- (3) The division will not adversely affect the interest of the public and of the abutting property owners. In making this determination, the City Commission shall consider, but not be limited to the following:
 - a. The location of proposed buildings or structures, the location and nature of vehicular ingress or egress so that the use of appropriate development of adjacent land or buildings will not be hindered, nor the value thereof impaired.

- b. The effect of the proposed division upon any flood plain areas, wetlands or other natural features and the ability of the applicant to develop buildable sites on each resultant parcel without unreasonable disturbance of such natural features.
- c. The location, size, density and site layout of any proposed structures or buildings as they may impact an adequate supply of light and air to adjacent properties and the capacity of essential public facilities such as police and fire protection, drainage structures, municipal sanitary sewer and water, and refuse disposal.

The applicants have indicated their intent to construct new single-family homes on the lots if the requested lot split is approved. The new homes would be subject to all R-1 zone regulations as required by the Zoning Ordinance. Current ingress and egress would continue to be maintained off of Willow Lane.

The proposed lot division will not hinder the development of adjacent properties. The subject property is not located within the floodplain or soil erosion limit of a recognized stream, river, lake or other water body. The site does not appear to exhibit evidence of regulated wetlands or endangered species of flora and fauna. The proposed lot rearrangement and property transfer will not affect any natural features on the site.

The proposed lot rearrangement will not negatively affect the supply of light and air to adjacent properties. It will not negatively affect the capacity of essential public facilities. City departments have no objections to the proposed lot split.

The proposed lot split does not meet standards #2 as outlined in the City Code. However, the following section of the City Code gives the City Commission the authority to make exceptions as follows:

Sec. 102-4. Waivers

The city Commission may waive the requirements as set forth in this chapter in those instances when the Commission determines that the enforcement of such requirements might cause unnecessary difficulties on the applicant or where the Commission determines that a waiver of any such requirement by the Commission shall not preclude the applicant from complying with all provisions of chapter 126 of this Code.

Commissioner DeWeese questioned the history of the parcels. Mr. Baka said that over the years, people bought multiple lots and also split lots on either side of them. They are at the Commission because they own portions of different lots and did not combine two existing lots that had never been combined; the code would allow that to be administratively approved.

Mr. Baka confirmed that the city code says that all plats that have not been altered from their original form can be administratively split. Mr. Baka confirmed that the plat has been altered at some point, so it must come to the Commission tonight.

Commissioner Hoff said the Commission received a packet of materials from property owners on Willow Lane objecting to this lot split. She would like to hear the objections.

Mayor Nickita observed that the sketch appears to show that the site itself is to some degree in scale to the lot to the south and the lots to the west in terms of context with larger, wider lots

with homes a bit longer. The houses to the north on three lots and the houses on the next street to the east are more in line with the potential, proposed lot split. He continued that when the Commission looks at lot splits it considers how the existing and potential lot split falls in line with the context. That is a consideration to recognize since it is one of the criteria we consider.

Mayor Nickita opened the Public Hearing at 9:53 PM.

Peggy Cook, Willow Lane resident, described the street as not a through street. She said the difference in the proposed lot width is a significant shortcoming and fails by 40 feet, and should be enough for the Commission to deny the lot split. A waiver can be granted if the enforcement of the requirements will cause unnecessary difficulties on the applicant. She said that means the applicant must convince you that there is a reason you should ignore what is clearly stated in the requirements. She said there is no evidence that this will cause the applicant any hardship. The application states that the owners' intention is to market the new parcel for sale. She said that this action will trigger a domino effect. The residents are also concerned about the infrastructure. She said the Commission has an obligation to deny the split.

Ed Mann, Willow Lane resident, said the subject house was built in the 1930's. He fully supports Ms. Cook in her objections.

Attorney Leslie Banas represents the applicants. She responded that the owners are not developers and are current residents of Birmingham. Their goal is to enhance the character of the neighborhood. It is an older house that is not environmentally sustainable, is antiquated, and does not suit the needs of the kind of family that the applicants have, so they wish to improve it. The lot is extremely wide at 227 feet, far wider than any other lot on the street. She said the smaller lot of the two being proposed would result in a square footage of over 11,000 s.f. Since the minimum for R1 is 9,000 s.f., they would still have a lot that is far larger than the minimum requirements. A house there could be over 3,000 s.f. They wish to build a home that is suitable for the community and since they will be selling the second lot, they can take into account the kind of owner that will be building a home on that property since they would be their neighbors. She said the criteria in ordinance that has been referred to affects the general public and abutting property owners.

Tim Page, Willow Lane resident who abuts the subject lot, said Willow Lane is a park-like street and strongly objects to the split.

Ben Templeton, Templeton Building Company, is the applicant's builder. He described the type of home they would like to build to fit in the neighborhood.

Tom Saeli, Willow Lane resident and lives on the street from the subject lot. He was not able to sign the petition but he objects to the lot split.

Ryan Robison, Willow Lane resident who lives across the street and just south of the subject lot, disagrees that just abutting property owners have more voice in this matter. He opposes the lot split at every level.

Peggy Cook said the law says the lot must meet the minimum width standard, and this does not meet the standard. She urged the Commission to deny the split.

Commissioner Hoff commented that the existing house can be torn down and the new home can be built on the lot, so there is no problem building the home on that lot. The only question is selling off a part of the lot.

Mayor Pro Tem Harris asked Mr. Baka if the split would comply with chapter 126 of the code. Mr. Baka responded that they would have to meet all the criteria of chapter 126. They have not presented plans at this point. He confirmed they would not have the option to not build it to compliance with the code.

Mayor Pro Tem Harris noted the neighbors who are opposed claimed that the lot split, if approved, would tax the existing infrastructure. Mr. Baka asked the City Engineer, and he felt it would not create an undue burden that would accelerate the deterioration of the system. He did note that most of the sewers in the area are between 80 and 90 years old.

Mayor Pro Tem Harris asked when the applicants knew that they had to split the lots to satisfy what they wanted to do. Mr. Templeton said they knew the rules when the property was purchased. The hardship is the finances.

Mayor Nickita closed the Public Hearing at 10:28 PM.

MOTION: Motion by Hoff, seconded by DeWeese:

To deny the lot split of 1286 Willow Lane as proposed based on the following conditions that adversely affect the interest of the public and of the abutting property owners:

- 1. Because a majority of the residents on Willow Lane are opposed to the lot split.
- 2. The abutting residents at 1344 and 1234 Willow Lane oppose the lot split.
- 3. This does not meet the requirement of the average lot width which is 126.42 feet.

Mayor Pro Tem Harris is inclined to support the option for the latter two reasons.

Commissioner Bordman expressed concern with the width issue. She said 40 feet is a significant difference, and for that reason she is supporting the denial.

Mayor Nickita said there is legal criteria as well as other criteria. There have been questions about whether this is a hardship, and he heard nothing to support that it is. There is something to be said about adhering and recognizing the character of the street as part of the discussion and as part of the thinking. It does not seem that this street is in transition like many of the city's streets are. This seems to be a street that has been stable for a long time and likely will be for some time in the future, and therefore it is not in this transitional mode that many other streets are in.

Commissioner Boutros agreed that the applicant can build a dream home on the lot and satisfy the neighborhood. He supports the motion to deny.

VOTE: Yeas, 6

Nays, None

Absent, 1 (Sherman)

Mayor Nickita recessed the meeting at 10:33 PM.

12-375-16 MKSK DESIGN FOR OLD WOODWARD AND MAPLE.

City Planner Ecker provided background on this item. On November 21, 2016, the Multi-Modal Transportation Board ("MMTB") reviewed the proposed 66' wide road section recommended by MKSK for Old Woodward, and the 40' section recommended for Maple. After lengthy discussion, the board voted 4 to 3 in favor of recommending approval to the City Commission of the proposed 66' cross section, with back in angled parking. The three dissenting voters cited the need for additional public input and emphasized the importance of Old Woodward in Birmingham and the need to make greater gains for pedestrian and other multi-modal elements.

On November 21, 2016, the City Commission also reviewed the proposed 66' road section as recommended by MKSK, and discussed the recommendation of the MMTB to approve the section with back in angled parking. Several City Commissioners and members of the public expressed concern about the suggested change to back in angled parking. Ultimately, the City Commission voted by a margin of 6 to 1 to recommend the suggested 66' cross section for Old Woodward with head in angled parking, and the 40' cross section for Maple Road with parallel parking. The City Commission requested that MKSK finalize the design of Old Woodward with head in angled parking in such a way that it could possibly be converted into back in angled parking in the future.

On December 1, 2016, the Multi-Modal Transportation Board reviewed the different material options proposed for use on Old Woodward and Maple within the project area. The MMTB voted unanimously to recommend the use of enhanced materials for the crosswalks, street pavement and streetscape for both Old Woodward and Maple, and requested clarification on the following issues:

The type of striping that 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;

The possibility of changing the tactile and/or color experience in the non-left turn portion of the left turn lane; and

The type of striping that is required to delineate a crosswalk when brick pavers are used.

The MKSK team has now completed final plans for City Commission review, incorporating all of the comments previously expressed by the City Commission, the Multi-Modal Transportation Board and City staff. In response to the MMTB's request for clarification on the above topics, MKSK has provided the following responses:

Striping to denote the left turn lane can be painted on the roadway or can be created using a contrasting color material (such as white or yellow pavers to permanently create lane striping, left turn arrows, etc.);

Granite bollards are proposed to provide a protected area for pedestrians at corners where a flush curb is proposed, and the flush curb is proposed to be constructed of a contrasting color to draw attention to the driving lane (black granite);

Different materials and / or colored materials may be used in the non-turning portion of the left turn lane to discourage driving in these areas; and,

Striping to denote crosswalks can be painted on the pavement or can be created using a contrasting color material (such as white or yellow pavers to permanently create crosswalk dimensions and detailing).

The MKSK team will present their final plans and recommendations to the City Commission on December 12, 2016, including their recommended design elements, streetscape and furnishing materials, and final striping and landscaping recommendations.

Based on the input of the City Commission, staff will develop a bid package incorporating the previously approved road sections 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. 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.

To keep the planned timeline for this project, the suggested action has been developed to proceed with the MKSK design and conclude element selections once actual costs are available.

Commissioner Boutros returned to the meeting at 10:41 PM.

Brad Straiter of MKSK recapped the project goals to create a better environment for all patrons, maximize the sidewalk design to allow for more flexibility and creative use, maintain and enhance parking, improve modes of traffic flow and street safety, create a space conducive of doing business, insure safety for all users.

Project scope for Phase I consists of Old Woodward from Oakland to Brown and Maple at the Old Woodward intersection; Phase II is E. Maple from Woodward Avenue to Old Woodward and W. Maple from Pierce to Chester; and Phase III is Old Woodward from Brown to Woodward Avenue.

MKSK recommendations are:

Street Section:

Old Woodward - 66 feet street section for Old Woodward

Maple - 40 feet street section

Crosswalk dimensions – Woodward and Maple at 14 feet wide; all other intersections along Woodward at 12 feet wide, and on Maple 10 feet wide. All crosswalks follow the multi-modal standards

Midblock crossing-Design Team recommends to not introduce mid-block crossings at all passage alleyway locations due to concern of safety and loss of parking

Use flush curbs to shorten crosswalk length but provide appropriate turning radii for large vehicles

Angle Parking Direction:

Design team recommends back-in parking at 9'6" wide

City's short term preference and direction is head in parking at 9'6" wide which would allow reverse angle parking in the future if needed

Overall Street Character:

Maple – "Downtown Street" – maintain existing city standards

Old Woodward – Use more durable materials to create the "Signature Street" of Birmingham

Mayor Nickita asked to clarify the plans for Maple and Pierce. He said there is an alley to the west of Pierce on the north side which is also a passageway, so it is has to be accessible. There is a cross walk there and he asked if there was a review of potentially putting an island there which would help to demarcate the pedestrian aspect there.

Commissioner Hoff confirmed that the parking area is 15.5 feet on each side of the street. The parking bays are deeper than what they are today so by narrowing the travel lanes for safety. Mr. Strater said Maple is designed for two 12 foot travel lanes and two 8 foot parallel parking lanes.

Commissioner Hoff said the bulb outs make it difficult for larger vehicles to turn so that is why some are being designed with flush curbs. She asked why the bulb out was so big. Mr. Strater explained that the bollards are there so the trucks know they cannot go beyond it. The other reason is that it protects vehicles that are parking and not just to shorten the pedestrian crossing. He added that bollards are designed only for two of the four intersections at Maple and Old Woodward, because the angle is more acute. The truck radiis were dropped and some sizes of trucks would go up and over the curb if that was not done. Mayor Nickita added that trucks will recognize the bollards placed there, proceed very slowly, and the pedestrians will back up to allow the truck to proceed. The bollards are there to assist the truck in its maneuvering around the corner. Pedestrians will not stop behind the bollards to wait; the bollards are there for the trucks' assistance in maneuvering.

Commissioner Boutros asked about the mid-block crossings that were discussed previously. He is referring to S. Old Woodward between Merrill and Maple. Mr. Strater said they looked at the passageway and when it was sketched out, a lot of parking spaces would be lost. The City Engineering department and their Traffic Engineer were concerned about pedestrian safety because of the angled parking and lack of visibility of pedestrians. Initially, it was thought about two spaces on either side would be lost, but then it went to four or more spaces lost.

Commissioner Boutros questioned how it would be less safe with a mid-block crossing than it is now without one. He noted that no additional parking spaces would be lost on the east side of Old Woodward because there is already a bump out. He is more concerned about the pedestrian safety. Mr. Strater said there is also a city liability issue which is a concern.

Mayor Nickita said he agrees with Commissioner Boutros' comments. Mayor Nickita said we have created a passageway and created half the cross walk, and have not finished it. He said he measured it, and we lose two or maybe three spaces on the west side. There are many examples of communities that are designing mid-block crossings. He would like it to be seriously studied. He said the argument of parking is valid, but pedestrian safety is more concerning when we have created the system of pedestrian passageways in the downtown.

Commissioner DeWeese is supportive of mid-block crossings, especially on Old Woodward. Crosswalks will alert the drivers to slow down for walkers; he does not see any downside.

Commissioner Bordman concurs in the desire to see crosswalks.

Commissioner DeWeese wondered why there is not a pedestrian island on Old Woodward at Merrill as well as Hamilton on Old Woodward for pedestrians where there is not a left turn movement. He thinks it would be very helpful. Mr. Strater said they will take a look at that

again. Commissioner DeWeese said it would also encourage drivers to not be arbitrarily using the center lane except to turn.

Commissioner Hoff noted that different light fixtures and benches have been proposed and asked if they have been approved.

City Manager Valentine said there are alternatives to consider in the future, but those decisions do not have to be made today. When the city decides to bid this out, the physical elements will have been identified. Our existing city standard in place now will be used for the base bid. In addition, MKSK has a plan that includes several alternatives for including brick in the parking area, having a center turn lane, enhancements to the intersection at Woodward and Maple, tree wells, etc; these will all be alternatives to the city standard spec. At the time of the bid review, the Commission will have the opportunity to review those alternatives in context to the budget and make the decision based on accurate information regarding where you want to go with the project going forward. He confirmed for Commissioner Hoff that the light fixtures, benches, waste receptacles, etc., are also going to be alternative elements.

Mayor Nickita said the purpose tonight is accepting the plan, although if there are issues that need revision, we can direct the design team to revise accordingly and bring back the plan with the revisions before going out to bid the project.

Commissioner Hoff said we are aiming to have this started in spring 2017, and thinks we are rushing the whole thing. She said this is not our usual way of doing this.

Commissioner DeWeese said we have heard that some of the merchants have suggested breaking the construction into two pieces, and he asked if that affects the bidding. City Manager Valentine said the design should be decided, and then the second step is implementation.

Mayor Nickita said there are a couple of items that should be included and then brought back to the Commission, including the mid-block crossing; a bump out at the via next to Universal Watch, near Joseph A. Banks and Café Via, a pedestrian safety island in front of the Birmingham Theater southbound, other similar locations near Astreins, and in front of the alley on Maple.

Commissioner Hoff asked if the purpose of the islands is to slow down the traffic. Mayor Nickita said it serves as a safety point for the pedestrian in the middle of the block and to give a driver a clearer view of a pedestrian crosswalk vs. just the crosswalk.

Commissioner Hoff is not in favor of them.

Commissioner Bordman knows the Lincoln islands are an irritant. She was opposed to the island at Oak and Lakepark, but she is shocked at the effect. She crosses there often, and cars stop to let her cross the road, and that never happened prior to the island installation. She sees a value in safety for the pedestrian.

Mr. Strater indicated that he has enough to go back and revise to bring back again.

City Engineer O'Meara addressed the suggestion about splitting the job into parts. The way the sewer and water is designed, we could really coordinate the job so there are two crews working

simultaneously. We can be twice as productive with the time the road is closed. We also save money with mobilization. He said extending out the time longer would hurt everyone.

City Engineer O'Meara said he is hoping the project will take roughly four months.

Commissioner Hoff asked if the costs would be increased if done in two stages. Mr. O'Meara confirmed it would.

Glen Ceresnie, business owner representing 25 merchants, commented on the idea of constructing in two stages.

12-376-16 AMENDMENT TO THE SCHEDULE OF FEES, CHARGES, BONDS AND INSURANCE.

Fire Chief Connaughton and Fire Marshal Biggar were present to the request to amend a fee for inspections for non-electronic reports. The fee is \$50 and would be added to the city's fee schedule.

MOTION: Motion by Boutros, seconded by Harris:

To amend the Schedule of Fees, Charges, Bonds and Insurance, Fire Department section, to include the charge for Administrative fee for non-electronic reporting.

VOTE: Yeas, 6

Nays, None

Absent, 1 (Sherman)

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

X. REPORTS

12-377-16 COMMISSIONER REPORTS

The Commission will appoint members to the Public Arts Board on January 9, 2017.

12-378-16 CITY STAFF REPORTS

The Commission received the FY 2016/2017 PSD SAD 869 assessment report, submitted by Finance Director Gerber.

The Commission received the Woodward Tree Planting Update, submitted by DPS Director Wood.

XI. ADJOURN

The meeting was adjourned at 11:45 PM.

Cheryl Arft, Acting City Clerk

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

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Mark Nickita called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL: Present, Mayor Nickita

Commissioner Bordman Commissioner Boutros Commissioner DeWeese Mayor Pro Tem Harris Commissioner Hoff Commissioner Sherman

Absent, None

Administration City Manager Valentine, City Attorney Currier, Acting City Clerk Arft, City Planner Ecker, City Engineer O'Meara, BSD Assistant Rondello, Assistant Planner Campbell, Planning Intern Cowan,

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

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.

01-10-17 APPROVAL OF CONSENT AGENDA

The following item was removed from the Consent Agenda:

- Item A (Minutes of November 21, 2016) by Commissioner Bordman
- Item M (Set Public Hearing to consider amendment to Zoning Ordinance)
- Commissioner Hoff will abstain from voting on Item A (Minutes of November 21, 2016) due to her absence from the meeting.

City Manager Valentine explained that Commissioner DeWeese asked to remove Item M from the Consent Agenda in order to clarify that there are two resolutions for setting the Public Hearing, and for consideration at the Public Hearing on February 13, 2017, it will be an "and/or" situation. For purposes of setting the Public Hearing tonight, we want to make sure that they are both set individually.

MOTION: Motion by Sherman, seconded by DeWeese:

To approve the Consent Agenda as follows, and with the correction that Item M should read

"and" not "and/or", and paying special note to Mr. Gottlieb, Mr. Bonney and Mr. Steinberger for their service to the city.

- 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 Nights 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

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.

ROLL CALL VOTE: Yeas, Commissioner Sherman

Commissioner DeWeese Commissioner Hoff Commissioner Boutros

Mayor Nickita

Mayor Pro Tem Harris Commissioner Bordman

Nays, None Absent, None

Commissioner Bordman asked that the vote tally be included for the Birmingham Shopping District Board member appointment in the November 21, 2016 minutes. She asked that her title be added to her name on page 12.

MOTION: Motion by Bordman, seconded by Boutros: To approve the November 21, 2016 minutes, as amended.

VOTE: Yeas, 7

Nays, None Absent, None

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

01-02-17 MKSK DESIGN FOR OLD WOODWARD AND MAPLE

City Planner Ecker explained the history and action needed tonight. On December 12, 2016, the MKSK team presented their final plans and recommendations to the City Commission, including their recommended design elements, streetscape and furnishing 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

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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 2016 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.

Ms. Ecker introduced Matt Manda and Caitlin Malloy Marcon from MKSK to briefly address the three areas to review and refine.

Mr. Manda discussed the center medians on Old Woodward at Hamilton and at Merrill. He described the conflict that large vehicles have when turning left on to Old Woodward at the intersections. The conflict is about 25 feet, and therefore, MKSK is recommending that landscape medians are not located there because of the wear and tear and destruction they would experience. MKSK recommends flush brick center turn lane in those locations to mitigate those conflicts.

Mr. Manda explained the revisions to the turning radiuses based on turning templates, and the number of flush curb conditions were minimized. The only two locations will be at Old Woodward and Maple. Bollards will be installed at those locations to provide protection to pedestrians.

Mr. Manda advised that they designed a midblock crossing and median on E. Maple. He noted the median does not go on the other side of the crosswalk due to the lack of room for the traffic lights. He said there is a median west of it that will provide some protection and will be signed. The second midblock crossing on Old Woodward has protective medians on both sides of the crossing. After further study, MKSK removed the median at the alley access on E. Maple due to a tight turn and the median would be in conflict with larger vehicles making that movement coming westbound on Maple into the alley.

Mr. Manda described midblock crossings and medians that were reviewed on Old Woodward, the alley access on Maple, and on E. Maple.

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MKSK has recommended a material pallet for each streetscape and also compared the current parking counts as compared to the proposed parking. The difference is about 12-15 spaces lost.

Mr. Manda explained that work on the final design needs to be done based on survey information, so there will be some adjustments made. He reviewed the items that still need some input.

Commissioner Boutros asked for the midblock locations. Mr. Manda said the Old Woodward location aligns with the centerline of the existing passageway. The E. Maple location is close to Joseph A. Banks that leads to Café Via, and does not align exactly with the passageway. He explained that it is slightly offset to the east due to how close the crossing was to the drive lanes transition.

Mayor Nickita commented that the point of the midblock crossing is to align with either of the passageways or to be truly midblock between Peabody and Old Woodward. Mr. Manda said they looked at pushing it further east and were concerned with the number of parking spaces lost there and the negative effect. They were losing six spaces.

Mayor Nickita expressed a concern with the location of this crossing. It is an odd alignment and safety is the issue here. If people do not see the crossing, it is likely they will cross unsafely. The idea is to clearly define the crossing. He believes that it can be done without losing that many parking spaces.

Mr. Manda said there is also the geometry of the transitioning drive lanes to the intersection as well.

Mayor Nickita said we will be re-striping E. Maple as well so the crosswalk could be set as the starting point and stripe the parking behind it. Mr. Manda said it could be shifted east.

Commissioner Bordman asked what the width of the crosswalk is on Old Woodward, and how many parking spaces were taken to accommodate it. Mr. Manda said it is 12 feet wide, and is aligned with the via passageway. Commissioner Bordman asked if less parking would be lost if it was designed narrower than 12 feet.

Mayor Nickita expressed concern with the width as well.

Commissioner Hoff confirmed that the median on W. Maple has been eliminated. Mr. Manda recommended that a median be put in on E. Maple and if another parking space is removed, a larger median can be built. Mayor Nickita noted that changing the location as presented tonight would make it a truly midblock crossing.

Commissioner Hoff confirmed the use of bulb outs at intersections which decreases the distance For pedestrians and to increase the aesthetics, yet the bollards have to be installed to prevent vehicles. She questioned if the bulb outs can be made regular sized. Mr. Manda said the two corners in question are very tight, and the actual turning movement of a large truck will run over that. The curb will be run over a great deal which will deteriorate the curb quickly. The flush curb condition makes it easier for that movement to occur. The introduction of bollards is for the safety of the pedestrians. He explained the bollards signal to the pedestrian where to

stand when a truck approaches, and also to signal to the driver that there is a certain amount of space given to make the maneuver.

Mayor Nickita noted that the drawing depicts an 18 wheeler wheel semi truck-trailer, and suggested that is not a standard or a guideline. He suggested we should design for a more typical vehicle.

Commissioner Bordman expressed concern about the size of bulb outs. She is in favor of reducing the size.

Commissioner Hoff confirmed the size of the travel lanes, center lane, parking bays and sidewalk area.

Mayor Nickita commented on the medians in the places where we will never have vehicle traffic at all because left turns are not permitted there. The intention to put some type of landscape or median was that it will add to the visual recognition of the crosswalk there and a safe point midway. The locations are at Hamilton, and at Merrill. The recommendation to eliminate it was that the turning radius is too severe. He questioned if we are again designing for an 18 wheeler. He said we have the same condition on Old Woodward at Harmon currently where we have a median and a crosswalk and a nose lip at the end that projects into the intersection. He said the projection was not recommended in the design, and said his review of the intersections did not indicate any trucks hitting and it is a full curb. He asked to find another way of addressing the concern of clipping, and thinks it could be pushed back enough to actually be placed there, or design a rolling curb option to allow us to have some give if there is an issue.

Mayor Nickita said they have an idea of using this space by making it helpful for pedestrians and potentially some landscape to beautify it. Mr. Manda said MKSK could provide for the median design depending on the type of truck and/or route changes.

Commissioner DeWeese commented that the same standards were applied to both sides of median even though the conditions are different depending on direction being traveled on Old Woodward, and asked why are both the same distance from the crosswalk when only one is affected by a left turn. Mr. Manda said when the turning templates are applied, the intersection is not as large as one might think.

Mayor Nickita noted that speed is an issue as well because when the dimensions and radius are calculated, it is calculated by speed. If speed diminishes, the radius can be tighter.

Commissioner DeWeese confirmed that the measurements are being based on a very large vehicle. Mayor Nickita understands that those trucks do come into town for deliveries, but there is a recognition that there is a plan of action or a travel way out. It is a combination of strategies to achieve what we want, which is a safe, very pedestrian-friendly downtown, as walkable and comfortable as possible for pedestrians.

Commissioner Boutros asked if signage would be a solution to communicate to delivery vehicles. Mr. Manda said that could be a solution.

Mayor Nickita said he is clarifying the goals and whether or not the goals can be achieved.

Commissioner Bordman added that there are different criteria and assumptions being suggested tonight which explains the conflict when there really is not a conflict.

Mr. Manda agreed that it is design criteria and priorities and the process involves putting those in order and evaluating. If having a medium to large size trucks in the downtown is not a desirable criteria, that will have an impact on the intersections, curves and details.

Mayor Nickita commented that we are very close. There are some subtleties to the midblock crossings. He confirmed with Mr. Manda that the width of the crossing on Maple is 10 feet. It may be too close to Old Woodward. He said that is another priority criteria issue. Surely, parking is a priority, but also designing a pedestrian crossing in the most appropriate way is a very important priority. He thinks we have to minimize the parking loss by doing it at the Café Via via and not at the Social Kitchen restaurant crossing. We can explore options on how to address a couple of medians in the way we discussed achieving the goals.

Mayor Pro Tem Harris recognized we are on a tight timeline, and wondered if an additional iteration will affect the timeline.

City Manager Valentine said we are very tight on the timeline, and as we move forward, that will push things back. It would be an additional two weeks before the next meeting. Mr. Manda said that is enough time to revise and bring back. Mayor Nickita said it is very important to do this as well as we can.

Mayor Nickita clarified the items discussed which include diminishing the width of midblock crosswalks to maximize parking wherever that is possible, and some of the options for the medians in two locations. The only other median we did not discuss is the alley located by Pierce. He suggested designing something there that would be similar to the other median designs, perhaps smaller and with a rolling curb. Mr. Manda said that is a very narrow alley. Mayor Nickita suggested that we might consider recommending a traffic pattern question on whether that is done one way or the other. He suggested looking at the use at that alley to determine if there is another option.

01-03-17 FINAL REPORT OF THE AD HOC RAIL DISTRICT REVIEW COMMITTEE

City Planner Ecker provided background and history of the Ad Hoc Rail District Review Committee established by the City Commission on January 11, 2016, to study existing and future conditions and to develop a recommended plan to address parking, planning and multimodal issues in the Rail District and along S. Eton Road ("the Rail Plan").

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.

Ms. Ecker introduced Sean Campbell, Assistant Planner and Brooks Cowen, Planning Intern who provided assistance with the GIS analysis of parking and intersection design.

Ms. Ecker explained the goals and objectives of the committee which included:

Goals:

To create an attractive and desirable streetscape that creates a walkable environment that is compatible with the adjacent residential neighborhoods.

To design the public right-of-way for the safety, comfort, convenience, and enjoyment for all modes of transportation throughout the corridor.

To facilitate vehicular traffic and parking without sacrificing the corridor's cycling and pedestrian experience.

To minimize the impacts of traffic on the existing residential neighborhoods.

To recommend updates to the Rail District zoning regulations as needed to meet goals.

Objectives:

To use creative planning to promote a high quality, cohesive right-of-way that is compatible with the existing uses in the corridor.

To implement "traffic calming" techniques, where appropriate, to reduce speeds and discourage cut-through traffic on residential streets.

To enhance pedestrian connectivity through the addition of crosswalks, sidewalks, and curb extensions.

To improve accommodations for bicycle infrastructure on Eton Road.

To create a balance between multimodal accessibility and parking provisions.

Ms. Ecker said the concerns were apparent during the tour. Key areas identified were S. Eton and Maple. Discussion included widening the sidewalk on the west side of the street for a bigger safety zone for pedestrians. Widening the sidewalk on the east side of S. Eton was also suggested to create a bigger plaza area there as well. They also discussed adding a splitter island to give a pedestrian island in the middle for people walking across. Several intersections up and down S. Eton were also looked at and the need for additional bump outs, and better striping. The intersection at S. Eton and Bowers was felt to be an important area with a great deal of activity. Bump outs and using different accent material in that area to create a plaza feel which would remind vehicles to slow down in the area.

Ms. Ecker noted a parking inventory and study were conducted. The study revealed there are 2,480 parking spaces in the district as a whole. There are 941 on-street parking spaces, 1539 parking spaces on individual private properties. The north end of the district has more a need for parking at different times. The south end is busier during the working day, but it clears out at 5:00 PM.

It was noted that the entire west side of S. Eton was never at full capacity. The highest use was around Griffin Claw with 28 out 60 spaces that were full on a Friday night.

Ms. Ecker discussed future build-outs and how they reached some of the conclusions. She explained that the issue became clear because they have to self-park, maximum build-out will not be done, and the biggest issue is that there is no shared parking in the area. That keeps

the development down to roughly 26-30% of what could be done under the ordinance. Many of the parcels in the focus area do not have enough space to provide required parking for four 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.

The recommendations of the committee include:

Construct bump-out curbs throughout the study area;

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;

Add sharrows and buffers to S. Eton from Yosemite to 14 Mile. Maintain sharrows and accommodate parking south of Lincoln where possible.

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;

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.

Mayor Nickita commended the committee on the depth and problem solving that was undertaken.

Commissioner Bordman said the study was so thorough. She was very impressed that the committee was able to figure out the real parking needs.

Mayor Pro Tem Harris questioned what incentives there might be for shared parking. Ms. Ecker said perhaps landscaping requirements could be relaxed, but we would ask the Planning Board to study that in more detail.

Commissioner DeWeese noted there might be an economic incentive.

Commissioner Hoff asked about the southeast corner of S. Eton and Maple intersection and if the property is city property. She also asked if the Whole Foods operation was studied by the committee. Commissioner Hoff expressed concern that traffic on S. Eton will be increased. The committee's concern was with the speed of the traffic.

Mayor Pro Tem Harris asked why the committee did not recommend a dedicated bike lane. Ms. Ecker said there were a couple of issues including the bump out incompatibility as well as the pavement material issue.

Commissioner DeWeese noted that we can accept the report and use it for a general guideline. City Manager Valentine confirmed that any recommendation will be brought back to the Commission for consideration.

Mayor Nickita asked if this addressed the edge condition that has been an issue and do we need to include something in the Zoning Ordinance. Ms. Ecker said it was not discussed in detail. She said currently there is a regulation in the ordinance that does not allow parking in the first twenty feet of depth.

Mayor Nickita said this helps bring attention to a very under-utilized area of the city, and land owners do not realize that they are sitting on potential redevelopment value if they work together at shared parking for example.

MOTION: Motion by Sherman, seconded by Bordman:

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 the Planning Board, and 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, and to develop a way to implement the shared parking, and to correct the crosswalk marking within the final report as discussed.

Larry Bertollini expressed concern about the recommended options, and focusing on both sides of Maple and S. Eton, and visibility concerns.

Mayor Nickita suggested going forward to study with and without parking on both sides, and how it may affect speed. We know people tend to speed up when parking is removed on one side.

VOTE: Yeas, 7

Nays, None Absent, None

01-04-17 MONTHLY PARKING PERMIT RATE INCREASES

City Engineer O'Meara explained that monthly permit rates at the structures have been adjusted on several occasions over the years, usually to reflect the difference in demand at the various parking structures. 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.

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January 9, 2017

Most of the package was approved that evening including the daily rate at the structures. The monthly rate structure was not changed at that time, and the City Commission asked at the time to consider being more aggressive.

The parking committee considered the idea for several months, and also considered the issue of the parking meter rate since the city is looking at potentially replacing the parking meters. The recommendations are presented tonight for consideration.

Advisory Parking Committee Chairperson provided an overview about the considerations and perspective of the parking committee as they developed the recommendations.

Mayor Nickita clarified that there has never been a time when all the decks were full.

Commissioner Hoff noted that the decrease in capacity is a result of other factors that have been implemented such as valet service in the structures, valet service on the street, and the parking lot at Maple and Woodward for permits.

City Manager Valentine noted that the average time that decks are filled is two hours during the day in certain decks on certain days. Mayor Nickita confirmed that there are some decks that are never full.

Mr. Kuhne said the question with regard to raising monthly rates is, is it for more revenue or to modify behavior. With regard to street meters, in theory, they should be a higher rate. An effort is made to balance what the right numbers are, taking into account what BSD has to say. Higher demand locations are priced higher. He said historically, we have had higher rates closer to N. Old Woodward and Maple. The far north and south edges still have 50 cent meters. He said the parking committee believes that the center area should be \$1.50 an hour.

Commissioner Hoff asked what kind of responses are coming from business owners in town. Mr. Kuhne said the committee does not hear directly from businesses about rates. BSD is the conduit to give a sense of the temperature. Mr. Kuhne said the recommendation is based on BSD input.

Commissioner DeWeese said given the construction on Woodward, he is willing to support the recommendation for this year. We are going to have businesses that will have to hang on to survive and he does not want to bring undue pressure on the businesses. He said the increase is not huge and amounts to \$.42 an hour being charged for parking in a \$70 per month structure for a full time employee. He said rates need to be raised higher to incentivize people to consider the other parking options. The biggest argument for the committee's recommendation right now is the construction on Woodward. He said we cannot keep increasing rates in \$5 increments. We need to be more realistic in terms of actual value.

Richard Astrein commented on the decrease in business due to upcoming construction and a three-year cycle of construction.

Commissioner Bordman asked if he is suggesting no rate increase. Mr. Astrein confirmed he is, or at the very least, the minimum amount.

Commissioner Hoff asked if we have heard from retail and office employers that pay their employees' parking. Mr. O'Meara said we have a 2-3 year wait for permits, and in the interim, they have to pay the \$10 a day rate and have already experienced the increase.

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Mayor Nickita thinks this is reasonable increase for the foreseeable future.

MOTION: Motion by Sherman, seconded by DeWeese:

(Resolution A)

To authorize monthly permit rate increases effective March 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)

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.

Commissioner Hoff asked for more information on the CivicSmart Liberty parking meters before voting on Resolution B.

Commissioner Sherman suggested changing the resolution to have the meters also go out as of March 1st and eliminate the reference.

City Manager Valentine asked Police Chief to explain the thought process. Chief Clemence said it was thought if we purchase new meters for the entire downtown area, that it could be implemented in conjunction with the completion of the Old Woodward project for the entire city.

Commissioner Sherman and Commissioner DeWeese withdrew Resolution B.

VOTE: Yeas, 7

Nays, None Absent, None

01-05-17 PURCHASE OF CIVICSMART LIBERTY PARKING METERS AND VEHICLE SENSORS AND CREDIT CARD PROCESSING FEES

Police Chief Clemence, Commander Grewe and Mr. Brad McGee were present and provided background information on the proposed parking meters, and discussed the results of the trial conducted between August 1st and August 30th, 2016. He described the price comparisons of both systems, and the wireless connectivity fees and charges, which have been proposed to be absorbed by the City. He suggested that it is a good time to consider emerging parking technologies as our current equipment is aging.

Commissioner Bordman asked if the City expects to experience a consistent 19% increase in revenue as was experienced during the trial. Chief Clemence said predictions are for a higher increase. Commissioner Bordman asked if that revenue increase will cover the ongoing expenses. Chief Clemence said it is expected to offset that cost after Finance Director Gerber reviewed the numbers.

Commissioner Hoff asked if coins can be used in the meters. Chief Clemence said that was an important feature of the system. Chief Clemence said the new meters will show the remaining time as the meters do today. Any denomination coin can be used.

Commissioner Boutros asked if the maximum times will be stay the same as currently. Chief Clemence said the time limits will be maintained at this time.

Commissioner Bordman said she is in favor of the system for the the central area, but knows we have parking issues in other places such as near Seaholm and on residential streets near Griffin Claw. She suggested we consider a kiosk/collection area instead of permit parking in some of the residential areas. She would like to keep those options open when considering parking issues in other areas of the city.

Commissioner Hoff said she does not see this positively. She thinks the loss of leftover time when a vehicle exits a spot is a negative perception. She asked if the City is trying to increase revenues. Chief Clemence said he does not think we are in the revenue business. In order to be competitive with other marketplaces, our technology should be first rate. He believes we are meeting the demand to be able to pay for parking with a credit card, which is perceived as a convenience by the public. Commissioner Hoff asked if anything is wrong with our current equipment. Chief Clemence said we replace a certain number of meters each year. It is considered old technology. The vendor has said that parts replacement will become an issue, so the meters will have to be replaced at some point. He noted that the current housings are being used for the new equipment to save on that cost.

Commissioner Hoff expressed concern in light of the fact that the City recently approved new electronic equipment in the structures. She is concerned that the new equipment will not be user friendly for everyone. She thinks we need a little balance, but is not sure it is good, user friendly equipment. She is concerned that it may keep people out of downtown, and about public perception.

City Manager Valentine noted that coins will still be able to be used with the new equipment, so it is a status quo situation. He said we can take what we have and are accustomed to, and expand it to allow for additional opportunity with the system.

Commissioner Sherman said the suggested meter is going to look the same as it does now. He thinks it makes sense.

MOTION: Motion by Sherman, seconded by Harris:

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 charging these expenditures to Auto Parking System Fund account number 585-538.001-981.0100, and 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.

VOTE: Yeas, 6

Nays, 1 (Hoff) Absent, None

01-06-17 PARKING METER INCREASES

Mayor Pro Tem Harris clarified that the increase would be implemented at the time the new parking meter equipment is rolled out. City Valentine confirmed that is the case.

MOTION: Motion by DeWeese, seconded by Sherman:

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.

Commissioner Sherman clarified that the increase has nothing to do with the new technology per se. It is being done this way because the new meters will allow the increase to be done in a cost effective manner, rather than sending someone out to change each and every meter by hand.

Commissioner Hoff does not have a problem with the rate increase. She noted that to stay at a meter for two hours, \$3.00 in quarters will be needed, or the other options can be used for payment.

VOTE: Yeas, 7

Nays, None Absent, None

01-07-17: ORDINANCE AMENDING CHAPTER 74 OFFENSES, ARTICLE IV – BAD CHECKS

Commander Scott Grewe explained the request for amending the ordinance relative to bad checks, as it was discovered that the penalty was incorrect.

MOTION: Motion by Boutros, seconded by Hoff:

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 authorize the Mayor and City Clerk to sign the ordinance on behalf of the city.

VOTE: Yeas, 7

Nays, None Absent, None

01-08-17: ORDINANCE AMENDING CHAPTER 74 OFFENSES, ARTICLE VIII

Command Scott Grewe explained that our City Attorney asked for the specific language to be included to avoid any dispute in court.

MOTION: Motion by Boutros, seconded by Hoff:

To amend Part II of the City Code, Chapter 74 Offenses, Article VIII - Offenses Against Public

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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 authorize the Mayor and City Clerk to sign the ordinance on behalf of the city.

Commissioner DeWeese asked that the City Attorney explain what is considered a public place. City Attorney Currier said if the conduct is visible to the public, it is considered a public place.

01-09-17: ORDINANCE ADDING SECTION 1-18 STORM WATER UTILITY APPEALS BOARD

City Attorney Currier explained that the ordinance was modeled after proposed legislation that is forthcoming. Citizens must have a place to redress issues with respect to charges or fees. This ordinance proposes to set up an appeals board made up of two professional engineers. By not limiting this to Birmingham residents only, we have a bigger pool of candidates.

Commissioner Hoff expressed concern about wording and asked for some clarification.

Attorney Currier suggested adding to paragraph a(1) of the ordinance that begins with "The City Commission shall appoint a 3 member Storm Water Utility Appeals Board...", and add to it "that 2 of the 3 members shall be licensed professional engineers."

Commissioner Sherman suggested adding in the same paragraph that they are not employed by the City.

Mayor Pro Tem Harris said of the alternates, members must be engineers.

Commissioner Bordman understands that this ordinance incorporates the aspects of Section 114-402. When looking at sub-part (j) of that section, it advises that someone can appeal the decision of the appeals board to Circuit Court. She would like to see that in the main ordinance as well, because she does not think it is fair for people to have to search around to see if they can appeal to Circuit Court. City Attorney Currier agreed, and suggested it be in both places.

MOTION: Motion by Hoff, seconded by Bordman:

To add Section 1-18 to the Birmingham City Code establishing a Storm Water Utility Appeals Board for disputed fees with the following revisions: In paragraph 1, under (a) Storm Water Utility Appeals Board, we include the 2 of the members should be licensed professional engineers not employed by the City, and add Section (3), "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 the Circuit Court must be filed within thirty (30) days of the Appeals Board's decision."

Commissioner DeWeese and Mayor Pro Tem Harris confirmed that the language relative to the requirement of one alternate to be a licensed professional engineer.

VOTE: Yeas, 7

Nays, None Absent, None

01-10-17: CITY CLERK SELECTION SUB-COMMITTEE

City Manager Valentine explained that the Clerk is appointed by the City Commission, and suggested that the commission may want to form a sub-committee to assist in the selection. The commitment will be about a four to five hour commitment.

Commissioner Hoff asked how many candidates would be interviewed by the sub-committee. City Manager Valentine said two or three.

Commissioner DeWeese suggested that the Mayor, Mayor Pro Tem and previous Mayor be appointed.

Mayor Nickita would like to get some of the new commissioners involved.

Commissioners Bordman, Sherman, Hoff and Commissioner Boutros expressed interest.

Commissioner Sherman expressed concern that three commissioners is too many for a subcommittee . He agreed with Commissioner DeWeese's idea.

MOTION: Motion by Boutros, seconded by DeWeese:

To appoint a sub-committee comprised of Commissioners Sherman and Bordman, 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.

VOTE: Yeas,

> Nays, None Absent, None

CLOSED SESSION - ATTORNEY/CLIENT PRIVILEGE 01-11-17

MOTION: Motion by Sherman, seconded by Boutros:

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

ROLL CALL VOTE: Yeas, Commissioner Sherman

> **Commissioner Boutros** Commissioner Hoff

Mayor Nickita

Mayor Pro Tem Harris Commissioner Bordman Commissioner DeWeese

VII. REMOVED FROM CONSENT AGENDA

VIII. **COMMUNICATIONS**

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

X. **REPORTS**

Α. Commissioner Reports

> The City Commission will 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

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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

The City Commission received the Elm St. Parking Space, submitted by City Engineer O'Meara

The Commission recessed to Closed Session at 11:03 PM The meeting reconvened in Open Session at 11:35 PM.

XI. ADJOURN

The meeting was adjourned at 11:35 PM.

Cheryl Arft Acting City Clerk

BIRMINGHAM CITY COMMISSION MINUTES JANUARY 23, 2017 MUNICIPAL BUILDING, 151 MARTIN 7:30 P.M.

Mayor Mark Nickita called the meeting to order at 7:30 PM.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

11. **ROLL CALL**

Ι.

ROLL CALL: Present. Commissioner Bordman

> Commissioner Boutros Commissioner DeWeese Mayor Pro Tem Harris Commissioner Hoff Mayor Nickita

Commissioner Sherman

Absent: None

Administration: City Manager Valentine, City Attorney Currier, Acting Clerk Arft, City Planner Ecker, Commander Grewe, IT Manager Brunk

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

01-12-17 APPOINTMENT TO THE PUBLIC ARTS BOARD

MOTION: Motion by Hoff:

To appoint Jason Eddleston to the Public Arts Board to serve a three-year term to expire January 28, 2020.

MOTION: Motion by Bordman:

To appoint Anne Ritchie to the Public Arts Board to serve a three-year term to expire January 28, 2020.

VOTE ON NOMINATION OF EDDLESTON:

VOTE: Yeas. 7

> Nays, 0 Absent, None

VOTE ON NOMINATION OF RITCHIE:

VOTE: Yeas. 7

> Nays, 0 Absent, None

Jason Eddleston and Anne Ritchie were appointed to the Public Arts Board.

The Oath of Office was administered to Jason Eddleston. Anne Ritchie was absent.

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.

01-13-17 APPROVAL OF CONSENT AGENDA

The following items were removed from the Consent Agenda:

- Item B (Minutes of December 12, 2016), Item C (Minutes of January 9, 2017), and Item G (Lungevity Foundation Special Event application) by Commissioner Hoff.
- Item A (Minutes of December 5, 2016) by Commissioner Bordman.

MOTION: Motion by Harris, seconded by Bordman:

To approve the Consent Agenda as follows, excluding Items A, B, C, and G.

- D. Approval of warrant list, including Automated Clearing House payments, of January 11, 2017 in the amount of \$3,075,539.07.
- E. Approval of warrant list, including Automated Clearing House payments, of January 18, 2017 in the amount of \$1,065,225.95.
- F. Resolution setting Monday, February 13, 2017 at 7:30 PM for a public hearing to consider the proposed amendments to Chapter 126, Zoning, Article 2, section 2.37, B-4 Business Residential, to allow the use of liquor license in theaters in the B-4 zoning district, and to consider the associated amendments to Chapter 10, Alcoholic Liquors, Article II, to add a Division 5, Licenses for Theaters.
- H. Resolution approving the purchase of (4) N5Print parking enforcement handheld units and chargers with an included 5 year warranty from Duncan Parking Technologies, Inc. (a Civic Smart company) in the amount of \$25,991.80; further authorizing the purchase of a wireless communications framework and enforcement module for Liberty meters and pay by cell integration in the amount of \$20,080.00; further waiving normal bidding requirements and to authorize these expenditures from account numbers 636-228.000-973.0400 and 585-538.001-981.0100.
- I. Resolution authorizing the IT Department to enlist professional services from Aperient to implement the Palo Also Traps Endpoint threat Mitigation module and software using GSA Multiple Award Schedule IT-70 contract #GS-35F-0511T, the cost of implementation not to exceed \$15,250.00. Funds are available in the IT Network Upgrade fund account #636-228.000-973.0400.
- J. To approve the agreement with ThyssenKrupp Elevator Corp. in the amount not to exceed \$162,757.00 to perform the Baldwin Public Library Passenger Elevator Renovation Project and direct the Mayor and City Clerk to sign the agreement on behalf of the City.

ROLL CALL VOTE: Yeas, Mayor Pro Tem Harris

Commissioner Bordman Commissioner DeWeese

Mayor Nickita

Commissioner Sherman Commissioner Boutros Commissioner Hoff

Nays, None Absent, None

01-14-17 APPROVAL OF CITY COMMISSION MINUTES OF DECEMBER 5, 2016.

Commissioner asked for a correction to page 17, adding the words "because if the burlap is not removed, the trees will die" and removing "which may cause the trees to die".

MOTION: Motion by Bordman, seconded by Boutros:

To approve the City Commission minutes of December 5, 2016, as corrected.

VOTE: Yeas, 7

Nays, None Absent, None

01-15-17 APPROVAL OF CITY COMMISSION MINUTES OF DECEMBER 12, 2016.

Commissioner Hoff requested that the statement by Commissioner DeWeese be clarified and changed in the minutes as to green space on page 7. Commissioner DeWeese said it was a reference to the Appleton Park drainage upgrade that was discussed.

Commissioner Hoff asked for an explanation to the reference on page 8 made by Mayor Pro Tem Harris of "warning path". Mayor Pro Tem Harris responded that a warning path is the dirt area between the fence and the grass of the outfield that notifies outfielders that the fence is approaching when outfielders are not able to see it.

Commissioner Hoff asked the reference to "Commissioner" Nickita be changed to "Mayor" Nickita on page 10.

Mayor Pro Tem Harris asked that the words "by a margin of 6 to 1" be added to the second paragraph on page 15.

MOTION: Motion by Hoff, seconded by DeWeese:

To approve the City Commission minutes of December 12, 2016, with corrections.

VOTE: Yeas, 7

Nays, None Absent, None

01-16-17 APPROVAL OF CITY COMMISSION MINUTES OF JANUARY 9, 2017.

Commissioner Hoff asked that the date be corrected to January 9, 2017 on the bottom of each page throughout the minutes. She asked for a clarification of the statement that Police Chief Clemency made on page 13, second paragraph: "the new meters will show the remaining time as the meters do today". City Manager Valentine stated that the new meters will show the remaining time as a vehicle is parked, but with the new technology, as a vehicle leaves the space, the meter will reset. As the vehicle is there, the remaining time will still be visible. Commissioner Hoff said no changes to the minutes are necessary based on Mr. Valentine's clarification. She requested that the vote on the purchase of the Civic Smart Liberty meters on page 13 be corrected to "Yeas, 6 and Nays, 1".

Mayor Nickita asked to clarify and correct the words on page 6 "18 wheeler" to read "18 wheels semi-truck trailer". He asked to add "Café Via" and "Kitchen Restaurant" to the reference on

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January 23, 2017

page 7 in the discussion of crosswalks for clarification.

Mayor Pro Tem Harris asked that a correction be made to the date on page 4, with a change to "2016" from "2017".

MOTION: Motion by Hoff, seconded by Boutros:

To approve the City Commission minutes of January 9, 2017, with corrections.

VOTE: Yeas, 7

Nays, None Absent, None

01-17-17 LUNGEVITY FOUNDATION BREATHE DEEP 5K SPECIAL EVENT

Commissioner Hoff asked that the date of the 5K walk be corrected to "Saturday, June 3, 2017".

Katie Patterson, representing the Lungevity Foundation, confirmed the correct date is Saturday, June 3, 2017.

Commissioner Hoff asked that Ms. Patterson clarify the route of the 5K walk. Ms. Patterson described the route, and added that it is the same route that has been used for several years.

MOTION: Motion by Hoff, seconded by Bordman:

To approve a request submitted by the Lungevity Foundation requesting permission to hold Breathe Deep Michigan, a 5K walk, on Saturday, June 3, 2016, contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

VOTE: Yeas, 7

Nays, None Absent, None

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

01-18-17 MICHIGAN PARKINSON'S FOUNDATION SPECIAL EVENT

City Manager Valentine explained that this is a new event to the City.

Mary Sue Lanigan, CEO of the Michigan Parkinson Foundation, described the event that will begin and end at Seaholm High School and include walking on the sidewalks through the neighborhood. All of the proceeds will benefit the Michigan Parkinson Foundation, which is a local charity headquartered in Bingham Farms. The money raised will provide medication assistance, respite care, offer support to 65 groups, and a 6 week series of classes on Parkinson's Disease offered throughout the state.

Commissioner Hoff said she is very supportive of the Foundation. Her concern is that the date of the walk is the same day as the Birmingham Ice Show and the impact on traffic trying to get to the Ice Arena. Ms. Lanigan explained that only about a third of the 400-500 walkers expected will walk around the track surrounding the football field. Family members who walk in

the neighborhood will be told to only cross at the traffic light. Course marshals will be present to control the walkers. Commissioner Hoff confirmed that the streets will be open, and walkers will be told to walk on the sidewalk and that the streets will not be closed.

Ms. Lanigan explained for Commissioner Hoff that the $10' \times 10'$ tents are owned by the Foundation and will be set up outside the football field. All of the sponsors provide products or services to Parkinson's patients. She explained that they offer a 1 mile route walk, a 2 mile walk, and a 3 mile walk.

Commissioner Sherman confirmed that the walkers will be on the sidewalk, and the tents are on Seaholm property.

MOTION: Motion by Sherman, seconded by Bordman:

To approve a request submitted by the Michigan Parkinson's Foundation requesting permission to hold "I Gave My Sole for Parkinson's", a 5K walkathon, on Saturday, May 20, 2017, 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.

Commissioner DeWeese advised to have marshals at lights and corners. He said often when groups of walkers are together, they do not watch traffic carefully.

Commissioner Boutros commended the Foundation on raising awareness of Parkinson's Disease in this way.

VOTE: Yeas, 7

Nays, None Absent, None

01-19-17 ORDINANCE – NO PARKING AT YELLOW CURBS

Commander Scott Grewe described the need to update the Yellow Curb ordinance. He said that Section 110-56 addresses this issue, and is in accordance with state law restricting parking within a specified distance from intersections and crosswalks. There are certain intersections that fall outside of the current ordinance in terms of the distance from the intersections and crosswalks. The proposed ordinance has been reviewed by our City Attorney and approved.

MOTION: Motion by Sherman, seconded by Boutros: To adopt Section 110-143, No Parking at Yellow Curbs.

VOTE: Yeas, 7

Nays, None Absent, None

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

X. REPORTS

01-20-17 COMMISSIONER REPORTS

The City Commission intends to appoint individuals to the Parks & Recreation Board, Multi-Modal Transportation Board, Planning Board, and Cable Board on March 13, 2017.

01-21-17 COMMISSIONER COMMENTS

Commissioner Hoff noted that she received a calendar from Japan Consulate General and she would like the City to display it somewhere. She also recognized Police Officer Yacoub Iseid for his service to the City and noted the City received a letter complimenting Officer Iseid.

Commissioner Sherman announced that a spaghetti dinner and silent auction will be held tomorrow, January 24th from 4:30 PM – 7:30 PM at Derby Middle School for a 6th grade student who attends Derby, and who has cancer. She is undergoing her fourth round of chemotherapy. The proceeds will assist the family with costs that are not covered by insurance.

City Manager Valentine noted that the City donated a couple of auction items for the fundraiser.

XI. ADJOURN

The meeting was adjourned at 8:14 PM.

Cheryl Arft Acting City Clerk

BIRMINGHAM CITY COMMISSION LONG RANGE PLANNING MINUTES JANUARY 28, 2017 MUNICIPAL BUILDING, 151 MARTIN 8:30 A.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Mark Nickita called the meeting to order at 8:30 AM.

II. ROLL CALL

ROLL CALL: Present, Mayor Nickita

Commissioner Bordman Commissioner Boutros Commissioner DeWeese Mayor Pro Tem Harris Commissioner Hoff

Commissioner Sherman (late)

Absent, None

Administration: City Manager Valentine, City Attorney Currier, Acting Clerk Arft, Finance Director Gerber, DPS Director Wood, BSD Office Manager Rondello, Commander Grewe, Commander Albrecht, City Engineer O'Meara, HR Manager Taylor, Building Official Johnson, Fire Chief Connaughton, Assistant Fire Chief Donahue, Assistant to the Manager Haines, IT Manager Brunk, City Planners Ecker, City Planner Baka, Assistant Planner Chapman, Museum Director Pielack, Library Director Koschik, Assistant Library Director Craft, DPS Manager Filipski

III. DISCUSSION ITEMS

I. FINANCE

FIVE-YEAR FINANCIAL FORECAST

Financial Director Gerber introduced Tim St. Andrew of Plante Moran, who was present to provide a brief overview of the forecast, and explain some highlights of the forecast.

Mr. St. Andrew explained the forecast covers the General Fund, the Major and Local Street Funds, and the Water and Sewer Funds. He noted there are many assumptions in the forecast which will change as the facts and circumstances change. The intent is to help identify areas of concern and of opportunity to help the City revise its fiscal strategy. He added it is important to understand that the numbers are estimates, and to understand the assumptions used in the forecast.

Mr. St. Andrew reviewed the City's State Equalized Value (SEV) compared to the Taxable Value (TV). He pointed out the downturn the City experienced between 2008 and 2012, and noted the City has rebounded nicely from that downtown. Growth in the 3-5% range has occurred in the last few years, and looking out into the forecasted period, the City is expecting 3-5% growth in TV. He noted that SEV is growing faster than TV and that is forecasted to grow at about 5-6%. He said the gap between SEV and TV in the future is good, because in the event we have another real estate downturn, the large gap between SEV and TV really provides a cushion for the City.

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Mr. St. Andrew said because the percentage of TV increase on the City's existing properties is expected to exceed inflation, the City is expected to have some Headlee rollbacks, meaning the maximum millage allowed is rolled back based on a mathematical formula. He noted it is a pretty steep decline over the next 5 years. He noted this is not really a concern because when looking back historically, the City's actual levy has been well below the Headlee limit. He said in 2021 the gap narrows, and said if that trend continues, the City could be impacted by this and limited by what it can levy.

Finance Director Gerber noted that in the years between 2018 and 2019, the operating millage jumps back up. He said the operating millage decrease just before 2018 is for the two year Library millage. The forecast assumes that in 2019 – 2021, that the Library millage would go back into the operating millage and be consistent with prior years. He said as we move into those years, the information will change as we get into the budgets.

Commissioner DeWeese asked if the Library millage continued and the City did not raise the City's millage rate, would the gap remain bigger. Finance Director Gerber confirmed that. Mr. St. Andrew added that as these rollbacks happen, it is important to remember that right now, rollups are allowed. As that comes down, that is down for good. If that trend comes true, the City is limited long term.

Mr. St. Andrew explained the forecasted fund balances for the General Fund and two Street Funds. He noted the slight dip in the General Fund between 2016 and 2018. He explained that is driven by capital projects that the General Fund is going to help subsidize. From 2018 to 2021, it is expected to climb. The reasons for that climb include continued TV growth and relatively steady building permit revenue. He said the road fund balances are dependent on the capital projects, the timing of the projects, the cost, and the funding from the General Fund. He noted that the Major Streets Fund is expected to be relatively flat over the forecasted period, and the Local Roads Fund is flat through 2018, and then when some of the projects are completed, that it is anticipated to climb to just over \$6 million.

City Manager Valentine said we will revisit this as we go forward. The intent with the Major Streets Fund is to maintain a flat, stable, cost expectation for it. The same thing will be worked on with the Local Roads Fund as well. He added the City is budgeting consistently in that way.

Mayor Nickita, in looking at the substantial increase in 2019 – 2021, asked if we are anticipating that many projects in the Local Streets Fund to justify that amount. Finance Director Gerber said the City could transfer to Major Streets Fund or not transfer the funds. The idea is to maintain a consistent transfer to those funds to flatten it out so that on the General Fund side, it is a relatively stable amount that is being transferred, then it is not up and down from year to year, causing financial distress or concerns. He noted that the steep increase expected in the General Fund is a result of the millage rate going back up after the Library millage, so there is some opportunity to look at millage rates in those years as well.

Commissioner Boutros asked what the target of funding is. Finance Director Gerber said it is to keep it around the 2 - 3 million range. Commissioner Boutros asked if that is sufficient to maintain the local streets for the next 10 years. Finance Director said that is why we try to look at projects going out five years to determine if the funding for those years is sufficient.

City Manager Valentine said the size of project determines what the cost is going to be. We try to maintain and structure the projects to fit the fund so that it is flat, but there is going to be some variation. The idea is to try to flatten that line and avoid large transfers and spikes in those funds.

Mr. St. Andrew explained the Unassigned General Fund balance compared to target levels. Unassigned Fund Balance is the component left over and discretionary, which is liquid and unrestricted by any outside source. The Commission set a target level of 17 – 40%. The expected Unassigned Fund Balance in the future will be within the target in 2017 – 2019. It is forecasted to be above the target for the last two years of the forecast. This is an opportunity to see concerns and areas of opportunities.

Mr. St. Andrew explained the Water & Sewer rate forecast. There are a lot of factors go into this, with the main ones being the cost of water and sewer, the capital projects, and water units sold. Taking those into consideration, the City is expected to need only inflationary increases in the water and sewer rate throughout the forecasted period. City Manager Valentine added that the rate is subject to any changes from GLWA and SOCCWA, where the water is purchased.

Commissioner DeWeese asked what the expected inflation rate is. Finance Director said it is overall about 2. Water and sewer has a bit higher inflation rate, given GLWA's recommendation to keep everything at 4% or less.

Commissioner DeWeese asked how higher inflation impacts the City, Headlee-wise, because our costs would go up. Finance Director Gerber agreed our costs would go up. Mr. St. Andrews said the City would have less of a rollback, which does not impact the City now, because the actual levy is less than the Headlee maximum.

Commissioner Hoff said that during Long Range Planning, the Commissioners focus on setting guidelines, and determining projects, and the end result is the budget session and determining and setting the millage. She asked Finance Director Gerber about the millage amounts which are different from what she is seeing today, particularly the Library millage. City Manager Valentine explained the different categories on the chart which clarified the concern about the Library millage for Commissioner Hoff.

Commissioner DeWeese asked what the implications are if the Library millage is kept the same as it is now. City Manager Valentine said the higher the current tax rate, the sooner the City will reach its Headlee maximum. The Library has a separate Headlee, and will be facing this as well. Commissioner DeWeese asked for an explanation at some point in the future of Headlee impacts and what the City's options might be.

David Bloom asked if new development is included in the projections.

Mr. St. Andrew explained that any new development is not taken into consideration.

II. ENGINEERING

2017 Local Street Paving Program

City Engineer O'Meara described the construction projects this year, with the highlight being the Old Woodward project. Everything will be replaced within the quarter-mile stretch between

Willits and Brown. Also a short section of Maple will be replaced from Pierce to just east of Old Woodward to correct the grading issues that we have at the main intersection. That project is hoped to take place roughly between May and September of this year.

Also Oak Street will be reconstructed for the block in front of the Quarton Elementary School property. The water system will be replaced, and a large storm sewer extension will be installed so that streets to the north and west of there can have storm water directed to the storm system, and out of the combined system. Finally, the City will construct parent drop off lanes to service the elementary school, as agreed to with the school district.

The commercial section of Poppleton Ave. will be reconstructed. This pavement is in poor condition. We are currently in discussions with Kroger management to arrive at a plan that keeps the store as accessible as possible, while allowing room for the road to be replaced.

Select sections of concrete on Lawndale Ave. immediately next to Woodward Ave. will be replaced.

Certain dead-end streets will be resurfaced. Money from the county has been received for use in a commercial area. Since it is a small amount of money, the department is planning to replace handicapped ramps, patching the asphalt and putting a capeseal layer on streets in Triangle District.

Backyard sewer lining in the Quarton Lake area will be discussed in more detail today focusing on the area north of Oak, between Chesterfield and Lake Park. Also the City hopes to line the sewer that is south of Maple, between Maple and Yosemite in the Birmingham Villa subdivision.

Parking structure improvements are planned for the Chester Street structure, changing all of the lights to LED. In the Park Street structure, all of the structural steel will be painted, which will impact the customers. They will time that so it is not done at the same time the Old Woodward construction project is underway.

The sidewalk program will focus on the north central part of the City between the Rouge River and Adams Road. They will also focus on the north east corner of downtown doing scattered repairs.

In response to Commissioner Hoff, City Engineer said the Oak Street sewer system would not be replaced, since the sewer is located in the front yards, not the road. They are considering lining it. He added that there is no sewer presently and the City will be building a storm sewer to help provide a storm sewer outlet for the area north of there in the future.

Katy Schafer, a Fairway Drive resident, expressed the interest of neighbors to have sidewalks installed on the street. She explained the steps some of the neighbors have taken to gather support of all residents. She added that the neighbors have explored some opportunities to help subsidize the project, and learned about the Safe Routes to School program through MDOT. They have partnered with Pierce Elementary School in the effort which supports the effort. Nearly 1.5 miles of new sidewalk would be installed on Fairway and Northlawn in an effort to achieve a walking/biking path to Pierce Elementary School.

Commissioner Hoff asked if Ms. Shafer thought with the support and possible funding through MDOT, the group would get support from the residents who are opposed. She said they were hopeful; however, they have not re-introduced it to the neighbors. They want to wait until they have facts available on the route, what homes would be involved, and the cost.

In response to Commissioner Boutros, Ms. Shafer said about 50% are opposed.

Commissioner Harris asked if the procedure for a project such as this is the same as the process followed for installation of curbs on unimproved streets. City Manager Valentine confirmed it is.

Commissioner Hoff said the available funding may factor in the neighbors' decision for or against the project.

Mayor Nickita said the process for this sidewalk is the same as other projects, except the funding source in this case might be factored in to the dialog.

Ms. Shafer said the City has to apply and get approval for the grant, and the City was unwilling to apply without neighborhood support. Their hope is to adjust the process slightly in order to disseminate correct information to the neighbors.

Mayor Nickita said that it appears that the residents are working with staff and the City Manager to figure out how to move forward.

In response to Commissioner Bordman, City Manager Valentine said the next steps include educating the residents in the neighborhood, and then achieve at least 51% neighborhood support on a petition enabling the City to move forward with the grant application. A meeting would then be scheduled with the neighbors impacted allowing them the ability to confirm or reject their participation on the petition. He added that the chance of obtaining the grant is increased by having 51% support for the project. In the absence of that support, the grant application is going to be weakened.

Mayor Nickita said there is clearly an interest and an avenue that needs to be explored. He said part of that effort is the recognition by those who oppose the project to understand this other avenue is available, and having the City participate and assist in orchestrating it.

Ms. Shafer explained that the grant application is not necessarily based on neighbors' approval. The application requires that surveys be sent out to the parents at the school to assess attitudes toward walking and biking to school.

Mayor Pro Tem Harris asked Ms. Shafer if she knows how much support the proposed sidewalk has currently, and do those opposing it know the cost could potentially be partially defrayed. Ms. Shafer said they have discussed it briefly, but did not want to proceed further.

David Bloom commented on the City process for improving streets and the threshold of support that was required in the past.

Wendy Dwint commented on the City's requirements and the difficulty obtaining support without the cost implications.

Mayor Nickita said that the City has cost estimates and can provide the information.

Brett Altman commented on the construction on Oak, speeds in the area, and the plans for the drop-off area.

City Manager Valentine said that plans have been prepared and are available to him. City Engineer O'Meara added that the Glenhurst intersection will be smaller than it is currently.

Sewer and Water Master Plan updates

City Engineer O'Meara explained the Sewer and Water master plan updates, and the progress in several areas.

Commissioner Bordman confirmed with City Engineer O'Meara that no houses can be done between Puritan and Lake Park north of Raynale, unless all property owners on Puritan agree. City Engineer O'Meara added all the properties are on the same sewer.

City Engineer O'Meara explained for Commissioner Hoff why the plans do not include going to Lakeside. He said the subdivision was platted differently and 100% participation is required. Staff is contacting the owners with targeted letters and will be making phone calls as well.

Commissioner Bordman confirmed with City Engineer O'Meara that some subdivisions have different approval requirements due to the platting process. He explained additional circumstances which prevent the project moving forward.

City Manager Valentine explained the intention to construct the project in phases, based on acceptable easements we receive.

City Attorney Currier said the City contracted for title searches as to the quality and nature of the easements in the areas. He explained that the subdivision was built with backyard sewers. Generally, it was discovered that one third of the properties have no easements, one third which have easements do not indicate whether they are public or private and generally interpreted as public easements. One third of the easements were inadequate due to size. The subdivision was built before it became part of the City. The easements were not dedicated to the City, therefore, the City would be trespassing without the easements. He added that is why the City needs 100% approval in those areas.

Peter Bray commented on a long range plan for rat control.

City Manager Valentine explained that issues related to private property would be handled and enforced through Code Enforcement. The City properties are managed in the same way as private property is required to do. City Engineer O'Meara noted that the City baits the sewers about 3 – 6 months in advance of any excavation for sewer work. City Manager Valentine said the same situation occurs when homes are being built. He suggested contacting Code Enforcement.

Dorothy Conrad commented on water service and the 10 year time period owners are given to tie in to the water and sewer service.

Cindy Rose commented on the possibility of getting an easement from an owner in situations where an owner is holding up a project that is beneficial to all. City Attorney Currier explained the difference between sidewalks which lie in the right of way which belongs to the City. Backyard sewers are on private property, and no proper easements were granted to the City. The City needs the easements in order to avoid paying condemnation costs.

Melissa Allen commented on sidewalks and the process for building them.

David Bloom commented on the possibility of placing a lien on property. City Attorney Currier said the City does not have the right to place a lien on property. The cost of filing a notice with the Register of Deeds on property would be more expensive than attempting to directly contact the owner.

Sewer & Water Lateral Replacement Policy

City Engineer O'Meara provided the history and updates on the Sewer & Water lateral replacement policy. He explained the reasons for changing the City policy to require water laterals.

Commissioner Hoff asked why the lead pipes are replaced at City expense. He said that typically it is a small number of lead services that are found. It is also a positive public service. She asked if water laterals are required, what the owners will replace it with. City Engineer O'Meara said they are replaced with 1" plastic.

Commissioner Bordman asked how he identifies that a home has lead service. City Engineer O'Meara said the City has records, and a homeowner can contact the City to inquire.

City Manager Valentine said this is a road maintenance issue, because the degradation of the roads due to the many cuts that are made for the replacement of water laterals. By mandating that the water services be replaced, cuts in the roads are eliminated thereby improving the life quality of the roads throughout the City.

Mayor Pro Tem Harris asked why the water laterals were not required in the 2007 policy. City Engineer O'Meara said the sewer laterals were collapsing and in need of replacement.

City Manager Valentine explained that this issue will be brought back to the Commission for action. The purpose of this update was to provide the Commission with some background information for a future policy discussion.

Commissioner Sherman arrived at 10:00 AM.

Cindy Rose commented on the lead that may run from the water service and into the home. City Engineer O'Meara said that the City does contact the homeowners and strongly urges replacement of those lines.

(Due to technical/equipment issues, the audio file was unavailable for the remainder of the meeting.)

Brett Altman asked if there is any safe lead level. City Engineer said it is best not to drink the water.

Commissioner DeWeese clarified that the replacements would be done at the time of road construction.

Dorothy Conrad commented about upcoming road projects.

City Engineer O'Meara, DPS Director Wood and Finance Director Gerber shared information regarding a proposal and analysis for a second water meter for outdoor use only.

Commissioner Hoff and Mayor Pro Tem Harris agree with the recommendation to wait 12-24 months to give water customers time to experience a dry summer with the new billing system which includes the storm water portion. It is expected to be a significant difference for many customers.

Commissioner Sherman commented on the assumptions as far as water usage. City Engineer O'Meara said the assumptions may be a bit on the high side.

City Manager Valentine noted that the communities that offer a second water meter are not on combined sewers.

Ann Bray commented on smart meters and objects to their use.

Melissa Marks commented on the changes in the billing. City Manager Valentine briefly described the change in storm water methodology charges.

Brett Altman commented on overwatering and cost of second water meter.

Alley Maintenance

City Engineer O'Meara and Planning Director Ecker briefly presented information on Public Alleys in the Downtown.

Commissioner Sherman expressed concerns about safety in the Willits Alley and enforcement of regulations.

Commissioner Boutros commented on the Brooklyn Pizza Alley and its condition.

Mayor Nickita said the issue is prioritizing and budgeting for an alley initiative in order to move forward with needed repairs/improvements.

Commissioner Hoff agreed, and suggested to coordinate alley work at the same time as Old Woodward project to minimize disruption. She suggested there are other factors besides financial.

City Manager Valentine said the ordinance could be revised for alleys with parameters, consistency, and standardization, and then proceed with prioritizing the work.

Mayor Nickita suggested making retailers aware that they may receive value by maintaining the alleys better.

Commissioner Boutros expressed concern with the overflow garbage in alleys and enforcement activity.

III. Planning

Master Plan

Planning Director Ecker presented the City's history of implementing master plans and ordinances that are intended to guide and regulate the growth of the City in order to promote the type of development that the citizens and property owners value.

Commissioner Hoff commented on the idea of a committee being formed to review the responses.

Commissioner Bordman asked to pay special attention to the residential areas.

Commissioner DeWeese suggested the scope section be more strongly stated.

Scott Clein, Planning Board chairman was asked by the Planning Board to emphasize the single most important thing from a planning perspective, because so many overlays have been pieced together, and inconsistencies are being found. He suggested that after 37 years, this needs to be pushed forward.

City-wide Parking Enhancement Efforts

Planning Director Ecker described the variety of downtown parking options available including five parking decks, three surface parking lots, on-street metered parking, and valet options. She reviewed the parking deck rates and permit enhancements, parking meter enhancements, valet enhancements, addition of the temporary parking lot at 35001 Woodward Avenue, technology advancements to parking management system, and additional parking opportunities. She explained the long term strategies for the area. Planning Director Ecker noted that currently, there are no public parking structures or surface lots within the Triangle District. She noted that based on the findings of the Ad Hoc Rail District Committee Review Report, the City Commission has referred the report to the Planning Board to review and then to propose recommendations to encourage shared parking in the Rail District.

Commissioner Bordman commented on handicapped accessible parking.

Discussion followed about the downtown parking changes, including ParkMobile, parking updates on the City website in real time, and state of the art technology.

Mayor Nickita commented that off-site parking is a fall back option when decks are under construction.

City Engineer O'Meara said employees view off-site parking negatively.

Commissioner Bordman commented that the times that the decks have been closed is a short term situation, and not an all-day occurrence.

Commissioner Hoff said it is difficult to develop long term parking strategies for the future. Mayor Nickita agreed that it is challenging.

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Commissioner Bordman suggested that the Request For Qualifications is reviewed by the appropriate City boards and committees before coming to the City Commission.

City Manager Valentine said a subcommittee will review the qualifications of the respondents.

Commissioner Bordman suggested that the Parks & Recreation Board be involved in both the Request for Qualifications and the Request for Proposals.

Commissioner Bordman suggested that the plans include a sale or lease option.

Mayor Pro Tem Harris suggested that at the RFQ and RFP stages, the Ad Hoc Parking Committee and City Commission provide input on selecting developer, and then once chosen, the committees would then get involved.

City Manager Valentine provided an update on the Corridor Improvement Authority progress with Oakland County and the current impasse with the county. He explained the advantages to the Tax Increment Financing is the capture of taxes.

Planning Director Ecker said the study revealed that all private use parking is a problem, and the City should encourage shared parking, especially with more nighttime and weekend uses now.

Mayor Nickita suggested a discussion with stakeholders in the district to create dialog and awareness of what is there and available. Planning Director Ecker noted that the Planning Board discusses that with applicants in the district.

Paul Robertson commented that parking is so limited in the district and that the City needs a deck and to develop other side of Woodward as part of the downtown.

David Bloom commented on development, bonding and density issues.

Woodward Crossings

Planning Director Ecker described the difficulty some intersections create when attempting to cross Woodward Avenue. She noted that the Multi-Modal Transportation Board has recommended intersection and pedestrian crosswalk improvements at intersections along Woodward Avenue, including 14 Mile Road, (North of) Emmons, E. Lincoln, Bowers, Forest and E. Brown, Oakland, and Oak Street.

Commissioner Bordman said the Woodward Avenue and Oak crossing is of particular importance, and she was under the impression that because Woodward Avenue is a state road, the City was unable to make improvements. Planning Director Ecker said the City can have some impact. She added that the City can do some things if the City is willing to pay for them.

Mayor Nickita said it comes down to funding priorities, as the state is open to listening but not paying.

Commissioner Bordman noted a court decision in New York, where safety issues were known and not improved. She suggested the City send a copy of the decision to MDOT with the discussions the City has had.

Commissioner Hoff said she would like something done with Woodward and Oak.

City Manager Valentine said lighting systems are being reviewed so that they are more visually apparent to drivers, as well as possibly expanding the budget for crosswalks along Woodward.

Mayor Nickita said MDOT is beginning to recognize the need for crosswalks.

Planning Board Chairman Clein noted that the Planning Board supports enhanced crosswalks, and supports a crosswalk at Oak and Woodward Avenue as a priority. He suggested the speed limit on Woodward Avenue in Birmingham be lowered.

Brownfield Redevelopment Authority

Planning Director Ecker provided history of the authority established in 2005 by the City Commission and recent activity.

Mayor Nickita suggested an evaluation is needed.

IV. Birmingham Shopping District Strategic Plan Update

BSD member Jeff Hockman described the Plan for Downtown Construction of Old Woodward in 2017 for BSD.

Mayor Nickita commented that we have learned a lot from other communities that have experienced this type of project in their downtowns. He suggested that with changes in property owners in town, the City wants to pass on the culture and traditions of the downtown area.

V. Building Department

Online Inspection Scheduling & Code Updates

Building Director Johnson described the Building Department activity as construction activity levels remain high. He also explained the online inspection scheduling which will be going live on March 1 of this year. He explained that both Building and Engineering Departments are experiencing increased difficulties with a number of projects during both plan review and inspection procedures. He identified some of the problem areas encountered by both departments. He suggested changes to the City Code will increase efficiency for both staff and the public saving valuable time on both sides. The changes are expected to be presented to the City Commission in late April.

Commissioner Hoff asked if repeat offenders are a problem for the non-compliance issues. Building Director Johnson said it is more a lack of understanding, and is not a problem with every job.

Dorothy Conrad asked about a construction project on Yorkshire with no progress, and expressed concern over parking in a front yard. Building Director explained the ordinance for that situation, and suggested we may need to review that.

Ms. Conrad commented on the tree removal at Whole Foods. Building Director explained that the plans call for a retaining wall in that area. Mayor Nickita added that some trees are to be added in approved plan.

Mayor Nickita agreed that the City should review the ordinance with respect to parking in front of a house.

David Bloom commented on online inspections.

Commissioner Hoff asked if his department staffing levels are appropriate at this time, and Building Director Johnson said staffing is fine at this time.

(At this time, a brief lunch break was taken.)

VI. Department of Public Services Parks Master Plan

DPS Director Wood presented information about the Parks Master Plan. She noted that a Request for Proposal will be underway in short order and the process will officially begin. In the past, such Master Plan updates have taken approximately six to eight months from start to finish.

DPS Director introduced Public Services Manager Aaron Filipski who was also present. He noted that a Parks Master Plan is needed to apply for grants.

Commissioner Hoff asked if a Master Plan consultant is in the budget. Director Wood confirmed it is, and added that the department hopes to hire the consultant in the first or second quarter of this year.

Commissioner Hoff asked if the department is going to request funding for new projects in the 2017-18 budget. Director Wood responded there will be such a request.

Pat O'Neill commented that he supports the Kenning Park project, and indicated support from Little League. City Manager Valentine indicated that a meeting would be scheduled to discuss it.

Capeseal Program

Public Services Manager Filipski provided information about the Capeseal program. He noted the City maintains approximately 30 miles of 'unimproved' roads. Unimproved streets are generally uncurbed, gravel-based roadways that have been partially improved through a process called 'cape sealing'. He described the process, and noted the roads require regular maintenance, performed by a contractor, with assistance from DPS personnel. He said the department is planning another similar project for the fiscal year 2017-18.

Commissioner Sherman commented that the program was reinstated when the economy turned and said the City should consider whether to continue the program, or encourage improvements to the streets. City Manager Valentine said it is more advantageous to improve. Commissioner Sherman prefers to go back to previous policy of improvement.

Discussion followed about citizen initiated projects and the process. Commissioner DeWeese suggested the City provide the citizens with options for the road.

Water Meter Portal

Public Services Filipski said when considering ways to further improve the quality and level of service to water customers, the Department of Public Services is investigating a web-based customer portal system that provides residents convenient access to the data provided by the meter reading network. Usage graphs, comparative analysis, account history, and bill estimates, and also features personalized threshold alerts. With these alerts, customers can be automatically notified when estimated bills or consumption have reached a certain level, or when abnormal usage may indicate a possible leak. Residents who elect to participate in this voluntary program can chose a number of notification methods including text message, email, phone, and standard mail. A Request for Proposal posting is planned for March 2017, and this innovative technology could be available to residents by June 2017.

Commissioner Hoff asked about the subscription cost. DPS Manager Filipski said it is a one-time set-up fee. City Manager Valentine added it has not been decided whether to pass the cost on to consumer.

Commissioner Bordman expressed support for the idea.

Bulb outs enhancements

DPS has prompted us to actively review the condition of the bulb outs this past year on W. Lincoln Avenue between Woodward and Southfield. There are seven intersections as part of the reconfigured section of W. Lincoln that added bulb outs. The most abused location is the intersection of Pierce and W. Lincoln, particularly the southeast followed by the southwest bulb outs. Mr. Filipski described a product the department is considering which is a road shoulder stabilization grass paver porous system that provides turf protection based on the vehicle usage and potential for vehicle rollover onto the noted bulb outs on Lincoln Avenue. It will eliminate the ongoing ruts on the roadway which continue to create a continuing maintenance and aesthetic issue. The proposed trial area will be the most severe bulb outs along W. Lincoln Avenue.

Commissioner Bordman asked if the system will allow grass to grow normally. She is in favor of testing this and noted it is handicapped accessible, and may have possibilities in other situations.

SOCCRA Recycling Single Stream Conversion

Jeff McKeen of SOCCRA described the single stream system to be rolled out later this summer. Residents will receive 65 gallon recycling carts to replace the current carts.

Commissioner Hoff expressed concern about the size of the cart, and storage of it. She also noted it could be heavy. General Manager McKeen said the size of the new cart is similar to the recycling bin footprint.

David Bloom asked about costs, and GM McKeen said SOCCRA hopes to be marginally, economically profitable.

VIII. Police Department System Upgrades

Commander Scott Grewe was present to provide the Police Department's priorities in the 2017-18 fiscal year:

9-1-1 system replacement

This project involves the replacement of emergency call processing equipment at (3) workstations in the Birmingham Police Department Communications Center. The new ECW equipment will be interfaced with the city's administrative telephone system to streamline communications for our dispatch staff. Oakland County is funding approximately 60% of the total project costs including network replacement and software. The City of Birmingham's cost for the system is estimated at \$84,305.15, with an installation date which is currently projected for April 2017.

Watchguard video

The current digital in car video system was purchased from WatchGuard Video at a cost of \$92,840 in September 2011. The original system purchase included a one year warranty plus one additional year of prepaid maintenance. The department has just entered the fifth year of extended warranty coverage, which is the maximum period allowed by WatchGuard. The department is pleased with the overall performance and reliability of the WatchGuard Video system.

The Police Department has requested \$72,300 in the 2018-19 Drug and Law Enforcement Budget to replace this system. The replacement cost is significantly lower than the original purchase price as the department is a "legacy customer" and therefore fees for evidence library, wireless transmitter kits and technical services are waived.

Security system upgrade – police and department of public services Following the terrorist attacks on the World Trade Center in 2001, a security system was installed to protect the City Hall building and police pistol range. A similar system was installed at the Department of Public Services. Vigilante Security was the selected vendor for these projects. For the past 16 years, these systems have functioned very well but are now in need of replacement due to age, availability of parts due to obsolescence and technological upgrades.

The proposed update would shift the system design to an IP based control. The police portion of the update is estimated and budgeted for the 2017-18 fiscal year in the amount of \$26,750, with an additional \$17,320 in funding requested for the DPS facility upgrade. The security systems provide access control using proximity readers. Electronic cards or keys are used to operate the gate arms and doors. Access to the buildings and parking lots is provided for each employee as requested by the respective department head.

Some of the features of this system are as follows: Electronic keys are issued to each police and fire vehicle; Electronic cards issued to employees and city commissioners also serve as a photo identification card; Parking in the City Hall parking lot is provided for police cars, specific staff cars and city commissioners.

Commander Grewe explained the 911 replacement system will also allow the department to triangulate for location, provide elevation location, and the new system will allow for texting to the Police Department, including photos.

Mayor Nickita confirmed that the new system will still be card operated.

IX. Fire Department

Chesterfield Fire Station Construction

Fire Chief Connaughton said the Chesterfield Fire Station replacement project continues to move forward. Once the station is closed for demolition, response personnel and equipment from the Chesterfield Fire Station will be temporarily relocated to the Adams Fire Station. All responses for emergency services will respond from the Adams Fire Station until such time that operations at the new Chesterfield Fire Station can begin.

Chief Connaughton added that February 23rd will be the bid opening, with the recommendation to go to the City Commission on March 13th. April 3rd is the planned start construction date, with October 27th as the anticipated end date.

X. Historical Museum

Strategic Plan

Park Master Plan

Bicentennial Planning

Museum Director Pielack explained the Museum's planning initiatives, which will be coming to City Commission for consideration, including the new 2017-2020 Museum Strategic Plan, and a master landscape plan for the park and site

She added that for the upcoming City bicentennial, the Museum Board is considering a book project to coincide with the City's bicentennial in December 2018.

Commissioner DeWeese encouraged Director Pielack to follow up with BSD and the Chamber of Commerce due to their community connections.

XI. Library

Long Range Library Improvement Funding

Library Director Doug Koschik discussed the Adult Services Renovation project underway at the Library, and commented on the future phases of renovation.

Commissioner Hoff expressed support of current and future plans, and said the Library has done a good job of renovating for a third of the cost of what was proposed.

Commissioner DeWeese commented on Library Headlee vs. City Headlee, and the importance of having entire library project built into the budget.

XII. Adult Services (NEXT)

Future Planning Efforts

Director Chris Braun was present to provide information about NEXT. She described the recommendations of the Joint Senior Services Committee. She added that NEXT membership exceeds 1500, and is open 62 hours per week. Participation has increased more than 100% and outreach services have grown by 17%. She asked for support to re-establish the JSSC in the near future.

Commissioner Hoff expressed hope that Birmingham Public Schools will continue to allow the use of the facility by NEXT. Director Braun believes the school district has no intention of change, and noted that the building houses a pre-school program, which is tuition based.

Commissioner Bordman said the growth of NEXT is due to Director Braun's leadership.

David Bloom commented on Headlee.

IV. PUBLIC COMMENT

Robert Ziegelman congratulated Mayor Nickita for being inducted into the American Institute of Architects College of Fellows.

V. ADJOURN

The meeting was adjourned at 2:45 PM.

Cheryl Arft Acting City Clerk

BIRMINGHAM CITY COMMISSION SPECIAL MEETING MINUTES FEBRUARY 2, 2017 MUNICIPAL BUILDING, 151 MARTIN 5:00 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Mark Nickita called the meeting to order at 5:00 PM.

II. ROLL CALL

ROLL CALL: Present, Mayor Nickita

Commissioner Bordman Commissioner Boutros Commissioner DeWeese Mayor Pro Tem Harris Commissioner Hoff Commissioner Sherman

Absent: None

Administration: City Manager Valentine, City Attorney Currier, Acting Clerk Arft, City Planner Ecker, City Engineer O'Meara

III. NEW BUSINESS

02-22-17: MKSK DESIGN FOR OLD WOODARD AND MAPLE

On December 12, 2016, the MKSK team presented their final plans and recommendations to the City Commission, including their recommended design elements, streetscape, furnishing of materials, final striping and landscaping. After discussion, the City Commission directed the MKSK team to further study and add mid-block pedestrian crossings on Old Woodward south of Maple, and 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.

On January 9, 2017, MKSK presented revised plans that 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. The MKSK team indicated that 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 also presented the revised design of W. Maple at Pierce to 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. In reviewing the proposed plans, the City Commission expressed concern regarding the location of the proposed mid-block crossing on E.

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Maple, and expressed their desire to have landscape medians installed at S. Old Woodward and Merrill, and N. Old Woodward and Hamilton. The City Commission further suggested switching the direction of vehicular flow in the alley adjacent to W. Maple and Pierce to accommodate the installation of a landscape median on W. Maple to further protect the pedestrian crossing.

Based on the input provided by the City Commission on January 9, 2017, MKSK has now revised the plans to include the requested landscape medians on N. and S. Old Woodward and on Maple. The mid-block crossing on E. Maple has been shifted to the east to line up with the Café Via pedestrian passage as requested by the City Commission, and the curb bump outs on the proposed mid-block crossing on Old Woodward have been reconfigured to minimize impacts of reverse movement of vehicles into the crosswalk. In addition, some of the handicapped parking spaces have been relocated near crosswalks to reduce conflicts between reverse movements of vehicles and pedestrians in the crosswalk. Finally, MKSK has refined the drive entrance to the Willits Alley from W. Maple by widening the approach, maintaining one-way inbound traffic, and restricting eastbound left turns into the alley with a landscape median.

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 be brought to the Commission for their decision.

City Manager Valentine explained that Brian Kinzelman and Brad Straiter of MKSK are present to describe the modifications to the design requested by the Commission.

Mr. Kinzelman described the changes to the center medians and center turn lanes on Old Woodward and Maple. He noted the pedestrian-protective islands at some of the mid-block crossings. MKSK was asked to look at narrowing the mid-block crossings in an effort to gain additional parking. They have investigated that, and there is no additional parking.

Mr. Kinzelman described the Old Woodward center median installations at both Merrill and Hamilton Row which encompasses a mid-block crossing. In consultation with the City Engineer, it has been determined the best solution is to design a roll curb on the center islands, and put in low plant material to the extent there is available space to alleviate damage by broad-turning vehicles. He explained that in situations such as these, a hard surface nosing is suggested, which would be the same paving material being used in the median elsewhere in the flush condition, so that it takes that abuse. Where that condition does not exist, low evergreen material can be used to break down the scale of the street. He explained that this will all be refined as this goes to final engineering.

Mr. Kinzelman explained that the pedestrian protection island at the intersection of Pierce and Maple has complications of alley access into the service courts behind the retail on N. Old Woodward. Traffic has been restricted to one way in the alley, so there is no outbound, service traffic as vehicles exit the service court in an effort to minimize pedestrian conflicts. He noted that it is an 11 foot opening and a 27 foot wide dropped curb condition, so the service vehicles can make the turning motions out to go westbound on Maple. He said the design has sufficient turning motion for left turns out of Pierce on to Maple.

He described the mid-block crossings at Maple. It has been suggested that the width of the crosswalk be reduced by the width of the curb extensions that contain the crosswalks. After

looking at options, the taper for the left turn motions on to Old Woodward on the west, and the taper and turning motions on to Woodward at the east, provide a limited geography, and there is no way to diminish the crosswalk to the extent that a 24 foot parking space is possible. The crosswalk striping could be minimized, but the curb extensions would remain as they are. While losing two parking spaces, it provides added visibility for pedestrians who are stopped at the crosswalk waiting to make the crossing in moving traffic.

He explained that at the mid-block crossing at Old Woodward, the same issue of trying to gain additional parking was raised. He said that there is limited geography available between Merrill and Maple, and the back-out motions from head-in angled parking cause restrictions.

Commissioner DeWeese asked Mr. Kinzelman to comment on changes on the two bus stop locations in the southbound and northbound lanes of Old Woodward at Merrill. Mr. Kinzelman explained that the stops have been placed behind the street curb and not behind the parking curb where they exist today. This will allow riders to enter a bus without walking through a parking bay. He noted that both stops are before the intersection so that if the signal is red, the bus will stop to wait for the normal traffic signal cycle. When green, people will stack up behind the bus waiting for the riders to enter the bus. Pulling off the moving lane of traffic and back in again are dangerous movements for buses, and tend to be less safe than stopping and causing a back-up.

Commissioner Boutros said the Commission's suggestion was to go further south on this bus stop. He said that there is a business directly behind the shelter on the northwest corner of Merrill and Old Woodward. He asked if the stop is being eliminated on the southwest corner. Mr. Kinzelman confirmed that it is being moved from one side of the intersection to the other. Mr. Strait added that SMART prefers to be on the approach side of the signal. Accidents and back-ups occur when stops are on the other side of a signal.

Commissioner Hoff confirmed that the other stop is just before the Birmingham Theater. Mr. Kinzelman said it is planned to be in the same place as now, but located on a curb extension.

Commissioner Sherman confirmed that the alley on W. Maple will be kept as a one way alley. He asked about left turns into the alley, and Mr. Kinzelman said left turns would be prohibited. Commissioner Sherman pointed out that there are businesses in the alley. Mr. Kinzelman said access is not being cut off since access is available off Willits alley. Commissioner Sherman's concern is that the businesses in the alley are being cut off from people who make a left turn into the alley. He said maybe the pedestrian island is extended more than necessary. The left turn could be made just before the island, and reduce the size of the island a bit. He said that is the only way to get to those businesses that are in the alley between Maple and Willits. People will be forced to go around the block to make a right turn into the alley.

Mr. Straiter said with the congestion there, that is a preferred condition, and the vehicles can re-route and become accustomed to that pattern. He noted that the approach has been widened to 27 feet from 14 feet and right turns are a much easier movement. Commissioner Sherman noted the buildings are still 11 feet apart and the right turns are still difficult even with the wider approach.

Mr. Kinzelman explained that this is one of the trade-offs between parking, pedestrians, service vehicles, and traffic motions. Mr. Straiter suggested that if the island is shortened to accommodate for left turns into the alley, the island will be ineffective.

Mayor Nickita suggested that accessibility to the alley is definitely impacted with the pedestrian island. He asked to what degree the left turn is used, and maybe this is something we should monitor before we finalize the island at that location. He is reluctant to take out the island, but there may be a variation to allow it to be accommodated. He recognizes that there is some complexity to this situation. He suggested the Commission can approve tonight the general concepts and elements that are in place with the subtleties of how they are actually implemented.

Mr. Kinzelman noted that the dimensions of the street, parking and streetscape do not change, so the City Engineer can proceed with engineering drawings, and there is still time to discuss this further.

Commissioner Sherman clarified that his comment was not to remove the island, but to adjust the island to reflect the left turn. He said that island will create other issues the way it is designed, and we can finish designing this with engineering as part of the plan. He added the Commission does not need to have that discussion tonight, but it needs to be addressed.

Commissioner Hoff asked if the concern is that vehicles are going to go over the rolled curb on the medians, why not end it where the grass ends. Mr. Kinzelman noted that the medians provide the pedestrian crossing protection. It gives the pedestrian the opportunity to be behind the island as they make the crossing.

Commissioner Hoff asked if left turns will be allowed at Maple and Old Woodward all four ways, and about time limits for left turns at that intersection. City Engineer O'Meara said it has been designed so left turns can be made 24 hours a day.

Commissioner Hoff asked if the Fire Department's concerns about negotiating turns and medians were considered and accommodated. Mr. Kinzler responded that those concerns were considered. He added that there are some areas where medians will be present where it will be necessary for emergency vehicles to respect the single lane of traffic movement and will be unable to go left of vehicles to proceed around them.

Commissioner Hoff asked about snow removal and snow stacking during clean-up. Mr. Kinzler said some medians and the parking bay size will be available to accommodate for that work. He added that snow could be stacked on the plant material in the medians, if it is hardy enough to withstand the load.

Commissioner Hoff asked where delivery trucks will unload. Mr. Kinzler said they could utilize the un-landscaped medians where there is no stacking in the center turn lane. Mr. Straiter said adding a median limits the capacity for delivery vehicles, but there are still places for those vehicles to use the center lane safely.

Mr. Kinzler confirmed for Commissioner Hoff that the angled parking is maintained at 45 degrees. Mr. Kinzler noted that the number of parking spaces that will be lost will change as final engineering is completed.

City Manager Valentine added that completion of the phases of the reconstruction will change the number of lost spaces. He said that by the time the third phase is completed, there will be an overall increase in spaces. Mr. Kinzler said the numbers by phase can be provided. Mayor Nickita added that at the south end of Old Woodward, just north of Brown on both sides of the street, we have parallel parking. Parallel parking allows for fewer spaces in the same area. In the new design, parallel parking will be eliminated, and we will have angled parking continuously from Brown going north. Mr. Straiter added that the new design tries to be as assertive as possible to regain some of the parking lost in some other areas of the project.

Commissioner Hoff asked if the new plan was circulated among the different city departments. City Manager Valentine said it has been circulated among the departments that would be impacted, and they have provided input along the way.

Commissioner Hoff asked for the estimated cost. City Manager Valentine said there are two different costs: the estimated budget and the project cost. He added the project cost will be clearer once the bidding of the project is complete, and is still a moving target in some respects based on some finality that must happen. He continued that any amounts that are mentioned are more related to what was budgeted by the City for the project, and not necessarily based on this design.

City Engineer O'Meara said the plans will be structured so the City has the ability to eliminate some elements to save costs.

Mayor Nickita noted that alternate materials will be explored when the bids come in, so we will have a better idea on how much we want to move the budget. He said the City will have an opportunity to identify certain items, specifically the materials and the approach of construction that will vary the number one way or the other.

Commissioner Hoff said she saw an estimated cost of \$1.5 million, and she assumes the cost will be more than that. City Engineer O'Meara confirmed that it would be higher.

City Manager Valentine confirmed for Mayor Pro Tem Harris that the Fire Department has been involved in reviewing the proposed design throughout and provide feedback, and if there were serious safety concerns, those would have been addressed in the design process before this stage.

MOTION: Motion by Boutros, seconded by Bordman:

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.

Commissioner Sherman asked if the motion is subject to the comments today.

Commissioner Boutros agreed, and said that the comments made are on the record, and the consultants were made aware of the Commission's interests and concerns to move this forward. He suggested the comments to be integrated.

Mayor Nickita noted that these are concepts, and we understand that there is not a lot of detail in terms of dimensions. He is pleased to see that the elements that we were concerned about have been added. He said some subtleties have been pointed out and agrees with comments about the amount of greenscape and hardscape, particularly in the islands. He would like to

see this move forward, and thinks we have all the elements in place to do that. He believes that in the next level, there is some refinement that can achieve some of our goals that concern us. The fundamentals that we have often discussed such as a safe downtown, comfort, function, and advantages for our retailers' success can be achieved.

Commissioner Boutros thanked MKSK for their work. He asked if we have a start date.

City Manager Valentine said we will have a start date soon with approval tonight. The engineers will begin the design work and it is expected to go out to bid in early March. We will then get a sense of a definitive timeline.

VOTE: Yeas, 7

Nays, None Absent, None

02-23-17 MKSK OLD WOODWARD CORRIDOR AGREEMENT-FIRST AMENDMENT

City Manager Valentine explained we need to continue to refine elements of the streetscape and obtain some further detail on specifications to be incorporated into bidding documents. He asked MKSK to provide a proposal to continue their services to assist in incorporating what they have designed into the actual construction documents. This will give us the detail necessary to finalize the plan the way it is envisioned.

Mayor Nickita added that given other infrastructure projects, this is somewhat atypical, realizing that this project itself is atypical. We do not usually have an urban design consultant on infrastructure projects, and do not usually have a consultant carrying forward that design through to construction administration and implementation. It is a project that has brought these alternative approaches to light.

Commissioner Hoff said it is important to continue with MKSK. She asked what was going to be provided in the initial contract with MKSK. City Manager Valentine said they provided a plan with their compendium which includes the street design and supplemental detail work. In the compendium, they have outlined various elements for incorporation into the streetscape design. The specificity of the various elements needs to be finalized. Those details were not part of the initial scope which was to give us the concept plan and general scheme for the street, which has been completed. We are looking at getting into the engineering and detailed type of approach to carry it forward.

Commissioner Hoff asked what we normally would have done, or who would have done that detail. City Manager Valentine said this project scope is somewhat of an anomaly. We do not typically have as many changes on a project for any street that we have planned, so it is unique in that respect.

MOTION: Motion by Hoff, seconded by DeWeese:

To approve the execution of the First Amendment to the MKSK Old Woodward Corridor Agreement to provide detailed design input services in accordance with their January 18, 2017 proposal in an amount not to exceed \$39,500, and further, charge the Major Street Fund #202-449.001-981.0000 for these services.

Commissioner Boutros agrees it is crucial to continue with MKSK.

Mr. Kinzler said with the agreement, MKSK will be of service to the City Engineer O'Meara and his consultant engineers to back feed them with the detail. He added that this type of specialty street is a very common project for him. He said we are going from the capturing of the vision phase, to the details and specifications phase. MKSK will also provide any professional expertise along the way.

Mayor Pro Tem Harris supports maintaining MKSK through the next step of the project. He asked if the amount of \$39,500 covers the work until bidding contract administration. Mr. Kinzler confirmed. Thereafter, the City would be charged an hourly rate as MKSK's services would be needed. City Manager Valentine suggested that is not anticipated, since the staff can handle that stage of the project. City Manager Valentine said any bidding contract administration would be a subsequent amendment and agreement to come to the Commission. He added that the only financial figure we are approving is \$39,500.

Commissioner Sherman said it is very beneficial that MKSK is going to stay on the project, and expressed concern about its flexibility as it relates to changes suggested by the Commissioners.

Commissioner Bordman said she supports MKSK continuing assistance, and agreed with Commissioner Sherman's concern about flexibility. She expressed disappointment that Commissioners had to ask repeatedly for the same things as this process continued.

Mayor Nickita noted the fundamental point for MKSK's presence is to be a watchdog on the design brought to the table. He added that we do not want so see this diluted or lost in the translation, and wants MKSK to make sure the design comes from designers to be implemented in the manner in which it was designed.

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VOTE: Yeas, 7

Nays, None Absent, None

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

V. ADJOURN

The meeting was adjourned at 6:00 PM.

Cheryl Arft, Acting City Clerk

Check Number	Early Release	Vendor #	Vendor	Amount
247622		005430	21ST CENTURY MEDIA- MICHIGAN	885.00
247623		MISC	AARON DWIGHT BAUGHEY	1,000.00
247624		MISC	ACH DEVELOPMENT LLC	1,500.00
247626		007266	AETNA BEHAVIORAL HEALTH LLC	352.82
247628		003708	AIRGAS USA, LLC	167.50
247629		007745	ALL COVERED	1,192.00
247630		001206	AMERICAN MIDWEST PAINTING INC	925.00
247631		000282	APOLLO FIRE EQUIPMENT	43.11
247632		MISC	APOLLO MANGEMENT AND CONSTRUCTION L	620.77
247633	*	006759	AT&T	20.17
247634	*	006759	AT&T	26.16
247635	*	006759	AT&T	884.75
247636	*	006759	AT&T	164.72
247637	*	006759	AT&T	96.40
247638	*	006759	AT&T	56.15
247639	*	006759	AT&T	166.12
247640	*	006759	AT&T	235.06
247641		004027	AUTOMATED BENEFIT SVCS INC	787.75
247642		004148	AWWA	187.00
247643		MISC	BABI CONSTRUCTION INC	850.00
247648		003012	BATTERIES PLUS	118.19
247649	*	000517	BEIER HOWLETT P.C.	24,976.75
247650		007345	BEVERLY HILLS ACE	124.10
247652		007624	BIRMINGHAM OIL CHANGE CENTER, LLC	71.93
247654	*	000542	BLUE WATER INDUSTRIAL	84.00
247655		004244	BOLYARD LUMBER	83.62
247656	*	MISC	BRIAN MCDONALD	3,018.99
247658	*	005289	BUSINESS CARD	1,640.03
247661	*	000444	CDW GOVERNMENT INC	382.81
247666		MISC	CHANDLER III, CHARLES	100.00
247667		007710	CINTAS CORP	117.43
247668		000605	CINTAS CORPORATION	109.24
247669		004026	COFINITY	1,260.00
247670	*	007625	COMCAST	304.46
247671	*	007774	COMCAST BUSINESS	643.78
247672		002668	CONTRACTORS CLOTHING CO	879.68
247673		MISC	CREGGER MECHANICAL SYSTEMS INC	1,000.00
247675	*	MISC	DANIEL DIPILATO	3,457.43
247676		004232	DEARBORN LITHOGRAPH INC	14,747.00
247677		003825	DEERE ELECTRIC INC	375.25
247678		000956	DELTA TEMP INC	316.62
247680		006907	DENTEMAX, LLC	132.30
247681	*	MISC	DEREK BENZ	1,246.69

Check Number	Early Release	Vendor #	Vendor	Amount
247683		MISC	DIAMOND CREEK HOMES INC	100.00
247684		008134	DIAMOND Y DOOR SOLUTIONS INC	700.00
247685	*	000179	DTE ENERGY	2,173.63
247686	*	005322	DTE ENERGY COMPANY	136,465.85
247687		002460	EASTERN MICHIGAN UNIVERSITY	3,000.00
247689		007538	EGANIX, INC.	720.00
247690		008308	ERADICO PEST SERVICES	27.00
247691		000207	EZELL SUPPLY CORPORATION	520.65
247692		MISC	F LAX CONSTRUCTION CO INC	200.00
247695		001023	GABRIEL, ROEDER, SMITH & CO.	1,400.00
247697		007172	GARY KNUREK INC	606.41
247698		006384	GEOGRAPHIC INFORMATION SERVICES, IN	501.24
247699		004604	GORDON FOOD	223.60
247700		000243	GRAINGER	544.50
247701		MISC	GREAT LAKE CUSTOM BUILDER LLC	400.00
247702		MISC	GREAT LAKES CUSTOM BUILDER LLC	1,200.00
247703		MISC	GREAT LAKES CUSTOM BUILDERS LLC	359.12
247705		MISC	HANSON'S ADMINISTRATIVE GROUP, LLC	500.00
247706		001320	HAVEN INC	2,000.00
247707		001672	HAYES GRINDING	61.00
247708		000331	HUBBELL ROTH & CLARK INC	2,033.39
247709		000948	HYDROCORP	1,315.00
247710		007794	IMPRESSIVE PRINTING & PROMOTIONS	544.00
247711		003888	INTERNATIONAL CODE COUNCIL INC	235.83
247712		000261	J.H. HART URBAN FORESTRY	12,574.30
247713		000186	JACK DOHENY COMPANIES INC	1,900.18
247714		MISC	JERRY FULCHER	100.00
247715		003458	JOE'S AUTO PARTS, INC.	352.85
247716	*	MISC	JONATHAN D LAU	1,419.03
247717	*	007002	SHON JONES	60.00
247718	*	007827	HAILEY KASPER	90.00
247719		000891	KELLER THOMA	41.25
247720		001309	KENNEDY INDUSTRIES INC	855.00
247721	*	MISC	KEVIN & KATRINA DESMOND	3,426.81
247722		004088	KGM DISTRIBUTORS INC	225.00
247723		006370	KLM SCAPE & SNOW LLC	35,030.00
247724		000353	KNAPHEIDE TRUCK EQUIPMENT	2,109.55
247725		004085	KONE INC	1,953.95
247726		004904	KONICA MINOLTA-ALBIN	306.54
247727		005876	KROPF MECHANICAL SERVICE COMPANY	747.50
247728	*	005327	L-3 COMMUNICATIONS CORP.	54.50
247729		003620	LANGUAGE LINE SERVICES INC	184.86
247730		002767	OSCAR W. LARSON CO.	330.00

Check Number	Early Release	Vendor #	Vendor	Amount
247731		005550	LEE & ASSOCIATES CO., INC.	360.48
247736		008158	LOGICALIS	10,000.00
247738		MISC	MAC CONSTRUCTION, INC.	500.00
247739		007910	MACALLISTER RENTALS	2,086.00
247740		007797	MAILFINANCE INC.	422.13
247741		MISC	MARYGROVE AWNING CO	200.00
247742		000888	MCKENNA ASSOCIATES INC	33,522.50
247743		MISC	MICHIGAN BUILDING & REMODELING INC	200.00
247744		006207	MICHIGAN CAT	5,832.04
247745		003860	MICHIGAN CHANDELIER - SF	352.99
247746		007765	MICHIGAN INDEPENDENT DOOR CO.	275.75
247748		002459	MICHIGAN PARKING ASSOCIATION	75.00
247749		007659	MICHIGAN.COM #1008	32.50
247750		007659	MICHIGAN.COM #1008	65.00
247751		007659	MICHIGAN.COM #1008	65.00
247757		000230	MIKE SAVOIE CHEVROLET INC	1,145.16
247758		MISC	MILLCREEK CONSTRUCTION MANAGEMENT C	2,500.00
247759		007163	MOBILE HEALTH RESOURCES	3,033.23
247760		MISC	MOORE HOME RENOVATIONS	200.00
247761		000972	MOORE MEDICAL LLC	438.01
247762		008160	MPARKS	550.00
247763	*	MISC	NATHAN STONE	274.43
247764		004876	NATIONAL LEAGUE OF CITIES	1,861.00
247765		001194	NELSON BROTHERS SEWER	476.00
247766		007755	NETWORK SERVICES COMPANY	443.59
247768	*	007856	NEXT	24,952.50
247769		006359	NYE UNIFORM COMPANY	1,340.17
247770	*	000477	OAKLAND COUNTY	381,610.77
247771	*	008214	OAKLAND COUNTY WATER DEPARTMENT	8,363.02
247772		003461	OBSERVER & ECCENTRIC	1,082.38
247773		004370	OCCUPATIONAL HEALTH CENTERS	735.75
247777		MISC	PELLA WINDOWS & DOORS, INC.	500.00
247778		MISC	PELLA WINDOWS AND DOORS	500.00
247780	*	001753	PEPSI COLA	711.11
247781		MISC	PERFORMANCE FIBERGLASS INC	100.00
247782		MISC	PETERSON WIAND BOES & CO	647.18
247783		MISC	PETERSON, WIAND BOES & COMPANY	400.00
247784		001277	PHYSIO-CONTROL CORP.	1,817.00
247785		000487	POM INC	800.00
247786		007979	PRESIDIO INFRASTRUCTURE SOL. LLC	927.35
247787		MISC	PRM CONTRACTING LLC	1,900.00
247788		MISC	PRM CUSTOM BUILDERS LLC	2,000.00
247789		006497	R.N.A. FACILITIES MANAGEMENT	2,210.00

Amount		Vendor	Vendor #	Early Release	Check Number
2,647.52		RAMESH TELANG	MISC	*	247790
200.00	ION COMPANY	RICH HUTTON CONSTRUCT	MISC		247792
3,346.43	CO	ROAD COMM FOR OAKLAND	000478		247793
1,750.00		ROBERTSON IN-TOWN	MISC		247794
90.61		ROYAL OAK P.D.Q.	000218		247796
590.00	T METAL	SCHENA ROOFING & SHEET	005759		247797
900.13		SCOTT M LEIBOVITZ	MISC	*	247798
229.05	PLY, INC	SITEONE LANDSCAPE SUPI	008073	*	247800
69,616.00		SOCRRA	000254		247801
142,100.95		SOCWA	001097	*	247802
850.00	SEALANTS INC.	SOUTHEASTERN MICHIGAN	005731		247803
1,136.79		SYBIL KICKHAM		*	247806
27,604.62	E COMPANY	SYMETRA LIFE INSURANCE	004355		247807
325.00	H INC	TAYLOR FREEZER OF MICH	001076		247808
118.09	NC	TIRE WHOLESALERS CO IN	000275		247809
6,500.00	EMENT ASSOC.	TRANSPORTATION IMPROVE	008339		247810
900.00		TRATTORIA DA LUIGI	008017		247811
45.00	NSP ASSN	TRI-COUNTY PLUMBING IN	000930		247812
20,149.92	O. OF AMERICA	UNUM LIFE INSURANCE CO	003760		247815
371.15		VAN DYKE GAS CO.	000293		247816
90.12		VERIZON WIRELESS	000158	*	247817
50.42		VERIZON WIRELESS	000158	*	247818
854.77		VERIZON WIRELESS	000158	*	247819
1,476.10	O, INC	WASHINGTON ELEVATOR CO, INC			247820
525.00		LAUREN WOOD	003890	*	247821
558.63		XEROX CORPORATION	007083		247823
\$1,061,477.66	Sub Total Checks:				
\$355,266.17	Sub Total ACH:				
\$1,416,743.83	Grand Total:				

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

Mark Sterler

Mark Gerber

Finance Director/ Treasurer

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

2/13/2017

City of Birmingham ACH Warrant List Dated 1/25/2017

Vendor Name	Transfer Date	Transfer Amount
Birmingham Schools	1/18/2017	58,616.52
Oakland County Treasurer	1/18/2017	110,204.89
Automated Benefit Services, Inc.	1/18/2017	44,531.84
Automated Benefit Services, Inc.	1/23/2017	138,130.05
Cutwater Asset Management-December	**	3,782.87
	TOTAL	355,266.17

^{**}Awaiting approval from Commission.

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

Check Number	Early Release	Vendor #	Vendor	Amount
247948	*	000855	48TH DISTRICT COURT	100.00
247949	*	000855	48TH DISTRICT COURT	100.00
247950	*	000855	48TH DISTRICT COURT	300.00
247951		002284	ABEL ELECTRONICS INC	226.00
247952		008274	ACCURATE PARKING LOT SERVICES, INC.	400.00
247953	*	007437	CHERYL ARFT	7.98
247954	*	005429	ASM	155.00
247955	*	006759	AT&T	88.33
247956	*	006759	AT&T	103.98
247957	*	007216	AT&T	145.00
247958		000518	BELL EQUIPMENT COMPANY	722.40
247959		007624	BIRMINGHAM OIL CHANGE CENTER, LLC	39.96
247960	*	003282	LISA MARIE BRADLEY	330.00
247961		006520	BS&A SOFTWARE, INC	1,000.00
247962		003907	CADILLAC ASPHALT, LLC	5,601.65
247963		000605	CINTAS CORPORATION	133.17
247964		004188	COFFEE BREAK SERVICE, INC.	217.85
247965	*	007625	COMCAST	495.54
247966	*	007774	COMCAST BUSINESS	639.80
247967	*	000627	CONSUMERS ENERGY	14,782.85
247968		001367	CONTRACTORS CONNECTION	163.80
247969		004386	CYNERGY PRODUCTS	527.00
247970	*	000177	DELWOOD SUPPLY	3.25
247971		005318	DEWOLF & ASSOCIATES	745.00
247972	*	007980	CURTIS DAVID DICHO	120.00
247973	*	000179	DTE ENERGY	24,484.57
247974	*	000180	DTE ENERGY	9,356.79
247975		000493	ED RINKE CHEVROLET BUICK GMC	470.74
247976		004671	ELDER FORD	444.16
247977	*	008161	FIERA CAPITAL INC	11,252.71
247978		007314	FLEIS AND VANDENBRINK ENG. INC	4,642.51
247979		000592	GAYLORD BROS., INC	474.01
247980		004604	GORDON FOOD	352.59
247981		008343	MICHAEL GORTAT	4,290.00
247982		000243	GRAINGER	37.84
247983		004983	GREAT AMERICAN BUSINESS PRODUCTS	341.32
247984		003978	GROUND RULES, INC.	1,234.00
247985		001447	HALT FIRE INC	789.00
247986		001672	HAYES GRINDING	30.50
247987	*	001956	HOME DEPOT CREDIT SERVICES	924.07
247988		001820	IIMC	100.00
247989		MISC	IPS GROUP	30.63
247990		000261	J.H. HART URBAN FORESTRY	8,807.38

Check Number	Early Release	Vendor #	Vendor	Amount
247991		006979	JACKSON ASSOCIATES INC.	590.00
247992		003458	JOE'S AUTO PARTS, INC.	665.67
247993		000347	JOHN R. SPRING & TIRE CENTER INC.	300.00
247994	*	007827	HAILEY R KASPER	132.00
247995	*	000352	JILL KOLAITIS	1,956.00
247996		001362	LACAL EQUIPMENT INC	1,941.10
247997		008188	LEARN TO SKATE USA	869.75
247998	*	005550	LEE & ASSOCIATES CO., INC.	7,213.90
247999	*	001577	KATE LONG	209.92
248000	*	MISC	LORI RITTER	5,003.50
248001	*	MISC	MATTHEW MCARDLE	1,236.04
248002		001660	MICHIGAN CAT	839.33
248004		008319	MKSK	10,620.31
248005		004483	NATIONAL ASSOCIATION OF	100.00
248006		001194	NELSON BROTHERS SEWER	511.00
248007		007755	NETWORK SERVICES COMPANY	60.08
248008		005431	NILFISK, INC.	310.00
248009		001864	NOWAK & FRAUS ENGINEERS	22,814.00
248010		006359	NYE UNIFORM COMPANY	1,664.00
248011	*	000477	OAKLAND COUNTY	7,172.25
248012	*	001484	OCAAO	160.00
248013	*	000481	OFFICE DEPOT INC	1,609.41
248014	*	000481	OFFICE DEPOT INC	587.11
248015		008290	PAT MCCARTHY PRODUCTIONS, INC.	399.00
248016		006853	PAUL C SCOTT PLUMBING INC	380.50
248017	*	001753	PEPSI COLA	470.35
248018		MISC	PEYKOFF, ANDY	1,260.00
248019		003629	PREMIUM AIR SYSTEMS INC	177.50
248020		001062	QUALITY COACH COLLISION LLC	2,896.68
248021	*	005284	RADISSON HOTEL LANSING	113.00
248022		001181	ROSE PEST SOLUTIONS	70.00
248023		000218	ROYAL OAK P.D.Q.	99.50
248024		005759	SCHENA ROOFING & SHEET METAL	765.00
248025		003483	SHERWIN WILLIAMS COMPANY	59.82
248026	*	000254	SOCRRA	60,215.00
248027		005787	SOUTHEASTERN EQUIPMENT CO. INC	2,867.66
248028		001369	SPEEDWAY LLC	172.34
248029		002037	TOTAL ARMORED CAR SERVICE, INC.	714.83
248030		008347	TTS	380.00
248031	*	004580	V.I.L. CONSTRUCTION, INC.	40,943.79
248032		000931	VARSITY SHOP	67.20
248035		000298	VESCO OIL CORPORATION	83.25
248036		000969	VIGILANTE SECURITY INC	4,950.00

Check Number	Early Release	Vendor #	Vendor		Amount
248037	*	000279	VIP TRUCK CENTER LLC		1,107.19
248038	*	002171	WEISSMAN'S COSTUMES		4,832.47
248039	*	007374	WESTWOOD TRUST		12,574.17
248040	*	007894	BRENDA WILLHITE		900.00
248041		005657	WINTER EQUIP CO, INC		620.00
248042		006318	FRANK J ZAMBONI CO. INC		288.01
				Sub Total Checks:	\$299,184.01
				Sub Total ACH:	\$1,406,436.54
				Grand Total:	\$1,705,620.55
				=	

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



Mark Gerber Finance Director/ Treasurer

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

2/13/2017

City of Birmingham ACH Warrant List Dated 2/1/2017

	Transfer	Transfer
Vendor Name	Date	Amount
Birmingham Schools	1/31/2017	986,505.09
Oakland County Treasurer	1/31/2017	365,110.37
Automated Benefit Services, Inc.	1/30/2017	54,821.08
	TOTAL	1,406,436.54

Check Number	Early Release	Vendor #	Vendor	Amount
248043		002767	OSCAR W. LARSON CO.	675.56
248044	*	001623	16TH DISTRICT COURT	400.00
248045	*	000855	48TH DISTRICT COURT	200.00
248046	*	000855	48TH DISTRICT COURT	100.00
248047	*	000855	48TH DISTRICT COURT	100.00
248048	*	000855	48TH DISTRICT COURT	200.00
248049	*	000855	48TH DISTRICT COURT	100.00
248050	*	000855	48TH DISTRICT COURT	100.00
248051	*	000855	48TH DISTRICT COURT	500.00
248052	*	000855	48TH DISTRICT COURT	100.00
248053	*	000855	48TH DISTRICT COURT	100.00
248054	*	001831	52-3 DISTRICT COURT	100.00
248055		MISC	ADVANCED BUILDERS	100.00
248056		MISC	AGAPE BUILDING & REMODELING	500.00
248057		MISC	ALEXANDER HOMES	700.00
248058		MISC	ALFRED TOBOCMAN	100.00
248059		MISC	AMRAEL DEVELOPMENT CO. INC.	100.00
248060		MISC	AMRAEL DEVELPMENT COMPANY INC	100.00
248061		MISC	ANDREW C JACOB, TRUSTEE	100.00
248062		000282	APOLLO FIRE EQUIPMENT	133.46
248064		000500	ARTECH PRINTING INC	191.00
248065	*	006759	AT&T	115.96
248066		MISC	B PAUL & PENELOPE S AVESIAN	200.00
248067		MISC	B-B SIGN & LIGHTING INC	200.00
248068	*	008165	B5 INVESTMENTS, LLC	95.52
248069		MISC	BARAN BUILDING COMPANY INC	100.00
248070		003012	BATTERIES PLUS	242.99
248071	*	001103	BCI ADMINISTRATORS INC	258.75
248073	*	000517	BEIER HOWLETT P.C.	33,101.50
248076		000524	BIRMINGHAM LOCKSMITH	150.00
248078		004244	BOLYARD LUMBER	15.36
248079		MISC	BRENT D & AMANDA J FITCH	100.00
248080		002067	CENTRAL PARKING SYSTEM	74.00
248081		MISC	CHARLES A COSGROVE	200.00
248082		000603	CHEMCO PRODUCTS INC	442.00
248083		MISC	CHRISTOPHER J LONGE, AIA	200.00
248084		000605	CINTAS CORPORATION	72.78
248085		MISC	CITI ROOFING CO	100.00
248086		008044	CLUB PROPHET	590.00
248087	*	007625	COMCAST	48.51
248089		000979	COMERICA BANK	2,315.54
248090		MISC	COMMUNITY CONSTRUCTION SERVICE LLC	200.00
248091		002668	CONTRACTORS CLOTHING CO	135.40

Check Number	Early Release	Vendor #	Vendor	Amount
248092		MISC	COPPLE DIRECT HOME CARE SUPPLY LLC	100.00
248093		MISC	CUMMING CONCRETE CONST, INC	100.00
248094		003923	CUMMINS BRIDGEWAY LLC	471.84
248095		MISC	D & S CONTRACTORS INC	500.00
248096		MISC	DANIEL JAMES HEMPHILL	200.00
248097		MISC	DAVID COSTER	160.00
248098		MISC	DAVID D CHESS	100.00
248099		001563	DEAF & HEARING IMPAIRED SERV INC	1,224.50
248100		MISC	DEEB SHALHOUB REVOC LIVING TRUST	100.00
248103		008134	DIAMOND Y DOOR SOLUTIONS INC	275.00
248104		MISC	DION ZANIEWSKI	100.00
248105		001035	DOUGLASS SAFETY SYSTEMS LLC	60.30
248106	*	000179	DTE ENERGY	5,923.24
248107	*	000180	DTE ENERGY	54,223.62
248108		MISC	EDWARD & JANE SCHULAK	500.00
248109		004671	ELDER FORD	220.66
248110		MISC	EVOLUTION I T SERVICES INC	100.00
248111		000207	EZELL SUPPLY CORPORATION	66.78
248112		MISC	FAIRBROTHER, JEFFREY	200.00
248114		MISC	FIRST CHOICE BUILDING & MAINTENANCE	300.00
248115		MISC	FIRST PRESBYTERIAN CHURCH	200.00
248116		MISC	FOREST ELM INVESTMENTS LLC C/O	100.00
248117		MISC	FOREST GRILL	200.00
248118		MISC	FRANK REWOLD AND SON INC	1,000.00
248119		MISC	G J PERELLI	200.00
248120		MISC	GALAXY CUSTOM CONSTRUCTION	100.00
248121		000592	GAYLORD BROS., INC	410.67
248122		MISC	GILBERT HOMES INC	1,000.00
248123		004604	GORDON FOOD	116.97
248124		000245	GREAT LAKES POPCORN CO	135.90
248126		MISC	HARTFORD ROOFING & WARRANTY CO LLC	100.00
248127		MISC	HASKINS HOME BUILDERS LLC	200.00
248128		003132	HASTINGS AIR-ENERGY CONTROL INC	188.95
248129		001672	HAYES GRINDING	30.50
248130		007458	HERITAGE - CRYSTAL CLEAN, LLC	87.50
248131		MISC	HITCHINGHAM DEV. CO. LLC	100.00
248132		MISC	HM HOMES LLC	2,500.00
248133		MISC	HOGAN CONSTRUCTION INC J M	100.00
248134		MISC	HOLY NAME CHURCH	542.85
248135		000948	HYDROCORP	1,315.00
248136		004837	IDEACORE, LLC	75.00
248138		000342	INTERSTATE BATTERY SYSTEM	89.95
248139		002407	J & B MEDICAL SUPPLY	261.30

Check Number	Early Release	Vendor #	Vendor	Amount
248140		MISC	JAMES R LIGHTBODY	100.00
248141		MISC	JAY PETER NOONAN	500.00
248142		003458	JOE'S AUTO PARTS, INC.	314.86
248143		000347	JOHN R. SPRING & TIRE CENTER INC.	1,332.00
248144		MISC	JON SARKESIAN ARCHITECTS, P.C.	500.00
248145		MISC	JONNA CONSTRUCTION CO LLC	500.00
248146		MISC	JONNA JOSEPH JAMES	2,000.00
248147		MISC	JONNA RENOVATIONS LLC	3,120.00
248148		MISC	K CUSTOM HOME	500.00
248149		MISC	KEARNS BROTHERS INC	100.00
248150		MISC	KELLY BUILDING & DEVELOPMENT CO LLC	100.00
248151		MISC	KOSECK, BERT H	100.00
248152		MISC	KOSTO, SALWAN	6,900.00
248153		000362	KROGER COMPANY	55.17
248154		005876	KROPF MECHANICAL SERVICE COMPANY	1,552.09
248155		MISC	KUJAWA, DANIEL L	100.00
248156		MISC	KUPA, EMILY A	1,000.00
248157		MISC	KUZA, STEVEN	829.56
248158		007985	L.E.O.R.T.C.	150.00
248159		MISC	LA MARCO HOMES LLC	300.00
248160		005550	LEE & ASSOCIATES CO., INC.	412.66
248161	*	007977	KAREN LINGENFELTER	360.00
248163		MISC	LUXURY UPDATED HOMES LLC	500.00
248164		MISC	M.D. COLLINS, INC.	1,125.00
248165		MISC	MAIN STREET BUILDING GROUP	700.00
248166	*	000337	JIM MCCULLOCH	274.36
248168		MISC	MICHAEL BIRACH	1,000.00
248169		MISC	MICHAEL F CISCHKE	200.00
248170		MISC	MICHAEL SANTONI	100.00
248171	*	001005	STATE OF MICHIGAN	95.00
248172	*	001104	STATE OF MICHIGAN	68,395.59
248173		005898	MIGCSA	100.00
248174		MISC	MILLCREEK CONSTRUCTION MANAGEMENT C	3,500.00
248175		000649	MML WORKERS' COMP FUND	44,978.00
248176		MISC	MOJARADI, FAREED	1,900.00
248177	*	007462	MICHAEL MORAD	90.00
248178		007755	NETWORK SERVICES COMPANY	261.70
248180		005431	NILFISK, INC.	179.44
248181		006359	NYE UNIFORM COMPANY	492.49
248182	*	000477	OAKLAND COUNTY	366,408.64
248183		000919	OAKLAND COUNTY TREASURER	449.23
248184		004370	OCCUPATIONAL HEALTH CENTERS	132.50
248185	*	000481	OFFICE DEPOT INC	139.87

Check Number	Early Release	Vendor #	Vendor	Amount
248189		006625	PACIFIC TELEMANAGEMENT SERVICES	78.00
248190		MISC	PELLA WINDOWS AND DOORS	700.00
248191	*	006027	PENCHURA, LLC	176.00
248192		MISC	PERRON, MICHELLE M	1,000.00
248193		MISC	PHILIP T. MEYER	350.00
248194		008359	POLICEONE.COM	435.00
248196		007658	PRIORITY DISPATCH	198.00
248197		MISC	PRM CUSTOM BUILDERS LLC	1,000.00
248198		004137	R & R FIRE TRUCK REPAIR INC	2,356.69
248199		003447	RAFT	1,371.00
248200	*	008342	RAIN MASTER CONTROL SYSTEMS	44.80
248201	*	005344	RESERVE ACCOUNT	8,000.00
248202		MISC	ROBERT J SOWLES	500.00
248203		MISC	RONMARK, ERIK	1,000.00
248204		000218	ROYAL OAK P.D.Q.	75.75
248205		MISC	RUBINSTEIN, ADELE H	1,000.00
248206		MISC	SAM ABELFATAH	200.00
248207		MISC	SCACCIA BUILDING COMPANY	550.00
248208		MISC	SCOTT QUALITY HOMES II LLC	200.00
248209		007142	SHERWIN-WILLIAMS COMPANY	25.16
248209	*	007142	SHERWIN-WILLIAMS COMPANY	69.85
248210		MISC	SIGNARAMA/TROY	200.00
248212		MISC	SINGH CONSTRUCTION	550.00
248213		001097	SOCWA	128,092.09
248215		MISC	STAY DRY BASEMENT WATERPROOFING INC	100.00
248216		001095	SUBURBAN/PRESTIGE GLASS	620.00
248217		MISC	TAFELSKI, JOHN	200.00
248218		008353	TARADEL	1,248.73
248219		MISC	TECH HOME BUILDING	900.00
248220		MISC	TECHHOME BUILDING CO LLC	1,000.00
248221		MISC	TECHHOME BUILDING COMPANY LLC	500.00
248222		MISC	TEMPLETON BUILDING COMPANY	300.00
248223		000273	TERMINAL SUPPLY CO.	167.01
248224		MISC	THC INVESTORS LP	5,000.00
248225		MISC	THD AT HOME SERVICES INC	1,000.00
248226		MISC	THOMAS SEBOLD & ASSOCIATES, IN	100.00
248227		003173	TIFFANY FLORIST	61.95
248228		000941	TIME EMERGENCY EQUIPMENT	343.22
248229		000275	TIRE WHOLESALERS CO INC	152.00
248230		008159	TORTOISE CREDIT STRATEGIES, LLC	9,324.49
248231		MISC	TOWN BUILDING COMPANY	400.00
248232		005481	TRI-COUNTY INTL TRUCKS, INC.	2,138.12
248233		005331	UBS FIN SERVICES, INC	15,969.34

Amount	'endor	Vendor #	Early Release	Check Number
1,516.04	JPS FREIGHT	008349	*	248234
253.05	ITEC	007706		248235
100.00	ARJABEDIAN, CHRISTOPHER	MISC		248237
834.35	ZERIZON WIRELESS	000158	*	248238
151.77	ZERIZON WIRELESS	000158	*	248239
50.37	ZERIZON WIRELESS	000158	*	248240
1,500.00	WALLSIDE INC	MISC		248241
1,494.00	NATCHGUARD VIDEO	006762		248242
2,784.82	NATERFORD REGIONAL FIRE DEPT.	004497		248243
544.25	JEISSMAN'S COSTUMES	002171	*	248244
560.00	BRENDA WILLHITE	007894	*	248245
100.00	VINDOW PRO HOLDINGS LLC	MISC		248246
2,165.05	WINTER EQUIP CO, INC	005657		248248
171.00	RIGHT TOOL COMPANY	000926		248249
977.75	KEROX CORPORATION	007083		248251
105.69	KEROX CORPORATION	007083		248252
300.00	ZAYNE ROUMAYA	MISC		248254
35.00	ILKA HEATING & COOLING INC	MISC		248255
\$830,827.36	Sub Total Checks:			
\$92,290.27	Sub Total ACH:			
\$923,117.63	Grand Total:			

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



Mark Gerber Finance Director/ Treasurer

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

2/13/2017

City of Birmingham 2/8/2017

Vendor Name	Transfer Date	Transfer Amount
Automated Benefit Services, Inc.	2/3/2017	92,290.27
	TOTAL	92,290.27



MEMORANDUM

City Clerk's Office

DATE: February 8, 2017

TO: Joseph A. Valentine, City Manager

FROM: Cheryl Arft, Acting City Clerk

SUBJECT: Special Event Request

Village Fair

Attached is a special event application submitted by the Birmingham Bloomfield Chamber requesting permission to hold the Village Fair in the Shain Park area, May 31 – June 4, 2017.

Once again, the Chamber is requesting to open the fair on Wednesday, May 31st from 5:00 PM – 10:00 PM for a private party sponsored by United Shore Financial Services. The park would remain open to the public, however only the guests of the private party would be allowed on the rides with a wristband.

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 in late May and June. These events do not pose a conflict with the proposed event.

Event Name	Date	Location
Art Birmingham	May 13 th -14 th	Shain Park
Parkinson's Foundation 5K	May 20 th	Seaholm H.S. and surrounding neighborhood
Memorial Day Service	May 29 th	Shain Park
Farmers Market	Sundays	Lot 6
Lungevity 5K Run	June 3 rd	Booth Park & neighborhood north of Maple,
		west of Old Woodward
Battle of the Bands	June 16 th	Shain Park
Family Movie Night	June 23rd	Booth Park
In the Park Concerts	June 21st & 28 th	Shain Park

SUGGESTED RESOLUTION:

To approve a request submitted by the Birmingham Bloomfield Chamber to hold the Village Fair in the Shain Park area, May 31 – June 4, 2017, including the private party, 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.

17-00010918

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

I. EVENT DETAILS

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

rees:	ANNUAL		TION FEE:	\$200 \$16!				
(Please print o	clearly or typ	e)						
Date of Appl	ication		1/20/17					
Name of Eve	ent54th	n Annual	Birminghar	m Village	Fair			
Detailed Des	scription of	Event (at	tach additional	I sheet if nec	essary)			
_Community	fair	with	rides,	food	booths	and	carnival	rides
Location: Sh	ain Dark or	n Martin (St hotwoon	Diorea 9.	Charter Ale	o on Pat	os St. and He	onriotta
			st between	Pierce &	Chester. Als	oo on bac	es st. and no	enneua
DATE(S) & F			_					
Wednesday,	May 31, 2	017	5-	·10 p.m. F	Private Pre-F	arty		
Company: U	Inited Shor	e Financia	al Services	(similar t	o 2015 pre- _l	party)		
Thursday, Ju	ıne 1, 2017	7	2-10 p.m	n. Open to	the public			
Friday, June	2, 2017		12-11 p.	m. Open	to the public			
Saturday, Ju	ne 3, 2017	,	11 a.m.	- 11 p.m.	Open to the	public		
Sunday, Jun	e 4, 2017		12-9 p.m	n. Open to	the public			
Date(s) & Ho	ours of Set	-up Tueso	day, May 3	0 1 a.m.	– Wednesd	ay, May 3	31 all day	
Date(s) of To	ear-down S	Sunday, J	une 4 Hoເ	ırs of Tea	r-down 9 p.	m. – 12 a	a.m.	

Organization S	Sponsoring I	Event _Birm	ingh	am Bloom	field Cha	amber			
Organization	Address	725	S.	Adams	Suite	130	Birmingham	MI	48009
Organization F	Phone _248	644-1700 _							
Contact Perso	nAndr	ea Foglietta	or J	oe Bauma	n				
Contact Phone	e248 43	80-7688			<u>, — </u>				
Contact Email		andre	eaf@	bbcc.com					

II. EVENT INFORMATION

1.	Organization Type: Civic organization, largest fund-raiser for the Chamber and benefits local nonprofits. (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.) To be determined, see attached list of nonprofits that benefitted in 2016.
3.	Is the event a fundraiser? X YES NO List beneficiary: Primary benefactor is the Birmingham Bloomfield Chamber profiting \$25-\$35K depending on weather. List expected income: \$35k+ Attach information about the beneficiary.
4.	First time event in Birmingham? YES NO X If no, describe: 54 th Annual Birmingham Village Fair
5.	Total number of people expected to attend per day: Thousands per day weather permitting.
open	The event will be held on the following City property: (Please list) Street(s) _On Martin St. between Pierce & Chester. On Bates and Henrietta. The r of Pierce & Martin will not be blocked (Townhouse Patio diners). Merrill & Henrietta will be for 1 lane of traffic by The Townsend Hotel. Bates & Merrill will be open for 1 lane of traffic by Community House.
	Sidewalk(s)_Martin, Bates & Henrietta
	Park(s) Shain Park

7.	Will street closures be required? X YES NO
8.	What parking arrangements will be necessary to accommodate attendance?Bags over meters for Martin, Bates & Henrietta. Attendees will be encouraged to use parking structures at Chester & Pierce.
9.	Will staff be provided to assist with safety, security and maintenance? X YES NO Describe_A paid crew is hired for maintenance and clean up. Safety/security is hired by North American Midway Entertainment. Maintenance is coordinated by the Birmingham Bloomfield Chamber.
10.	Will the event require safety personnel (police, fire, paramedics)? X YES NO DescribeNorth American Midwary Entertaiment pulls a water permit and works directly with the Fire Marshall.
11.	Will alcoholic beverages be served? YES NO X 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 X Live AmplificationRecorded Loudspeakers Time music will begin Time music will end 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? X YES NO Number of signs/banners _Approx. 15-20 signs size nonprofit signs will be in each food & game booth. Size of signs/banners18 x 24 Submit a photo/drawing of the sign(s). A sign permit is required.
14.	 Will food/beverages/merchandise be sold? X YES NO Peddler/vendor permits must be submitted to the Clerk's Office, at least two weeks prior to the event.

All food/beverage vendors must have Oakland County Health Department approval.

- Attach copy of Health Dept approval.
- There is a \$50.00 application fee for all vendors and peddlers, in addition to the \$10.00 daily fee, per location. A background check must be submitted for each employee participating at the event.

LIST OF VENDORS/PEDDLERS

(attach additional sheet if necessary)

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

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	12	6 for \$200.00	A request for more than six tables will be evaluated based on availability.
Trash Receptacles	30	\$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	10	\$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	Yes, TBD	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	No	\$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? **X YES** NO (show location of each on map) NOTE: Stakes are not allowed.

ТҮРЕ	QUANTITY	SIZE
Tents/Canopies/Awnings	***************************************	
(A permit is required for tents over 120 sq ft)		
Portable Toilets	6	
Rides	16	
Displays		
Vendors		
Temporary Structure (must attach a photo)		,
Other (describe)	Food & Game Booths Qty: 20-25	

SIGNATURE OF APPLICANT REQUIRED

EVENT NAME 54th Annual Village Fair EVENT DATE May 31, 2017 - June 4, 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.

Signature

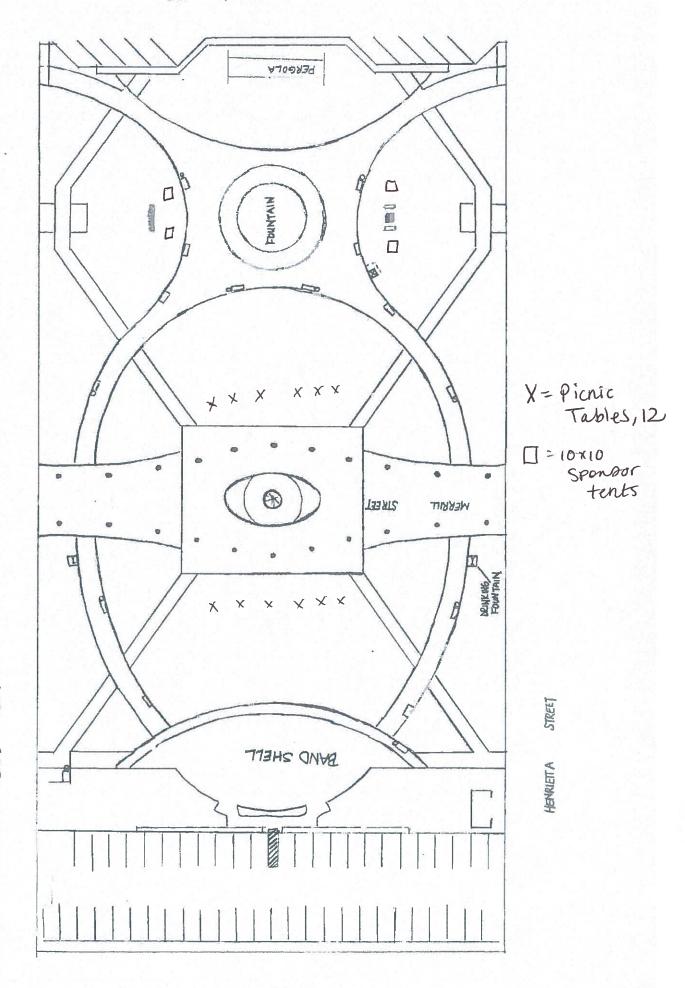
Date

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

- Organizer must notify all potentially affected residential property and business owners of the
 date and time this application will be considered by the City Commission. (Sample letter
 attached to this application.)
- Attach a copy of the proposed letter to this application. The letter will be reviewed and approved by the Clerk's Office. The letter must be distributed at least two weeks prior to the Commission meeting.
- A copy of the letter and the distribution list must be submitted to the Clerk's Office at least two weeks prior to the Commission meeting.
- If street closures are necessary, a map must be included with the letter to the affected property/business owners.

Nonprofits that received proceeds in 2016

Company	Address I	Address 2	City	St	Zip
ADOPT MORE	200 West Second St	. #601	Royal Oak	MI	48067
Birmingham Bloomfield Symphony Orchestra	P.O. Box 1925		Birmingham	MI	48012
Birmingham Bloomfield Community Coalition	1525 Covington Rd.		Bloomfield Hills	MI	48301
Birmingham Command Officers Assn.	151 Martin St.		Birmingham	MI	48009
Birmingham Police Officers Assn.	151 Martin St.		Birmingham	MI	48009
Birmingham Education Foundation	31301 Evergreen		Beverly Hills	MI	48025
Birmingham Optimist Club	c/o The Community	⊢ 380 S. Bates St.	Birmingham	MI	48009
Birmingham Rotary Club	c/o The Community	H 380 S. Bates St.	Birmingham	MI	48009
Birmingham Youth Assistance	2436 W. Lincoln, Ste	e. F102	Birmingham	MI	48009
Bloomfield Hills Schools Foundation	7273 Wing Lake Rd.		Bloomfield Hills	MI	48301
The Bottomless Toy Chest	735 Forest Ave. Suit	e 204B	Birmingham	MI	48009
The Julian Boivin Courage for Cures Foundation	3792 Peabody Dr.		Bloomfield Hills	MI	48301
FAR Therapeutic Arts and Recreation	1669 West Maple Ro	oad	Birmingham	MI	48009
Oakland County Children's Village Foundation	1200 N. Telegraph R	.d.	Pontiac	MI	48341
On My Own of Michigan	1250 Kirts Blvd., Sui	te 300	Troy	MI	48084
The Pink Fund	P.O. Box 603		Bloomfield Hills	MI	48303
Village Players	P.O. Box 172		Birmingham	MI	48012
Wish Upon a Teen	36880 Woodward A	ve. Suite 106	Bloomfield Hills	MI	48304
Birmingham Family YMCA	400 E. Lincoln St.		Birmingham	MI	48009



HALLMAN MINERIA



SPECIAL EVENT REQUEST NOTIFICATION LETTER

DATE: Wednesday, January 25, 2017

TO: Residential Property or Business Owner

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

EVENT INFORMATION

NAME OF EVENT: 54th Annual Birmingham Village Fair

LOCATION: On Martin St. between Pierce and Chester. On Bates and Henrietta. See back for map.

DATE(S) & HOURS OF EVENT:

Wednesday, May 31, 2017 5-10 p.m. Private Pre-Party

Thursday, June 1, 2017 2-10 p.m. Open to the public

Friday, June 2, 2017 12-11 p.m. Open to the public

Saturday, June 3, 2017

11 a.m. - 11 p.m. Open to the public

Sunday, June 4, 2017

12-9 p.m. Open to the public

BRIEF DESCRIPTION OF EVENT/ACTIVITY: Community fair with rides, food and games.

DATE(S) OF SET-UP: Tuesday, May 30 & Wednesday, May 31

HOURS OF SET-UP: I a.m. - 3 p.m.

DATE(S) OF TEAR-DOWN: Sunday, June 4, 2017 HOURS OF TEAR-DOWN: 9 p.m. – 12 a.m.

DATE OF CITY COMMISSION MEETING: Monday, February 13, 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/events for a complete list of special events.

EVENT ORGANIZER: Birmingham Bloomfield Chamber ADDRESS: 725 S. Adams, Suite 130, Birmingham MI 48009

PHONE: (248) 430-7688

FAIR PLAN

SCALE 1" = 20" NORTH AMERICAN MEDWAY SHAM PARK BIRLUNGHAM, MI SHAIN PARK METERAL ST.





DISCLAIMER

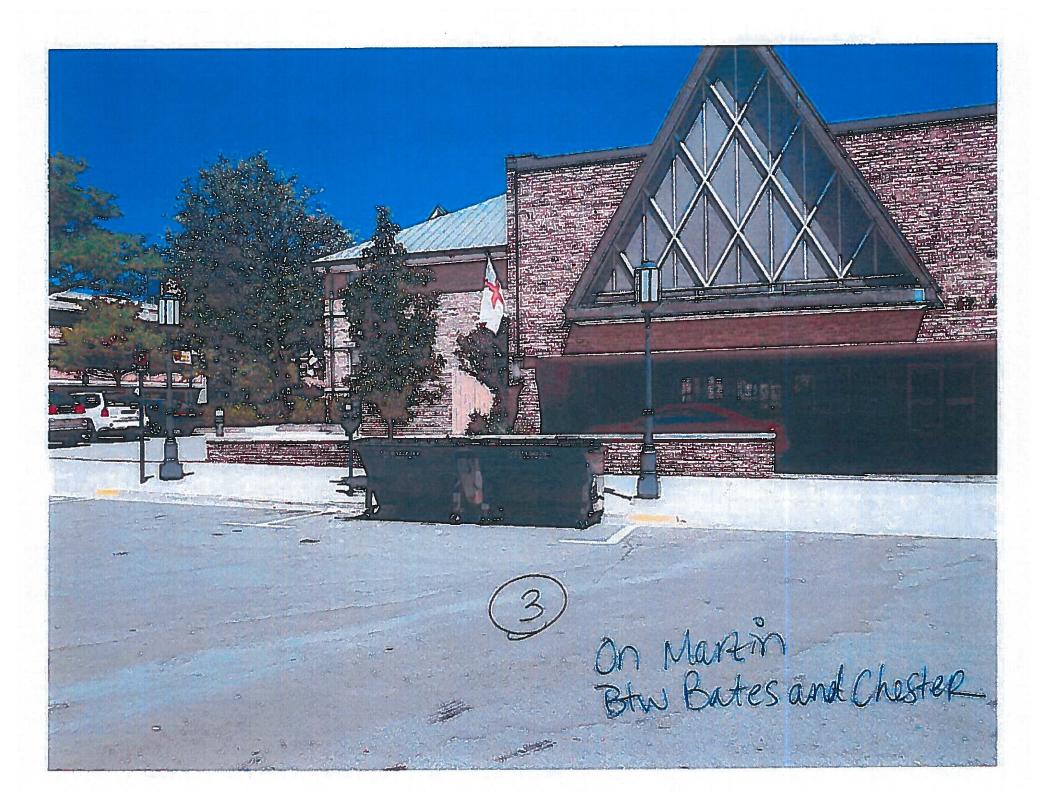
The information provided on this site is for convenience only and is compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. Much of the data was not compiled or created by the City of Birmingham. In the preparation of this report, extensive efforts have been made to offer the most current, correct, and clearly expressed information possible. However, inadvertent errors, inaccuracies, and omissions can occur. Official versions should be used as a primary information source for verification of the information provided on these pages. Users are advised that their use of any of this information is at their own risk.

The City of Birmingham, its consultants and data providers, do not assume, and hereby disclaim, legal responsibility for the information contained herein which is provided "as is" with no warranties of any kind whether such errors, inaccuracies of omissions result from negligence, accident or any other cause.











HOLD-HARMLESS AGREEMENT

"To the fullest extent permitted by law, the **Birmingham Bloomfield Chamber** and any entity or person for whom the **Birmingham Bloomfield Chamber** 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."

Applicant's signature

Date

SHORNYAK

CERTIFICATE OF LIABILITY INSURANCE

DATE (MN/DD/YYYY) 1/11/2017

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

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

PRODUCER				CONTACT Shari Hornyak									
Emerson-Prew 30600 Telegraph Rd, Ste 3110						PHONE (A/C, No, Ext): (248) 203-1817 FAX (A/C, No):				1			
		Farms, MI 48							s: shornyak		om		
									INS	URER(S) AFFOR	DING COVERAGE		NAIC #
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NSU	RED						E	INSURE	B: Acciden	t Fund Insu	rance Company of Am	erica	10166
		Birmingh	am E	Bloomfield Cha	mber	of C	ommerce	INSURER C:					
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Ado	lition	al Insured. Th	is C	overage Shall b	e Prin	nary	D 101, Additional Remarks Sched pointed Officials; All Empl and Non-Contributory. I, 2017 Through June 4, 20		e stached f mo L Volunteers;	re space te requ Board Memb	ired) pers; Employees & Voluni	teers a	re Named as
CE	RTI	FICATE HOLI	DER	Secretary to the second				CAN	CELLATION				
			tin S	treet				THE	EXPIRATIO	N DATE T	DESCRIBED POLICIES BE O HEREOF, NOTICE WILL ICY PROVISIONS.	BE D	LLED BEFORE ELIVERED IN
	151 Martin Street Birmingham, MI 48009					AUTHORIZED REPRESENTATIVE							

ACORD

DEPARTMENT APPROVALS

EVENT NAME Village Fair & Private Party (5/31/17)

LICENSE NUMBER #17-00010918

COMMISSION HEARING DATE FEBRUARY 13, 2017

NOTE TO STAFF: Please submit approval by 1/31/17

DATE OF EVENT: 5/31 - 6/4/17

DEPARTMENT	APPROVED	COMMENTS	PERMITS REQUIRED (Must be obtained directly from individual departments)	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		Electrical permit for all generators and wiring.	\$383.70	
FIRE 101-000.000-634.0004 248.530.1900	JMC	 No Smoking in any tents or canopy. Signs to be posted. All tents and Canopies must be flame resistant with certificate on site. 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. Tents and Canopies must be properly anchored for the weather conditions, no stakes allowed. 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 		\$102.00	

T		
	Marshal.	
	6. Pre-event site inspection	
	required.	
	7. A prescheduled inspection is	
	required for food vendors	
	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	

POLICE 101-000.000.634.0003	SG	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. Personnel, barricades and road closures		\$2185.00	
PUBLIC SERVICES 101-000.000-634.0002 248.530.1642	Carrie Laird 1/24/2107	Will provide: *1). Ten Trash dumpsters and dumping each day. If event would like to provide their own dumpster service the total cost would be reduced. 2). 30 PSD boxes/Bags 3). 12 Picnic Tables 4). Delivery/Removal of barricades 5). Vendors are responsible for cleaning the area, including the granite pavers. Any additional cleanup needed will be arranged for by DPS and billed to the event in addition to the estimated costs. This includes grease, trash, the need for powerwashing of sidewalks, lawn repair, irrigation repair, and anything else related to the event. 6). Applicant must provide a Hydrant permit for water usage. Does not include water that will be used for the event.		\$4,500	
ENGINEERING 101-000.000.634.0002 248.530.1839	A.F.	Note: The Old Woodward Road Project will likely be underway during this time and may cause the parking structures to be busier than usual. Maintain 5' clear pedestrian path on all sidewalks. Keep handicap sidewalk ramps clear. No pavement damage allowed on roads or sidewalks.	None	0	0

INSURANCE 248.530.1807	CA		NONE	0	0
CLERK 101-000.000-614.0000 248.530.1803		Notification letters to be mailed by applicant no later than 1/30/17. Notification addresses on file in the Clerk's Office. Evidence of required insurance on file with the Clerk's Office.	Applications for vendors license must be submitted no later than 5/17/17.	\$165 PD	
				TOTAL DEPOSIT REQUIRED \$7,170.70	ACTUAL COST

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

Rev. 2/8/17 h:\shared\special events\- general information\approval page.doc



cheryl arft <carft@bhamgov.org>

Phylis Klinger

1 message

Scott Grewe <sgrewe@bhamgov.org>
To: cheryl arft <carft@bhamgov.org>

Tue, Jan 24, 2017 at 1:17 PM

We were requested to check the welfare of Ms. Klinger. We checked her residence and after no answer made contact with a neighbor who stated she pasted in hospice care. We ran her drivers license with stated she was deceased.

Scott Grewe
Operations Commander
Birmingham Police Department
151 Martin St.
Birmingham, MI. 48009
(248)530-1867

SUGGESTED RESOLUTION:

To accept the resignation of Phyllis Klinger from the Public Arts Board, thank her for her service, and direct the Acting Clerk to begin the process of filling the vacancy.



Fwd: PAB Resignation

1 message

Jana Ecker <jecker@bhamgov.org>
To: cheryl arft <carft@bhamgov.org>

Tue, Jan 31, 2017 at 12:59 PM

PAB resignation

----- Forwarded message ------

From: Sean Campbell <scampbell@bhamgov.org>

Date: Tue, Jan 31, 2017 at 12:43 PM Subject: Fwd: PAB Resignation

To: Jana Ecker < Jecker@bhamgov.org>

----- Forwarded message ------

From: Maggie Mettler <mlmettler@gmail.com>

Date: Sat, Jan 28, 2017 at 1:14 PM

Subject: PAB Resignation

To: bheller@dia.org, pklingerlawfirm@yahoo.com, a_ritchie@msn.com, maryroberts49@gmail.com, lawells126@gmail.com,

jason28e@yahoo.com

Cc: scampbell@bhamgov.org

Dear fellow Board members,

It is with much regret that I inform you of my decision to resign from the Public Arts Board. I simply have not had as much time as I'd like to dedicate to the Board.

That said, I believe this is an opportune time to depart, as it seems there are several new candidates interested in the Board, which is wonderful news.

It has been a true pleasure, and an honor, to serve with you all. I look forward to seeing the new projects you're all working hard to bring to life around town.

Many thanks for the opportunity to serve and to get to know you all!

Best, Maggie

SUGGESTED RESOLUTION:

To accept the resignation of Maggie Mettler from the Public Arts Board, thank her for her service, and direct the Acting Clerk to begin the process of filling the vacancy.



TIMOTHY J. CURRIER

tcurrier@bhlaw.us.com Telephone (248) 645-9400 Fax (248) 645-9344

February 8, 2017

Birmingham City Commission 151 Martin Street, P.O. Box 3001 Birmingham, MI 48012-3001

Re: CenturyLink Communications, LLC Right-of-Way METRO Act Safe Harbor Application and Safe Harbor Bi-lateral Permit

Dear Commissioners:

The City of Birmingham received the above permit application and permit from CenturyLink Communications, LLC. On January 31, 2017 the City received a completed permit application in compliance with the mandates of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (METRO). CenturyLink Communications, LLC is required to submit the Safe Harbor Application, and it chose to file the Safe Harbor Bi-lateral Permit format. The City of Birmingham has 45 days from the date of the application to either approve or deny the application and permit.

I have reviewed the Safe Harbor application and permit, as well as the attached documents that CenturyLink Communications, LLC filed with the City.

SAFE HARBOR APPLICATION

As mentioned above, the application is the Safe Harbor Application that was approved by the Michigan Public Service Commission (MPSC) for use by telecommunications providers when those providers submit such applications and permits. Moreover, the METRO Act has incorporated by reference the Safe Harbor documents in the statute itself. *The Application complies with the mandates of the statute, and is complete*.

SAFE HARBOR BI-LATERAL PERMIT

Just as the MPSC has approved the language and format of the Safe Harbor Application, the MPSC has also approved and adopted the Bi-lateral Permit format as one of two formats available to providers. The provider is to fill out the information in the permit and, once complete, file it with the municipality.

I have reviewed the permit submitted by CenturyLink Communications, LLC, and the permit complies with the requirements of the statute.

Beier Howlett

Birmingham City Commission February 8, 2017 Page 2

RECOMMENDATION

Based upon my review of the application, permit, and the METRO Act, it is my recommendation that the Commission approve the application and permit submitted by CenturyLink Communications, LLC.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier

TJC/jc

SUGGESTED RESOLUTION:

To approve the application and permit submitted by CenturyLink Communications, LLC, and to authorize the Mayor to sign the Right-of-Way Telecommunications Permit on behalf of the City.



k v automikolina, i s c

METRO Act Permit Application Form Revised February 2, 2015

JAN 3 1 2017

CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

____City of Birmingham_____
Name of Local Unit of Government

APPLICATION FOR
ACCESS TO AND ONGOING USE OF PUBLIC WAYS BY
TELECOMMUNICATIONS PROVIDERS
UNDER
METROPOLITAN EXTENSION TELECOMMUNICATIONS
RIGHTS-OF-WAY OVERSIGHT ACT
2002 PA 48
MCL SECTIONS 484.3101 TO 484.3120

BY

CenturyLink Communications, LLC ("APPLICANT")

<u>Unfamiliar with METRO Act?--Assistance</u>: Municipalities unfamiliar with Michigan Metropolitan Extension Telecommunications Rights-of-Way Oversight Act ("METRO Act") permits for telecommunications providers should seek assistance, such as by contacting the Telecommunications Division of the Michigan Public Service Commission at 517-284-8190 or via its web site at http://www.michigan.gov/mpsc/0,4639,7-159-16372 22707---,00.html.

45 Days to Act—Fines for Failure to Act: The METRO Act states that "A municipality shall approve or deny access under this section within 45 days from the date a provider files an application for a permit for access to a public right-of-way." MCL 484.3115(3). The Michigan Public Service Commission can impose fines of up to \$40,000 per day for violations of the METRO Act. It has imposed fines under the Michigan Telecommunications Act where it found providers or municipalities violated the statute.

Where to File: Applicants should file copies as follows [municipalities should adapt as appropriate—unless otherwise specified service should be as follows]:

-- Three (3) copies (one of which shall be marked and designated as the master copy) with the Clerk at [insert address].

City of Birmingham 151 Martin Street Birmingham, MI 48012 Attn: City Clerk

	City of Birmingham	
oral traffic to Charact	Name of local unit of government	

APPLICATION FOR OUT OF THE WALL OF ACCESS TO AND ONGOING USE OF PUBLIC WAYS BY TELECOMMUNICATIONS PROVIDERS

By CenturyLink Communications, LLC ("APPLICANT")

Sections 5 and 6 of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48 (the adapting wage of METRO Act") for access to and ongoing usage of the public right-of-way, including public roadways, highways, streets, alleys, easements, and waterways with fire a relevant ("Public Ways") in the Municipality for a telecommunications system. The hontery shall approve or deny access under this are a provider files as application for a permit while the files esection within 45 days from the date a provider files an application for a permit while 484.8118 for access to a public right-of-way." MCL 484.3115(3).

This application must be accompanied by a one-time application fee of \$500, which is exempt from this requirement under Section 5(3) of the METRO Act, MCL 484.3105(3).

45 11/1

art Mines

1 **GENERAL INFORMATION**:

Date: January 30 2017

1.1	Date	
1.2	Applicant's legal name:CenturyLink Communications, LLC	
	Mailing Address: 100 CenturyLink Drive	
	Monroe, LA 71203	
	Attn: Construction Services	
	Telephone Number: 636-887-4752	
	Fax Number: 636-887-4960	
	Corporate website:www.centurylink.com_	

Name and title of Applicant's local man	nager (and if different) contact person
regarding this application: Mr. Kirk Thoelke	
Mr. Kirk Thoelke Mailing Address:11111 Dorsett	Dood
Maryland Heig	hts, MO, 63043
iviai yialid Tielg	itts, 1410, 03043
Telephone Number:636-887-4752	
Fax Number:636-887-4960	
E-mail Address: kirk.thoelke	@centurylink.com
•	
Type of Entity: (Check one of the follow	ving)
Type of Emily. (Check one of the fonce,	·····6)
Corporation	
General Partnership	
Limited Partnership	
x Limited Liability Company	
Individual	
Other, please describe:	
	· ·
1.4 Assumed name for doing business, if any	
red felcommunal:5 and Description of Entity: Registered Telecom	mmunications Company
1.5.1 Invidiation of incomparation/forms	ition, Doloviero
atives de avadear Ocheva 1.5.1 Jurisdiction of incorporation/forma	
1.5.2 Date of incorporation/formation; 6.	
ushimate pateur comparts.3 If a subsidiary, name of ultimate pateurs of the compart of the comparts of the com	
officials for non-corporate entities).	retary and reasoner (and equivalent
2 OFFICERS:	
Chief Executive Officer and President	Glen F. Post, III
Executive Vice President and Chief Financial Officer	Ç,
Executive Vice President and General Counsel	Stacey W. Goff
President Global IT Services and New Market Develop	
	Girish Varma
President – Wholesale Operations	William E. Cheek
President – Sales and Marketing	Dean J. Douglas
Executive Vice President - Controller and Oper	
Support	David D. Cole
Executive Vice President – Network Services	Maxine Moreau
Senior Vice President – Public Policy and Govern	
Relations	John F. Jones
Vice President and Treasurer	Glynn E. Williams, Jr.
Vice President	Jonathan J. Robinson
Vice President and Assistant Secretary	James L. Butler
Secretary	Kay Buchart
Assistant Secretary	Joan E. Randazzo
Assistant Secretary	Meagan Messina Woodard

4 DIRECTORS:

R. Stewart Ewing, Jr. and Stacey W. Goff

4.1.1

- 4.2 Attach copies of Applicant's most recent annual report (with state ID number) deplayed and filed with the Michigan Department of Licensing and Regulatory Affairs and certificate of good entires a standing with the State of Michigan. For entities in existence for less than one year and for non-corporate entities, provide equivalent information.
- Applicant and Municipality? If yes, describe: None______
- years, the Applicant had a permit to install regular telecommunications facilities in the public right of way revoked by any Michigan municipality?

Circle: Yes No

TATELLINE'S

If "yes," please describe the circumstances.

has an adverse find 4.5 fee In the past three (3) years, has an adverse finding been made or an adverse final action been taken by any Michigan court or administrative body against Applicant under any law or regulation related to the following: No

4.5.1 A felony; or

4.5.2 A revocation or suspension of any authorization (including cable franchises) to provide telecommunications or video programming services?

LOW.

Circle: Yes No

If "yes," please attach a full description of the parties and matters involved, including an identification of the court or administrative body and any proceedings (by dates and file numbers, if applicable), and the disposition of such proceedings.

- 4.6 [If Applicant has been granted and currently holds a license to provide basic local exchange service, no financial information needs to be supplied.] If publicly held, provide Applicant's most recent financial statements. If financial statements of a parent company of Applicant (or other affiliate of Applicant) are provided in lieu of those of Applicant, please explain.
 - 4.6.1 If privately held, and if Municipality requests the information within 10 days of the date of this Application, the Applicant and the Municipality should make arrangements for the Municipality to review the financial statements.

5 DESCRIPTION OF PROJECT:

- 5.1 Provide a copy of authorizations, if applicable, Applicant holds to provide telecommunications services in Municipality. If no authorizations are applicable, please explain.
- 5.2 Describe in plain English how Municipality should describe to the public the telecommunications services to be provided by Applicant and the telecommunications facilities to be installed by Applicant in the Public Ways. Building two 1-1/4 inch ducts from our customer located at 735 Forest Ave to a Fiber handoff located in front of 880 S Old Woodward Ave to establish FOC connectivity
- 5.3 Attach route maps showing the location (including whether overhead or proposed facilities in the public right-of-way. To the extent known, please identify the side of the street on which the facilities will be located. (If construction approval is sought at this time, provide engineering drawings, if available, showing location and depth, if applicable, of facilities to be installed in the public right-of-way).
- cell or actual construction schedule. March 1st -31st
- Public Ways the facilities proposed to be installed in the Public Ways. CenturyLink Communications, LLC

Who will be responsible for maintaining the facilities Applicant places in the Public Ways and how are they to be promptly contacted? CenturyLink Communications, LLC Contact Tom Trombley @ 734-777-1910 or tom.trombley@centurylink.com If Applicant's facilities are to be installed on or in existing facilities in the Public Ways of existing public utilities or incumbent telecommunications providers, describe the facilities to be used, and provide verification of their consent to such usage by Applicant.

6 TELECOMMUNICATION PROVIDER ADMINISTRATIVE MATTERS:

Please provide the following or attach an appropriate exhibit.

Address of Applicant's nearest local office;
Tom Trombley
Sr Engineer for CenturyLink Communications, LLC
3541 Mill St
Newport MI. 48166
734-777-1910
tom.trombley@centurylink.com

Location of all records and engineering drawings, if not at local office;
 Tom Trombley
 Sr Engineer for CenturyLink Communications, LLC
 3541 Mill St
 Newport MI. 48166
 734-777-1910
 tom.trombley@centurylink.com

estrate addresses and 6.3 depNames, titles, addresses, e-mail addresses and telephone numbers of contact confidence person(s) for Applicant's engineer or engineers and their responsibilities for the telecommunications system;

Tom Trombley Sr Engineer for

Sr Engineer for CenturyLink Communications, LLC

3541 Mill St

Newport MI. 48166

734-777-1910

tom.trombley@centurylink.com

- 6.4 Provide evidence of self-insurance or a certificate of insurance showing a hour of a Applicant's insurance coverage, carrier and limits of liability for the following:
 - 6.4.1 Worker's compensation;
- Eliabellia deschading at least 6.4.2 Commercial general liability, including at least:
 - 6.4.2.1 Combined overall limits;
 - 6.4.2.2 Combined single limit for each occurrence of bodily injury;

Call

- 6.4.2.3 Personal injury;
- 6.4.2.4 Property damage;
- 6.4.2.5 Blanket contractual liability for written contracts, products, and completed operations;
 - 6.4.2.6 Independent contractor liability;
- 6.4.2.7 For any non-aerial installations, coverage for property damage from perils of explosives, collapse, or damage to underground utilities (known as XCU coverage);
 - 6.4.2.8 Environmental contamination;
- 6.4.3 Automobile liability covering all owned, hired, and non-owned vehicles used by Applicant, its employee, or agents.

6.5 Names of all anticipated contractors and subcontractors involved in the construction, maintenance and operation of Applicant's facilities in the Public Ways.

Creek Enterprise
1306 Page Ave
Jackson MI. 49201
Randy Griffith
734-274-0605
Randy Griffith [randygriffith@creekenterprise.com]

7 **CERTIFICATION**:

the best of my knowledge and belief.

NAME OF ENTITY ("APPLICANT")
CenturyLink Communications, LLC
By:
Right of Way EngineerTitle

S:\metroapplicationform.doc

METRO Act Permit Bilateral Form Revised 12/06/02

RIGHT-OF-WAY **TELECOMMUNICATIONS PERMIT**

TERMS AND CONDITIONS

4	TO (* *.*
	Definitions
1	Deliminons

1.1	Company shall mean _CenturyLink Communications, LLC_ organized under the laws of the State ofDelaware whose address is 100 CenturyLink Drive, Monroe, LA 71203
1.2	Effective Date shall mean the date set forth in Part 13.

- 1.3 [Mayor/Manager/Supervisor/Village Manager shall mean Municipality's President] or his or her designee.
- 1.4 METRO Act shall mean the Metropolitan Extension Telecommunications Rightsof-Way Oversight Act, Act No. 48 of the Public Acts of 2002, as amended.
- 1.5 Municipality shall mean City of Birmingham, a Michigan municipal corporation.
- 1.6 Permit shall mean this document.
- 1.7 Public Right-of-Way shall mean the area on, below, or above a public roadway, highway, street, alley, easement, or waterway, to the extent Municipality has the ability to grant the rights set forth herein. Public right-of-way does not include a federal, state, or private right-of-way.
- 1.8 Telecommunication Facilities or Facilities shall mean the Company's equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, provide telecommunication services Telecommunication Facilities or Facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, 2-way communications device.
- 1.9 Term shall have the meaning set forth in Part 7.

2 Grant

- 2.1 Municipality hereby grants a permit under the METRO Act to Company for access to and ongoing use of the Public Right-of-Way to construct, install and maintain Telecommunication Facilities in those portions of the Public Right-of-Way identified on Exhibit A on the terms set forth herein.
 - 2.1.1 Exhibit A may be modified by written request by Company and approval by Manager.
 - 2.1.2 Manager shall not unreasonably condition or deny any request for a modification of Exhibit A. Any decision of Manager on a request for a modification may be appealed by Company to Municipality's legislative body.
- 2.2 Overlashing. Company shall not allow the wires or any other facilities of a third party to be overlashed to the Telecommunication Facilities without Municipality's prior written consent. Municipality's right to withhold written consent is subject to the authority of the Michigan Public Service Commission under Section 361 of the Michigan Telecommunications Act, MCL § 484.2361.
- 2.3 <u>Nonexclusive</u>. The rights granted by this Permit are nonexclusive. Municipality reserves the right to approve, at any time, additional permits for access to and ongoing usage of the Public Right-of-Way by telecommunications providers and to enter into agreements for use of the Public Right-of-Way with and grant franchises for use of the Public Right-of-Way to telecommunications providers, cable companies, utilities and other providers.

3 Contacts, Maps and Plans

3.1 <u>Company Contacts</u>. The names, addresses and the like for engineering and construction related information for Company and its Telecommunication Facilities are as follows:

The address, e-mail address, phone number and contact person (title or name) at Company's local office (in or near Municipality) is

Tom Trombley
Sr Engineer for CenturyLink Communications, LLC
3541 Mill St
Newport MI. 48166
734-777-1910
tom.trombley@centurylink.com

3.1.1 If Company's engineering drawings, as-built plans and related records for the Telecommunication Facilities will not be located at the preceding local office, the location address, phone number and contact person (title or department) for them is

Tom Trombley
Sr Engineer for CenturyLink Communications, LLC
3541 Mill St
Newport MI. 48166
734-777-1910
tom.trombley@centurylink.com

3.1.2 The name, title, address, e-mail address and telephone numbers of Company's engineering contact person(s) with responsibility for the design, plans and construction of the Telecommunication Facilities is:

Tom Trombley
Sr Engineer for CenturyLink Communications, LLC
3541 Mill St
Newport MI. 48166
734-777-1910

tom.trombley@centurylink.com

3.1.3 The address, phone number and contact person (title or department) at Company's home office/regional office with responsibility for engineering and construction related aspects of the Telecommunication Facilities is

Tom Trombley
Sr Engineer for CenturyLink Communications, LLC
3541 Mill St
Newport MI. 48166
734-777-1910
tom.trombley@centurylink.com

- 3.1.4 Company shall at all times provide Manager with the phone number at which a live representative of Company (not voice mail) can be reached 24 hours a day, seven (7) days a week, in the event of a public emergency. Network Operations Center 800-604-6688
- 3.1.5 The preceding information is accurate as of the Effective Date. Company shall notify Municipality in writing as set forth in Part 12 of any changes in the preceding information.
- 3.2 <u>Route Maps</u>. Within ninety (90) days after the substantial completion of construction of new Facilities in a Municipality, a provider shall submit route maps showing the location of the Telecommunication Facilities to both the Michigan Public Service Commission and to the Municipality, as required under Section 6(7) of the METRO Act, MCLA 484.3106(7).

3.3 <u>As-Built Records</u>. Company, without expense to Municipality, shall, upon forty-eight (48) hours notice, give Municipality access to all "as-built" maps, records, plans and specifications showing the Telecommunication Facilities or portions thereof in the Public Right-of-Way. Upon request by Municipality, Company shall inform Municipality as soon as reasonably possible of any changes from previously supplied maps, records, or plans and shall mark up maps provided by Municipality so as to show the location of the Telecommunication Facilities.

4 Use of Public Right-of-Way

- 4.1 <u>No Burden on Public Right-of-Way.</u> Company, its contractors, subcontractors, and the Telecommunication Facilities shall not unduly burden or interfere with the present or future use of any of the Public Right-of-Way. Company's aerial cables and wires shall be suspended so as to not endanger or injure persons or property in or about the Public Right-of-Way. If Municipality reasonably determines that any portion of the Telecommunication Facilities constitutes an undue burden or interference, due to changed circumstances, Company, at its sole expense, shall modify the Telecommunication Facilities or take such other actions as Municipality may determine is in the public interest to remove or alleviate the burden, and Company shall do so within a reasonable time period. Municipality shall attempt to require all occupants of a pole or conduit whose facilities are a burden to remove or alleviate the burden concurrently.
- 4.2 No Priority. This Permit does not establish any priority of use of the Public Right-of-Way by Company over any present or future permittees or parties having agreements with Municipality or franchises for such use. In the event of any dispute as to the priority of use of the Public Right-of-Way, the first priority shall be to the public generally, the second priority to Municipality, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between other permit, agreement or franchise holders, as determined by Municipality in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.
- 4.3 Restoration of Property. Company, its contractors and subcontractors shall immediately (subject to seasonal work restrictions) restore, at Company's sole expense, in a manner approved by Municipality, any portion of the Public Right-of-Way that is in any way disturbed, damaged, or injured by the construction, installation, operation, maintenance or removal of the Telecommunication Facilities to a reasonably equivalent (or, at Company's option, better) condition as that which existed prior to the disturbance. In the event that Company, its contractors or subcontractors fail to make such repair within a reasonable time, Municipality may make the repair and Company shall pay the costs Municipality incurred for such repair.

- 4.4 Marking. Company shall mark the Telecommunication Facilities as follows: Aerial portions of the Telecommunication Facilities shall be marked with a marker on Company's lines on alternate poles which shall state Company's name and provide a toll-free number to call for assistance. Direct buried underground portions of the Telecommunication Facilities shall have (1) a conducting wire placed in the ground at least several inches above Company's cable (if such cable is nonconductive); (2) at least several inches above that, a continuous colored tape with a statement to the effect that there is buried cable beneath; and (3) stakes or other appropriate above ground markers with Company's name and a toll-free number indicating that there is buried telephone cable below. Bored underground portions of the Telecommunication Facilities shall have a conducting wire at the same depth as the cable and shall not be required to provide the continuous colored tape. Portions of the Telecommunication Facilities located in conduit, including conduit of others used by Company, shall be marked at its entrance into and exit from each manhole and handhole with Company's name and a toll-free telephone number.
- 4.5 <u>Tree Trimming</u>. Company may trim trees upon and overhanging the Public Right-of-Way so as to prevent the branches of such trees from coming into contact with the Telecommunication Facilities, consistent with any standards adopted by Municipality. Company shall dispose of all trimmed materials. Company shall minimize the trimming of trees to that essential to maintain the integrity of the Telecommunication Facilities. Except in emergencies, all trimming of trees in the Public Right-of-Way shall have the advance approval of Manager.
- 4.6 <u>Installation and Maintenance</u>. The construction and installation of the Telecommunication Facilities shall be performed pursuant to plans approved by Municipality. The open cut of any Public Right-of-Way shall be coordinated with the Manager or his designee. Company shall install and maintain the Telecommunication Facilities in a reasonably safe condition. If the existing poles in the Public Right-of-Way are overburdened or unavailable for Company's use, or the facilities of all users of the poles are required to go underground then Company shall, at its expense, place such portion of its Telecommunication Facilities underground, unless Municipality approves an alternate location. Company may perform maintenance on the Telecommunication Facilities without prior approval of Municipality, provided that Company shall obtain any and all permits required by Municipality in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by Municipality.
- 4.7 <u>Pavement Cut Coordination</u>. Company shall coordinate its construction and all other work in the Public Right-of-Way with Municipality's program for street construction and rebuilding (collectively "Street Construction") and its program for street repaving and resurfacing (except seal coating and patching) (collectively, "Street Resurfacing").

- 4.7.1 The goals of such coordination shall be to encourage Company to conduct all work in the Public Right-of-Way in conjunction with or immediately prior to any Street Construction or Street Resurfacing planned by Municipality.
- 4.8 Compliance with Laws. Company shall comply with all laws, statutes, ordinances, rules and regulations regarding the construction, installation, and maintenance of its Telecommunication Facilities, whether federal, state or local, now in force or which hereafter may be promulgated. Before any installation is commenced, Company shall secure all necessary permits, licenses and approvals from Municipality or other governmental entity as may be required by law. including, without limitation, all utility line permits and highway permits. Municipality shall not unreasonably delay or deny issuance of any such permits, licenses or approvals. Company shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition adopted by Michigan Public Service Commission) and the National Electric Code (latest edition). Company shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended. This section does not constitute a waiver of Company's right to challenge laws, statutes, ordinances, rules or regulations now in force or established in the future.
- 4.9 <u>Street Vacation</u>. If Municipality vacates or consents to the vacation of Public Right-of-Way within its jurisdiction, and such vacation necessitates the removal and relocation of Company's Facilities in the vacated Public Right-of-Way, Company shall, as a condition of this Permit, consent to the vacation and remove its Facilities at its sole cost and expense when ordered to do so by Municipality or a court of competent jurisdiction. Company shall relocate its Facilities to such alternate route as Municipality and Company mutually agree, applying reasonable engineering standards.
- 4.10 <u>Relocation</u>. If Municipality requests Company to relocate, protect, support, disconnect, or remove its Facilities because of street or utility work, or other public projects, Company shall relocate, protect, support, disconnect, or remove its Facilities, at its sole cost and expense, including where necessary to such alternate route as Municipality and Company mutually agree, applying reasonable engineering standards. The work shall be completed within a reasonable time period.
- 4.11 <u>Public Emergency</u>. Municipality shall have the right to sever, disrupt, dig-up or otherwise destroy Facilities of Company if such action is necessary because of a public emergency. If reasonable to do so under the circumstances, Municipality shall attempt to provide notice to Company. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by

any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, etc. Company shall be responsible for repair at its sole cost and expense of any of its Facilities damaged pursuant to any such action taken by Municipality.

- 4.12 Miss Dig. If eligible to join, Company shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended, MCL § 460.701 et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- 4.13 <u>Underground Relocation</u>. If Company has its Facilities on poles of Consumers Energy, Detroit Edison or another electric or telecommunications provider and Consumers Energy, Detroit Edison or such other electric or telecommunications provider relocates its system underground, then Company shall relocate its Facilities underground in the same location at Company's sole cost and expense.
- 4.14 <u>Identification</u>. All personnel of Company and its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing Company's name, their name and photograph. Company shall account for all identification cards at all times. Every service vehicle of Company and its contractors or subcontractors shall be clearly identified as such to the public, such as by a magnetic sign with Company's name and telephone number.

5 Indemnification

- 5.1 <u>Indemnity</u>. Company shall defend, indemnify, protect, and hold harmless Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses of any nature (collectively "claim" for this Part 5) (including, without limitation, attorneys' fees) arising out of or resulting from the acts or omissions of Company, its officers, agents, employees, contractors, successors, or assigns, but only to the extent such acts or omissions are related to the Company's use of or installation of facilities in the Public Right-of-Way and only to the extent of the fault or responsibility of Company, its officers, agents, employees, contractors, successors and assigns.
- Notice, Cooperation. Municipality shall notify Company promptly in writing of any such claim and the method and means proposed by Municipality for defending or satisfying such claim. Municipality shall cooperate with Company in every reasonable way to facilitate the defense of any such claim. Municipality shall consult with Company respecting the defense and satisfaction of such claim, including the selection and direction of legal counsel.

5.3 <u>Settlement</u>. Municipality shall not settle any claim subject to indemnification under this Part 5 without the advance written consent of Company, which consent shall not be unreasonably withheld. Company shall have the right to defend or settle, at its own expense, any claim against Municipality for which Company is responsible hereunder.

6 Insurance

- 6.1 <u>Coverage Required</u>. Prior to beginning any construction in or installation of the Telecommunication Facilities in the Public Right-of-Way, Company shall obtain insurance as set forth below and file certificates evidencing same with Municipality. Such insurance shall be maintained in full force and effect until the end of the Term. In the alternative, Company may satisfy this requirement through a program of self-insurance, acceptable to Municipality, by providing reasonable evidence of its financial resources to Municipality. Municipality's acceptance of such self-insurance shall not be unreasonably withheld.
 - 6.1.1 Commercial general liability insurance, including Completed Operations Liability, Independent Contractors Liability, Contractual Liability coverage, railroad protective coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than Five Million Dollars (\$5,000,000).
 - 6.1.2 Liability insurance for sudden and accidental environmental contamination with minimum limits of Five Hundred Thousand Dollars (\$500,000) and providing coverage for claims discovered within three (3) years after the term of the policy.
 - 6.1.3 Automobile liability insurance in an amount not less than One Million Dollars (\$1,000,000).
 - 6.1.4 Workers' compensation and employer's liability insurance with statutory limits, and any applicable Federal insurance of a similar nature.
 - 6.1.5 The coverage amounts set forth above may be met by a combination of underlying (primary) and umbrella policies so long as in combination the limits equal or exceed those stated. If more than one insurance policy is purchased to provide the coverage amounts set forth above, then all policies providing coverage limits excess to the primary policy shall provide drop down coverage to the first dollar of coverage and other contractual obligations of the primary policy, should the primary policy carrier not be able to perform any of its contractual obligations or not be collectible for any of its coverages for any reason during the Term, or

(when longer) for as long as coverage could have been available pursuant to the terms and conditions of the primary policy.

- 6.2 <u>Additional Insured</u>. Municipality shall be named as an additional insured on all policies (other than worker's compensation and employer's liability). All insurance policies shall provide that they shall not be canceled, modified or not renewed unless the insurance carrier provides thirty (30) days prior written notice to Municipality. Company shall annually provide Municipality with a certificate of insurance evidencing such coverage. All insurance policies (other than environmental contamination, workers' compensation and employer's liability insurance) shall be written on an occurrence basis and not on a claims made basis.
- 6.3 Qualified Insurers. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.
- 6.4 <u>Deductibles</u>. If the insurance policies required by this Part 6 are written with retainages or deductibles in excess of \$50,000, they shall be approved by Manager in advance in writing. Company shall indemnify and save harmless Municipality from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished hereunder.
- 6.5 <u>Contractors</u>. Company's contractors and subcontractors working in the Public Right-of-Way shall carry in full force and effect commercial general liability, environmental contamination liability, automobile liability and workers' compensation and employer liability insurance which complies with all terms of this Part 6. In the alternative, Company, at its expense, may provide such coverages for any or all its contractors or subcontractors (such as by adding them to Company's policies).
- 6.6 <u>Insurance Primary</u>. Company's insurance coverage shall be primary insurance with respect to Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions (collectively "them"). Any insurance or self-insurance maintained by any of them shall be in excess of Company's insurance and shall not contribute to it (where "insurance or self-insurance maintained by any of them" includes any contract or agreement providing any type of indemnification or defense obligation provided to, or for the benefit of them, from any source, and includes any self-insurance program or policy, or self-insured retention or deductible by, for or on behalf of them).

7 Term

7.1 <u>Term.</u> The term ("Term") of this Permit shall be until the earlier of:

- 7.1.1 Fifteen years (15) from the Effective Date; provided, however, that following such initial term there shall be three subsequent renewal terms of five (5) years. Each renewal term shall be automatic unless Municipality notifies Company in writing, at least twelve (12) months prior to the end of any term then in effect, that due to changed circumstances a need exists to negotiate the subsequent renewal with Company. Municipality shall not unreasonably deny a renewal term; or
- 7.1.2 When the Telecommunication Facilities have not been used to provide telecommunications services for a period of one hundred and eighty (180) days by the Company or a successor of an assign of the Company; or
- 7.1.3 When Company, at its election and with or without cause, delivers written notice of termination to Municipality at least one-hundred and eighty (180) days prior to the date of such termination; or
- 7.1.4 Upon either Company or Municipality giving written notice to the other of the occurrence or existence of a default by the other party under Sections 4.8, 6, 8 or 9 of this Permit and such defaulting party failing to cure, or commence good faith efforts to cure, such default within sixty (60) days (or such shorter period of time provided elsewhere in this Permit) after delivery of such notice; or
- 7.1.5 Unless Manager grants a written extension, one year from the Effective Date if prior thereto Company has not started the construction and installation of the Telecommunication Facilities within the Public Right-of-Way and two years from the Effective Date if by such time construction and installation of the Telecommunication Facilities is not complete.

8 Performance Bond or Letter of Credit

8.1 <u>Municipal Requirement</u>. Municipality may require Company to post a bond (or letter of credit) as provided in Section 15(3) of the METRO Act, as amended [MCL § 484.3115(3)].

9 Fees

9.1 <u>Establishment; Reservation</u>. The METRO Act shall control the establishment of right-of-way fees. The parties reserve their respective rights regarding the nature and amount of any fees which may be charged by Municipality in connection with the Public Right-of-Way.

10 Removal

- 10.1 <u>Removal; Underground</u>. As soon as practicable after the Term, Company or its successors and assigns shall remove any underground cable or other portions of the Telecommunication Facilities from the Public Right-of-Way which has been installed in such a manner that it can be removed without trenching or other opening of the Public Right-of-Way. Company shall not remove any underground cable or other portions of the Telecommunication Facilities which requires trenching or other opening of the Public Right-of-Way except with the prior written approval of Manager. All removals shall be at Company's sole cost and expense.
 - 10.1.1 For purposes of this Part 10, "cable" means any wire, coaxial cable, fiber optic cable, feed wire or pull wire.
- 10.2 <u>Removal; Above Ground</u>. As soon as practicable after the Term, Company, or its successor or assigns at its sole cost and expense, shall, unless waived in writing by Manager, remove from the Public Right-of-Way all above ground elements of its Telecommunication Facilities, including but not limited to poles, pedestal mounted terminal boxes, and lines attached to or suspended from poles.
- 10.3 <u>Schedule</u>. The schedule and timing of removal shall be subject to approval by Manager. Unless extended by Manager, removal shall be completed not later than twelve (12) months following the Term. Portions of the Telecommunication Facilities in the Public Right-of-Way which are not removed within such time period shall be deemed abandoned and, at the option of Municipality exercised by written notice to Company as set forth in Part 12, title to the portions described in such notice shall vest in Municipality.
- Assignment. Company may assign or transfer its rights under this Permit, or the persons or entities controlling Company may change, in whole or in part, voluntarily, involuntarily, or by operation of law, including by merger or consolidation, change in the ownership or control of Company's business, or by other means, subject to the following:
 - 11.1 No such transfer or assignment or change in the control of Company shall be effective under this Permit, without Municipality's prior approval (not to be unreasonably withheld), during the time period from the Effective Date until the completion of the construction of the Telecommunication Facilities in those portions of the Public Right-of-Way identified on Exhibit A.
 - 11.2 After the completion of such construction, Company must provide notice to Municipality of such transfer, assignment or change in control no later than thirty (30) days after such occurrence; provided, however,
 - 11.2.1 Any transferee or assignee of this Permit shall be qualified to perform under its terms and conditions and comply with applicable law; shall be subject to the obligations of this Permit, including responsibility for any

defaults which occurred prior to the transfer or assignment; shall supply Municipality with the information required under Section 3.1; and shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary, and

- 11.2.2 In the event of a change in control, it shall not be to an entity lacking the qualifications to assure Company's ability to perform under the terms and conditions of this Permit and comply with applicable law; and Company shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary.
- 11.3 Company may grant a security interest in this Permit, its rights thereunder or the Telecommunication Facilities at any time without notifying Municipality.

12 Notices

- 12.1 <u>Notices</u>. All notices under this Permit shall be given as follows:
 - 12.1.1 If to Municipality, to [address], with a copy to [address].
 - 12.1.2 If to Company, to [address], with a copy to [address].
- 12.2 <u>Change of Address</u>. Company and Municipality may change its address or personnel for the receipt of notices at any time by giving notice thereof to the other as set forth above.

13 Other items

- No Cable, OVS. This Permit does not authorize Company to provide commercial cable type services to the public, such as "cable service" or the services of an "open video system operator" (as such terms are defined in the Federal Communications Act of 1934 and implementing regulations, currently 47 U.S.C. §§ 522 (6), 573 and 47 CFR § 76.1500).
- 13.2 <u>Duties</u>. Company shall faithfully perform all duties required by this Permit.
- 13.3 <u>Effective Date</u>. This Permit shall become effective when issued by Municipality and Company has provided any insurance certificates and bonds required in Parts 6 and 8, and signed the acceptance of the Permit.
- 13.4 <u>Authority</u>. This Permit satisfies the requirement for a permit under Section 5 of the METRO Act [MCL 484.3105].

- 13.5 <u>Amendment</u>. Except as set forth in Section 2.1 this Permit may be amended by the written agreement of Municipality and Company.
- 13.6 <u>Interpretation and Severability</u>. The provisions of this Permit shall be liberally construed to protect and preserve the peace, health, safety and welfare of the public, and should any provision or section of this Permit be held unconstitutional, invalid, overbroad or otherwise unenforceable, such determination/holding shall not be construed as affecting the validity of any of the remaining conditions of this Permit. If any provision in this Permit is found to be partially overbroad, unenforceable, or invalid, Company and Municipality may nevertheless enforce such provision to the extent permitted under applicable law.
- 13.7 <u>Governing Law.</u> This Permit shall be governed by the laws of the State of Michigan.

	[Municipality name]	
Attest:		
By:	By:	
Clerk	Its:	
	Date:	

"Company accepts the Permit granted by Municipality upon the terms and conditions contained therein."

CenturyLink Communications, LLC

By: _____ an Its: Manager Network Real Estate

Date: <u>1/24/17</u>

Ron Camp

MGR Network Real Estate

::ODMA\PCDOCS\GRR\759319\6

Exhibit A

Public Right-of-Way to be Used by Telecommunication Facilities

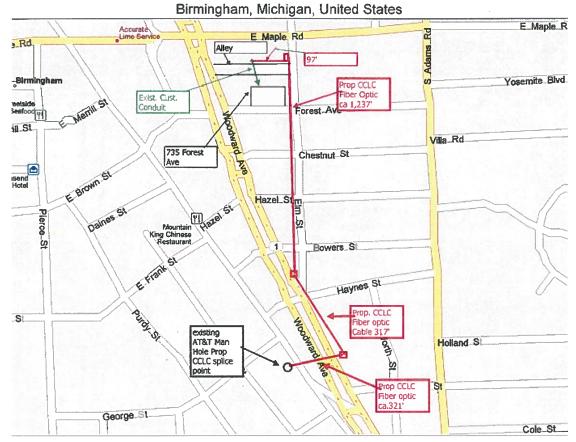


Exhibit B

Bond



MICHIGAN.GOV Michigan's Official Web Site

Michigan.gov Home

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MICHIGAN CORPORATION DIVISION ANNUAL FILING

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emporty Leformation Mydel 2016 Limited Liability Company Information Update

(Please print a copy of this receipt for your records.)

ID Number:

Name:

CENTURYLINK COMMUNICATIONS, LLC

Payment Confirmation Nbr:

16020414682036

Filed By: Title:

KAY C BUCHART

Phone:

MANAGER

Date & Time:

318-330-6613 02/04/2016 12:17:08

Payment Amount:

\$25.00

Card Type:

VISA

Reference Nbr:

RESERVED TO THE COURT OF THE CO

71315 6802 B9464N 2016

Credit Card Payment was Successful

Thank you for using Online Filings System to submit your annual filing.

The filing may be viewed within the next 24 hours on our Business Entity Search Site.

To complete another filing, click FILE ONLINE below.

FILE ONLINE

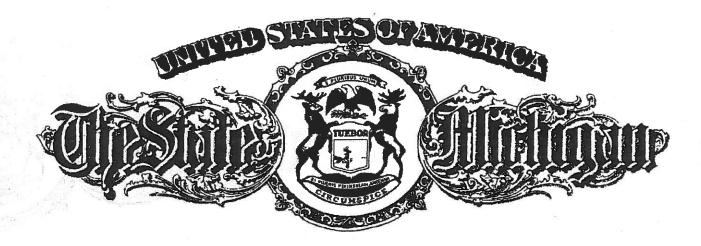
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RAPERED FEB 0 4 2016

* Unable to Print Filed Report

(JAVA not allowed)





This is to Certify That

CENTURYLINK COMMUNICATIONS, LLC

A(n) DELAWARE Limited Liability Company was validly authorized on January 5, 2009 to transact business in Michigan and that said Limited Liability Company holds a valid certificate of authority to transact business in this state, and has satisfied its annual filing obligations.

This certificate is issued pursuant to the provisions of 1993 PA 23, as amended, to attest to the fact that the Limited Liability Company is in good standing in Michigan as of this date and is duly authorized to transact in this state any business that a domestic Limited Liability Company formed under this act may lawfully transact, except as limited by statements in its Application for Certificate of Authority or under the law of its jurisdiction of organization.

This certificate is in due form, made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.



Sent by Facsimile Transmission 1425356 In testimony whereof, I have hereunto set my hand, in the City of Lansing, this 21st day of December, 2016

Julia Dale, Director

Corporations, Securities & Commercial Licensing Bureau



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 01/25/2017

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

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

certificate floider in fied of such endorsement(s).	A	
PRODUCER Marsh USA Inc.	CONTACT NAME:	
CA License #0437153	PHONE FAX (A/C, No. Ext): (A/C, No.):
1301 5th Avenue, Suite 1900	E-MAIL ADDRESS:	
Seattle, WA 98101-2682 Attn: Seattle.certrequest@marsh.com / Fax: 212-948-4326	INSURER(S) AFFORDING COVERAGE	NAIC#
J13913-STND-GAWUW-16-17	INSURER A: Greenwich Insurance Company	22322
INSURED CenturyLink, Inc. and all subsidiaries.	INSURER B: XL Specialty Insurance Co.	37885
including but not limited to: Qwest Communications	INSURER C: Allianz Underwriters Ins Co	36420
International Inc.; Savvis, Inc.; and Embarq Corporation	INSURER D :	(0)
100 CenturyLink Drive; Mailstop 5TS154 Monroe, LA 71203	INSURER E:	
- MEDICE N	INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

SEA-003127202-01

REVISION NUMBER: 3

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

INSR LTR		TYPE OF INSURANCE	ADDL SU	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	PÓLICY EXP (MM/DD/YYYY)	LIMIT	s	TANDARA
Α	Х	COMMERCIAL GENERAL LIABILITY		RGD500033304	09/01/2016	09/01/2017	EACH OCCURRENCE	\$	3,000,000
		CLAIMS-MADE X OCCUR				w.	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	3,000,000
		2 2 Dis	41° g . 15 .				MED EXP (Any one person)	\$	10,000
ĺ			1344				PERSONAL & ADV INJURY	\$	3,000,000
,	GEN	I'L AGGREGATE LIMIT APPLIES PER:	0.043* 553	and the day	İ		GENERAL AGGREGATE	\$	15,000,000
	X	POLICY PRO- JECT LOC	e di se	orace a market			PRODUCTS - COMP/OP AGG	\$	15,000,000
		OTHER:						\$	
Α	AUT	OMOBILE LIABILITY	100	RAD500033404	09/01/2016	09/01/2017	COMBINED SINGLE LIMIT (Ea accident)	\$	2,000,000
1,197		ANY AUTO	La Mile La	Auto Physical Damage - Self Insured			BODILY INJURY (Per person)	\$	
		ALL OWNED SCHEDULED AUTOS	and the	a wars s			BODILY INJURY (Per accident)	\$	7 8 00.
	Х	HIRED AUTOS X NON-OWNED AUTOS	A.43		İ		PROPERTY DAMAGE (Per accident)	\$	Lab/ N
				•				\$. N. 1918/DE
С	Х	UMBRELLA LIAB X OCCUR	Cork.	ART3016558	09/01/2016	09/01/2017	EACH OCCURRENCE	\$	2,000,000
		EXCESS LIAB CLAIMS-MADE	(a)	10 P 10 P 10 P			AGGREGATE	\$	2,000,000
$__$		DED RETENTION \$						\$	
		KERS COMPENSATION EMPLOYERS' LIABILITY	294	RWD500032904 AOS	09/01/2016	09/01/2017	X PER OTH-		The second
В	ANY F	PROPRIETOR/PARTNER/EXECUTIVE N	N/A	RWR500033004 WI	09/01/2016	09/01/2017	E.L. EACH ACCIDENT	\$	1,000,000
- 1	(Man	datory in NH)		34 St 100			E.L. DISEASE - EA EMPLOYEE	\$	1,000,000
	If yes, DESC	describe under CRIPTION OF OPERATIONS below	gio T.	3 200	1		E.L. DISEASE - POLICY LIMIT	\$	1,000,000
В	XS W	/orkers' Compensation/EL	\$ 20	RWE500033104 WA	09/01/2016	09/01/2017	Excess of 1,000,000 SIR		\$1,000,000
В	XS W	/orkers' Compensation/EL	1. 9 9	RWE500033204 OH	09/01/2016	09/01/2017	Excess of 1,000,000 SIR		\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Re: Right-of-Way Telecommunications Permit

City of Birmingham is included as Additional Insured as respects their interest in the operations of the Named Insured as required by written contract regarding General and Auto Liability. This insurance is primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured and where required by written contract. This policy insures all operations, premises and activities of the Named Insured, including operations by independent contractors, contractual liability, and XCU Hazards.

CERTIFICATE HOLDER	CANCELLATION
City of Birmingham Attn: City Clerk 151 Martin Street Birmingham, MI 48012	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE of Marsh USA Inc.
2 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	Cheri Garrison Chery h garrison

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NEWSRELEASE

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FOR IMMEDIATE RELEASE:

October 31, 2016

FOR MORE INFORMATION CONTACT:

Kristina Waugh 318.340.5627 kristina.r.waugh@centurylink.com

198 Hallah Ollar Blue Blue Bergerturylink reports third quarter 2016 RESULTS

- Achieved operating revenues of approximately \$4.4 billion, including core revenues of approximately \$3.9
 - Generated operating income of \$595 million
- Generated operating cash flow² of \$1.60 billion and free cash flow^{2,3} of \$186 million, both excluding special items
- Achieved net income of \$152 million and diluted EPS of \$0.28; adjusted net income² of \$305 million and adjusted diluted EPS² of \$0.56, excluding special items
- Increased the number of addressable units capable of receiving 100Mbps and 1Gig speeds by 160,000 and 60,000, respectively, in the quarter

MONROE, La. — CenturyLink, Inc. (NYSE: CTL) today reported results for third quarter 2016.

Consolidated Financial Results

Operating revenues for third quarter 2016 were \$4.38 billion compared to \$4.55 billion in third quarter 2015. A decline in high-cost support revenues related to the acceptance of Connect America Fund Phase 2 (CAF Phase 2) support payments during third quarter 2015, a substantial portion of which related to a one-time true-up for the first half of the year, along with a decline in legacy^{1,4} revenues, was partially offset by higher strategic revenues^{1,4} in third quarter 2016.

Operating expenses decreased to \$3.79 billion from \$3.90 billion in third quarter 2015 primarily driven by a decline in severance expenses and lower depreciation and amortization expenses, which were partially offset by higher data integration (CPE) costs. Excluding special items (primarily severance costs), operating expenses decreased to \$3.78 billion from \$3.82 billion in third quarter 2015.

Operating income decreased to \$595 million from \$656 million in third quarter 2015 primarily due to lower legacy and CAF Phase 2 revenues, which were partially offset by lower operating expenses this quarter compared to the same year-ago period.

Operating cash flow (as defined in our attached supplemental schedules), excluding special items, decreased to \$1.60 billion from \$1.78 billion in third quarter 2015.

Net income and diluted earnings per share (EPS) were \$152 million and \$0.28, respectively, for third quarter 2016, compared to \$205 million and \$0.37, respectively, for third quarter 2015. Net income was lower due to the

decline in operating income along with a loss reported in other income associated with the early retirement of debt. The decrease in diluted EPS was due to lower net income partially offset by the impact of the lower number of shares outstanding due to share repurchases in 2015.

Adjusted net income and adjusted diluted EPS (as reflected in our attached supplemental schedule) exclude the after-tax impact of special items, the non-cash after-tax impact of the amortization of certain intangible assets related to major acquisitions since mid-2009, and the non-cash after-tax impact to interest expense relating to the assignment of fair value to the outstanding debt assumed in connection with those acquisitions. Excluding these items, CenturyLink's adjusted net income for third quarter 2016 was \$305 million compared to adjusted net income of \$390 million in third quarter 2015. Third quarter 2016 adjusted diluted EPS was \$0.56 compared to \$0.70 in the year-ago period due to lower adjusted net income partially offset by the impact of the lower number of shares outstanding due to share repurchases in 2015.

The accompanying financial schedules provide additional details regarding the company's special items and reconciliations of non-GAAP financial measures for the three months and nine months ended September 30, 2016 and 2015.

Segment Financial Results⁵

Business segment revenues were \$2.61 billion, a decrease of 1.1% from third quarter 2015, primarily due to a decline in legacy revenues, which was partially offset by a 6% growth in high-bandwidth data revenues. Strategic revenues were \$1.23 billion in the quarter, an increase of 5.1% from third quarter 2015.

Consumer segment revenues were \$1.47 billion, a decrease of 2.5% from third quarter 2015, primarily due to a decline in legacy voice revenues, which was partially offset by growth in broadband and Prism® TV revenues.

Strategic revenues were \$789 million in the quarter, a 3.4% increase over third quarter 2015.

Guidance — Fourth Quarter 2016

CenturyLink expects continued growth in strategic revenues to be offset by anticipated declines in legacy revenues and data integration revenues, resulting in lower fourth quarter 2016 operating revenues compared to third quarter 2016. The company expects fourth quarter 2016 operating cash flow to be relatively flat compared to third quarter 2016 primarily due to the anticipated decline in revenues being offset by lower operating expenses primarily related to the seasonality of outside plant maintenance and utility costs, along with anticipated lower personnel and CPE costs.

Fourth Quarter 2016 (excluding special items)

Operating Revenues
Core Revenues
Operating Cash Flow
Adjusted Diluted EPS

\$4.28 to \$4.34 billion \$3.86 to \$3.92 billion \$1.58 to \$1.64 billion \$0.53 to \$0.59 FOR IN

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All 2016 guidance figures and 2016 outlook statements included in this release (i) speak as of October 31, 2016 only, (ii) exclude the impact of any share repurchases made after September 30, 2016 and (iii) exclude the effects of special items, future impairment charges, future changes in regulation, future changes in tax laws, accounting rules or our accounting policies, unforeseen litigation or contingencies, integration expenses associated with major acquisitions, any changes in our expected pension fundings, any changes in operating or capital plans or other unforeseen events or circumstances that impact our financial performance, and any future mergers, acquisitions, divestitures, joint ventures or other similar business transactions. See "Forward Looking Statements" below. For additional information on how we define certain of the terms used above, see the attached schedules.

Investor Call

CenturyLink also announced today an agreement to acquire Level 3 Communications. Accordingly, CenturyLink will no longer host its earnings call as previously scheduled on November 2, 2016, and will instead discuss its third quarter results on today's transaction conference call at 8:00 AM ET.

The transaction conference call can be accessed by dialing (866) 610-1072 within the U.S. and (973) 935-2840 for all other locations. The confirmation code is 10841687. Participants should dial in 10 minutes prior to the scheduled start time.

A live webcast of the transaction conference call and associated presentation materials will be available on the investor relations section of the Company's website at www.centurylink.com.

A replay of the transaction conference call will be available approximately two hours after completion of the conference call through November 14, 2016 and can be accessed by dialing (800) 585-8367 from the U.S. or (404) 537-3406 from outside the U.S. The replay confirmation code is 10841687. The webcast will be archived through November 22, 2016 on the investor relations section of the Company's website.

AUTHOR E

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Financial, statistical and other information related to the third quarter will also be posted to our website.

Reconciliation to GAAP

This release includes certain non-GAAP financial measures, including but not limited to operating cash flow, free cash flow, core revenues, adjusted net income, adjusted diluted EPS and adjustments to GAAP measures to exclude the effect of special items. In addition to providing key metrics for management to evaluate the company's performance, we believe these measurements assist investors in their understanding of period-to-period operating performance and in identifying historical and prospective trends. Reconciliations of non-GAAP financial measures to the most comparable GAAP measures are included in the attached financial schedules. Reconciliation of additional non-GAAP financial measures that may be discussed during the call described above, along with further descriptions of non-GAAP financial measures, will be available in the Investor Relations portion of the company's website at www.centurylink.com and in the current report on form 8-K that we intend to file later today. Non-GAAP measures are not presented to be replacements or alternatives to the GAAP measures, and investors are urged to consider these non-GAAP measures in addition to, and not in substitution for, measures prepared in accordance with GAAP. CenturyLink may determine or calculate its non-GAAP measures differently from other companies.

About CenturyLink

CenturyLink (NYSE: CTL) is a global communications, hosting, cloud and IT services company enabling millions of customers to transform their businesses and their lives through innovative technology solutions. CenturyLink offers network and data systems management, Big Data analytics and IT consulting, and operates more than 55 data centers in North America, Europe and Asia. The company provides broadband, voice, video, data and managed services over a robust 250,000-route-mile U.S. fiber network and a 300,000-route-mile international transport network. Visit www.centurylink.com for more information.

Forward Looking Statements

Except for historical and factual information, the matters set forth in this release and other of our oral or written statements identified by words such as "estimates," "expects," "anticipates," "believes," "plans," "intends," and similar expressions are forward-looking statements as defined by the federal securities laws, and are subject to the "safe harbor" protections thereunder. These forward-looking statements are not guarantees of future results and are based on current expectations only, are inherently speculative, and are subject to a number of assumptions, risks and uncertainties, many of which are beyond our control. Actual events and results may differ materially from those anticipated, estimated, projected, or implied by us if one or more of these risks or uncertainties materialize, or if our underlying assumptions prove incorrect. Factors that could affect actual results include but are not limited to: the effects of competition from a wide variety of competitive providers, including lower demand for our legacy offerings; the effects of new, emerging or competing technologies, including those that could make our products less desirable

or obsolete; the effects of ongoing changes in the regulation of the communications industry, including the outcome of regulatory or judicial proceedings relating to intercarrier compensation, interconnection obligations, access charges, universal service, broadband deployment, data protection and net neutrality; our ability to effectively adjust to changes in the communications industry and changes in the composition of our markets and product mix; possible changes in the demand for, or pricing of, our products and services, including our ability to effectively respond to increased demand for high-speed broadband service; our ability to successfully maintain the quality and profitability of our existing product and service offerings and to introduce new offerings on a timely and cost-effective basis; the adverse impact on our business and network from possible equipment failures, service outages, security breaches or similar events impacting our network; our ability to generate cash flows sufficient to fund our financial commitments and objectives, including our capital expenditures, operating costs, debt repayments, dividends, periodic share repurchases, periodic pension contributions and other benefits payments; changes in our operating plans, corporate strategies, dividend payment plans or other capital allocation plans, whether based upon changes in our cash flows, cash requirements, financial performance, financial position, or otherwise; our ability to effectively retain and hire key personnel and to successfully negotiate collective bargaining agreements on reasonable terms without work stoppages; increases in the costs of our pension, health, post-employment or other benefits, including those caused by changes in markets, interest rates, mortality rates, demographics or regulations; adverse changes in our access to credit markets on favorable terms, whether caused by changes in our financial position, lower debt credit ratings, unstable markets or otherwise; our ability to maintain favorable relations with our key business partners, suppliers, vendors, landlords and financial institutions; our ability to effectively manage our expansion opportunities; our ability to collect our receivables from financially troubled customers; any adverse developments in legal or regulatory proceedings involving us; changes in tax, communications, pension, healthcare or other laws or regulations, in governmental support programs, or in general government funding levels; the effects of changes in accounting policies or practices, including potential future impairment charges; the effects of terrorism, adverse weather or other natural or man-made disasters; the effects of more general factors such as changes in interest rates, in operating costs, in general market, labor, economic or geo-political conditions (including uncertainty about the long-term prospects of the European Union, China and certain other economies), or in public policy; and other risks referenced from time to time in our filings with the U.S. Securities and Exchange Commission (the "SEC"). For all the reasons set forth above and in our SEC filings, you are cautioned not to place undue reliance upon any of our forward-looking statements, which speak only as of the date made. We undertake no obligation to publicly update or revise any of our forwardlooking statements for any reason, whether as a result of new information, future events or developments, changed circumstances, or otherwise. Furthermore, any information about our intentions contained in any of our forwardlooking statements reflects our intentions as of the date of such forward-looking statement, and is based upon, among other things, existing regulatory, technological, industry, competitive, economic and market conditions, and our assumptions as of such date. We may change our intentions, strategies or plans without notice at any time and for any reason.

⁽¹⁾ Core revenues defined as strategic revenues plus legacy revenues (excludes data integration and other revenues) as described further in the attached schedules. Strategic revenues primarily include broadband, Multiprotocol Label Switching (MPLS), Ethernet, Optical Wavelength, colocation, hosting, cloud, video, VoIP and IT services. Legacy revenues primarily include voice, private line (including special access), switched access and Integrated Services Digital Network ("ISDN") and other ancillary services.

⁽²⁾ See attachments for non-GAAP reconciliations.

⁽³⁾ Beginning first quarter 2016, CenturyLink revised its free cash flow calculation. See attachments for non-GAAP reconciliations.

⁽⁴⁾ Beginning second quarter 2016, private line (including special access) revenues were reclassified from strategic services to legacy services. All historical periods have been restated to reflect this change.

⁽⁵⁾ All references to segment data herein reflect certain adjustments described in the attached schedules.

CONSOLIDATED STATEMENTS OF INCOME THREE MONTHS ENDED SEPTEMBER 30, 2016 AND 2015 (UNAUDITED)

(Dollars in millions, except per share amounts; shares in thousands)

Three months ended September 30, 2016						Three mor	iths ended Sept				
The state of the s	ka meja varihin	islani Ang		110	As adjusted excluding			As adjusted excluding		Increase (decrease)	
i test ss special regaligat livas	speri Ami Novida		Less special		special items (Non-GAAP)	As reported	Less special items	special items (Non-GAAP)	Increase (decrease) as reported	excluding special items	vanne. Vanne.
OPERATING REVENUES *		339/51	0.02								1000
Strategic		\$ 2,015	interior de la completa della completa de la completa de la completa de la completa de la completa della comple	Mary at up and	2,015	1,929		1,929	4.5 %	4.5 %	Br DA
Legacy		1,900			1,900	2,062	-	2,062	(7.)%	(7.9)%	
Data integration	All size years or same	163	er a de la composition della composition de la composition de la composition della c	are places	163	154	ng for hitman in distinguish throughous res	154	5.8 %	5.8 %	450160
Other		304			304	409		409	(25.7)%	(25.7 ₂)%	
Total operating reve	enues	4,382	19.	CONTROL TO THE STATE OF THE STA	4,382	4,554	_	4,554	(3.8)%	(3.8)%	analis.
PERATING EXPENSES	Value For						Committee of the State of Stat			11 / Land	Centi.
Cost of services and pro	oducts	1,996	1	(1)	1,995	1,993	5 *(4)	1 988	0:2 %	0.4 %	reests
Selling, general and administrative	1997 - Carlo	796	7	(1)	789	857	73 (4)	784	(7.1)%	0.6 %	a Algaria
Depreciation and amort	ization	995			995	1,048		1,048	(5.1)%	(5.1)%	e ny di
Total operating expe	enses	3,787	8	Anna sangara	3,779	3,898	78	3,820	(2.8)%	(1.1)%	monteti Gryonio
PERATING INCOME		595	(8)		603	656	(78)	734	(9.3)%	(17.8)%	
THER (EXPENSE) INCOME		THE PARTY OF THE P	Anna Britania (Archi)		Tale Programme or Special World		TO UNIVERSAL STREET, SALES	Contract to the second second second second		LITATION CANCEL CONTROL (nycih
Interes expense		(327)			(327)	(329)	-	(329)	(0.6)%	(0:6)%	actiti.
Other (expense) income	, net	(19)	(27)	(2)	8	2	_	2	(1,050.0)%	300.0 %	EROVIT.
Income tax expense		(97)	13	(3)	(410)	(124)	33 (5)	(157)	(24.8)%	(29.9)%	11.00
IET INCOME	and the second second	\$ 152	(22)	PERSONNE	174	205	(45)	250	(25.9)%	(30.4)%	CM:
BASIC EARNINGS PER SHA	RE	\$ 0.28	(0.04)		0.32	0.37	(0.08)	0.45	(24.3)%	(28.9)%	engul Perti
		0 00	Actor all report years a	100 A 300		0.05	(0.00)	0.45	(0.4.030)		e valgo es
DILUTED EARNINGS PER SI	HARE	\$ 0.28	(0.04)	2005000	0.32	0.37	(0.08)	0.45	(24.3)%	(28.9)%	1000
VERAGE SHARES OUTSTA	ANDING		end of the second secon	- promise in						ee is saine standy as send to be see	
Basic		539,806			539;806	554;897		554,897	(2.7)%	(2.7)%	
Diluted	Contracting and Contracting	540,917		San interna	540,917	555,156		555,156	(2.6)%	(2.6)%	14 14
DIVIDENDS PER COMMON HARE	and the same	\$ 0.54	The state of the second process of the second	1255	0.54	0.54	la Carriero Salvier de Ma	0.54	— %	— %	981 1011

SPECIAL ITEMS

- (1) Includes severance costs associated with recent headcount reductions (\$4 million), integration costs associated with our acquisition of Qwest (\$1 million) and costs associated with a large billing system integration project (\$7 million), less an offsetting gain on the sale of a building \$4 million.
- (2) Net loss associated with early retirement of debt (\$27 million).
- (3) Income tax benefit of Items (1) and (2).
- (4) Includes severance costs associated with reduction in force initiatives (\$58 million), integration costs associated with our acquisition of Qwest (\$8 million) and litigation and other adjustments associated with pre-acquisition activities of Qwest and Embarq (\$12 million).
- (5) Income tax benefit of Item (4).
 - * During the second quarter of 2016, we determined that because of declines due to customer migration to other strategic products and services, certain of our business low-bandwidth data services, specifically our private line (including special access) services in our business segment, are more closely aligned with our legacy services than with our strategic services. As a result, we reflect these operating revenues as legacy services, and we have reclassified certain prior period amounts to conform to this change. The revision resulted in a reduction of revenue from strategic services and a corresponding increase in revenue from legacy services of \$389 million for the three months ended September 30, 2015.

CONSOLIDATED STATEMENTS OF INCOME

NINE MONTHS ENDED SEPTEMBER 30, 2016 AND 2015

(UNAUDITED)

(Dollars in millions, except per share amounts; shares in thousands)

Nine months anded Sentember 30 2015

months and ad Contombay 20, 2016

			Nir	e mor	iths ended	Septe	ember 30, 2016	Nine months ended September 30, 2015			_	
	3 - y	erija in Reletioj Mared	8	Pico	Less	Hear Leve	As adjusted excluding special		Less	As adjusted excluding special	Increase	Increase (decrease) excluding
1.5	5, 43 mi		A	LS (special	47 2 4	items	As	special	items	(decrease)	special
sugar (5/6)	1/31/4	10 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 -	repo	rted	items	(Tg fi	(Non-GAAP)	reported	items	(Non-GAAP)	as reported	items
OPERAT	ING REVENUES *		ge l		100	70.01					20, 1	
St	trategic		\$ 6	,034	-7 -	-	6,034	5,761	en i kumanun senang da	5,761	4.7 %	4.7 %
Le	egacy		5	\$26	1 1 2 <u></u>		5,826	6,302		6,302	(7.6)%	(7.6)%
D	ata integration			402	900	9 1	402	437		437	(8.0)%	(8.0)%
· Ot	ther			919			919	924		924	(0.5)%	(0.5)%
Enter Charles	Total operating reve	nues	13	,181	Section 200	- Section	13,181	13,424		13,424	(1.8)%	(1.8)%
OPERAT	ING EXPENSES	Lalaka	ASSESSED FOR					an denomination				Manager Province
·Co	ost of services and pro	ducts	5	,845	5	(1)	5,840	5,863	11	(4) 5,852	(0.3)%	(0:2)%
	elling, general and Iministrative		2	,439	37	(1)	2,402	2,571	140	(4) 2,431	(5.1)%	(1.2)%
D	epreciation and amort	ization	2	,958		n nat	2,958	3,136		3,136	(5.7)%	(5.7)%
Denote a series	Total operating expe	enses	11	,242	42	- LOW PROPERTY.	11,200	11,570	151	11,419	(2.8)%	(1.9)%
OPERAT	ING INCOME		1	,939	(42))	1,981	1,854	(151)	2,005	4.6 %	(1.2)%
OTHER (EXPENSE) INCOME					S. Marie Land	in America Landson America	J_6 3.7		a South of South State of the S	ole sale Park Maria and	
In	terest expense		1	(998)			(998)	(984)		(984)	1.4 %	1,4 %
Ot	ther income (expense)	, net	ACCRETION SEC	5	(27)	(2)	32	16	LOT PERSONAL PERSONAL PROPERTY.	16	(68.8)%	100.0 %
Inc	come tax expense			(362)	26	(3)	(388)	(346)	55	(5) (401)	4.6 %	(3.2)%
NET INC	OME		\$	584	(43)	- SALARITAN	627	540	(96)	636	8.1 %	(1.4)%
BASICEA	ARNINGS PER SHA	RE	\$	1.08	(0.08)	(1.16	0.97	(0,17)	1.14	1 .3 %	1.8 %
DILUTED	DEARNINGS PER S	HARE	\$	1.08	(0.08)		1.16	0.97	(0.17)	1.14	11.3 %	1.8 %
AVERAG	E SHARES OUTSTA	NDING				1				and the beautiful and a second size		
Ba	asic		539	,411			539,411	558,502		558,502	(3.4)%	(3.4)%
Di	iluted	Same Porese (C)	540	,493			540,493	559,293		559,293	(3.4)%	(3.4)%
DIVIDEN	IDS PER COMMON											
SHARE	IDG I EK COMMON		\$	1.62			1.62	1.62		1.62	— %	— %

SPECIAL ITEMS

- (1) Includes severance costs associated with recent headcount reductions (\$25 million), integration costs associated with our acquisition of Qwest (\$8 million) and costs associated with a large billing system integration project (\$13 million), less an offsetting gain on the sale of a building \$4 million.
- (2) Net loss associated with early retirement of debt (\$27 million).
- (3) Income tax benefit of Items (1) and (2).
- (4) Includes severance costs associated with reduction in force initiatives (\$90 million), integration costs associated with our acquisition of Qwest (\$26 million), the impairment of office buildings (\$8 million), regulatory fines associated with a 911 system outage (\$15 million) and litigation and other adjustments associated with pre-acquisition activities of Qwest and Embarq (\$12 million).
- (5) Income tax benefit of Item (4).
 - * During the second quarter of 2016, we determined that because of declines due to customer migration to other strategic products and services, certain of our business low-bandwidth data services, specifically our private line (including special access) services in our business segment, are more closely aligned with our legacy services than with our strategic services. As a result, we reflect these operating revenues as legacy services, and we have reclassified certain prior period amounts to conform to this change. The revision resulted in a reduction of revenue from strategic services and a corresponding increase in revenue from legacy services of \$1.207 billion for the nine months ended September 30, 2015.

CONDENSED CONSOLIDATED BALANCE SHEETS SEPTEMBER 30, 2016 AND DECEMBER 31, 2015

(UNAUDITED)

(Dollars in millions)

	edra la Milo	Sej	ptember 30, 2016	December 31, 2015
ASSETS	S			
CURRENT ASSETS	SHEET SHALL SHALL COMMANDESS SOUR SHALL SHEET IN A SHALL HAS A PROCESS AND A PROCESS ASSESSMENT.	A CORPORATION CONTRACTOR CONTRACT	Approve more than a state and and a second a	
Cash and cash equivalents	all the second s	\$	140	126
Other current assets	2.524		2,588	2,524
Total current assets			2,728	2,650
NET PROPERTY, PLANT AND EQUIPM	ENT	un an	*	
Property, plant and equipment	18.785		40,304	38,785
Accumulated depreciation			(22,464)	(20,716)
Net property, plant and equipment	\$ 17 1. M. M. P. P. P. P. P. P. P. P. P. P. P. P. P.		17,840	18,069
GOODWILL AND OTHER ASSETS				and the second second second
Goodwill		18 - 19 - 19 - 19 - 19 - 19 - 19 - 19 -	20,766	20,742
Other, net	AND THE PARTY OF T	од шистор у увалист от органи и диворчинический инфициализми с с с с	5,462	6,143
Total goodwill and other assets			26,228	26,885
TOTAL ASSETS	and the second second	\$	46,796	47,604
LIABILITIES AND STOCK	HOLDERS' EQUITY			
CURRENT LIABILITIES				Particular Committee of the Committee of
Current maturities of long-term debt		\$	1,534	1,503
Other current liabilities	2.101	The state of the s	3,199	3,101
Total current liabilities	"; g + lg 13g		4,733	4,604
LONG-TERM DEBT			18,184	18,722
DEFERRED CREDITS AND OTHER LIAI	BILITIES		9,987	10,218
STOCKHOLDERS' EQUITY			13,892	14,060
TOTAL LIABILITIES AND STOCKHOLD	ERS' EQUITY	\$	46,796	47,604
The state of the s		NATIONAL ARCEIGNAME	N-	

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS NINE MONTHS ENDED SEPTEMBER 30, 2016 AND 2015 (UNAUDITED)

(Dollars in millions)

Sing stanths ended Sing months and ed-	Nine months ended September 30, 2016	Nine months ended September 30, 2015	
OPERATING ACTIVITIES			
Net income	\$ 584	540	
Adjustments to reconcile net income to net cash provided by operating activities;			
Depreciation and amortization	2,958	3,136	
Impairment of assets	1	9	
Deferred income taxes	32	. 93	
Provision for uncollectible accounts	144	128	
Net loss on early retirement of debt	27	-	
Share-based compensation	60	57	
Changes in current assets and liabilities, net	(129)	198	
Retirement benefits	(143)	(134	
Changes in other noncurrent assets and liabilities, net	(41)	(54	
Other, net	19	(17)	
Net cash provided by operating activities	3,512	3,956	
INVESTING ACTIVITIES			
Payments for property, plant and equipment and capitalized software	(2,010)	(2,039	
Cash paid for acquisitions	(24)	(4	
Proceeds from sale of property	22	29	
Other, net	<u> </u>	(8	
Net cash used in investing activities	(2,012)	(2,022	
FINANCING ACTIVITIES			
Net proceeds from issuance of long-term debt	2,161	990	
Payments of long-term debt	(2,436)	(535	
Net payments on credit facility and revolving line of credit	(325)	(725	
Dividends paid	(876)	(905	
Proceeds from issuance of common stock	5	. 11	
Repurchase of common stock and shares withheld to satisfy tax withholdings	(15)	(541	
Other, net		(2	
Net cash used in financing activities	(1,486)	(1,707	
Net increase in cash and cash equivalents	14	227	
Cash and cash equivalents at beginning of period	126	128	
Cash and cash equivalents at end of period	\$ 140	355	

*NO. 2 111

\$ \$4 \$2 \$6 \$8

TOTAL S

3 mm. m.

Children to

SELECTED SEGMENT FINANCIAL INFORMATION

THREE MONTHS AND NINE MONTHS ENDED SEPTEMBER 30, 2016 AND 2015 (UNAUDITED)

(Dollars in millions)

property the three patter	rivingal Sgrid Th	ree months ended	l September 30,	Nine months ended September 30,		
Account of the first transfer of the form of the form of the first transfer of the first	451	2016	2015 *	2016	2015 *	
Total segment revenues	\$	4,078	4,145	12,262	12,500	
Total segment expenses	A STATE OF THE STA	2,200	2,165	6,392	6,376	
Total segment income	\$	1,878	1,980	5 870	6,124	
Total segment income margin (segment income divided by segment revenues)		46.1%	47.8%	47.9%	49.0%	
Business	er Senie Breuken er og en					
Revenues *						
Strategic services	\$	1,226	1,166	3,671	3,502	
Legacy services		1,217	1,317	3,735	4,054	
Data integration	N.	163	153	401	435	
Total revenues		2,606	2,636	7.807	7,991	
Expenses **						
Total expenses		1,544	1,528	4,458	4,495	
Segment income	\$	1,062	1,408	3,349	3,496	
Segment income margin		40.8%	42.0%	42.9%	43.7%	
Consumer				The state of the s		
Revenues						
Strategic services	\$	789	763	2,363	2,259	
Legacy services		683	745	.2,091	2,248	
Data integration				1	2	
Total revenues		1,472	1,509	4,455	4,509	
Expenses **						
Total expenses		656	637	1,934	1,881	
Segment income	\$	816	872	2,521	2,628	
Segment income margin	The second secon	55.4%	57.8%	56.6%	58.3%	

^{*} During the second quarter of 2016, we determined that because of declines due to customer migration to other strategic products and services, certain of our business low-bandwidth data services, specifically our private line (including special access) services in our business segment, are more closely aligned with our legacy services than with our strategic services. As a result, we reflect these operating revenues as legacy services, and we have reclassified certain prior period amounts to conform to this change. The revision resulted in a reduction of revenue from strategic services and a corresponding increase in revenue from legacy services of \$389 million and \$1.207 billion (net of \$2 million and \$6 million of deferred revenue included in other business legacy services) for the three and nine months ended September 30, 2015, respectively.

^{**} During the first half of 2016, we implemented several changes with respect to the assignment of certain expenses to our reportable segments. We have recast our previously-reported segment results for the three and nine months ended September 30, 2015, to conform to the current presentation. For the three months ended September 30, 2015, the segment expense recast resulted in an increase in consumer expenses of \$15 million and a decrease in business expenses of \$13 million. For the nine months ended September 30, 2015, the segment expense recast resulted in an increase in consumer expenses of \$53 million and a decrease in business expenses of \$55 million.

RECONCILIATION OF NON-GAAP FINANCIAL MEASURES

(UNAUDITED)

(Dollars in millions)

	arquela e Algorita	Mark top	nagagadah dengah	Three months ended September 30, 2016				Three months ended September 30, 2015			
	As afficient excluding everal reses	i se source d	i tas appresi de me	ALP.	As reported	Less special items	As adjusted excluding special items	As reported	Less special items	As adjusted excluding special items	
Oper	ating cash flow and	d cash flo	w margin								nal-on
(3)	Operating income	4,3,6	1780 J.E.	\$	595	(8) (1)	603	656	(78) (2)	734	2 M 2 SE
	Add: Depreciation	and amort	ization		995	<u> </u>	995	1,048		1,048	
	Operating cash flow	v 1	to management was some and the second of the	\$	1,590	(8)	1,598	1,704	(78)	1,782	osta se
	Revenues	1587	· · · · · · · · · · · · · · · · · · ·	<u>\$</u>	4,382	-	4,382	4,554		4,554	n,en dy
	Operating income n divided by reve	nargin (op enues)	erating income		13.6%		13.8%	14.4%		16.1%	Laya Dasi
	Operating cash flow flow divided by	v margin (v revenues	operating cash		36.3%		36.5%	37.4%		39.1%	quest sex
ree (cash flow	de en la companya de la companya de la companya de la companya de la companya de la companya de la companya de			Charles and the Control of the Contr	And the state of t		ne sair la les des alors		1471	
	Operating cash flow	7					\$ 1,598			1,782	
	Less: Capital expen	ditures (3))				(740)			(764)	SHIPPI.
	Less: Cash paid for capitalized	interešt, n	et of amounts				(262)			(260)	111451111
SIN ST. SHILDREY TO	Less: Pension and p	ost-retirer	ment impacts (4)		1.654		(115)			(115)	S Collect
	Less: Cash paid for refunds	income ta	xes, net of				(\$23)			(43)	3,2110
or russin/90	Add: Share-based co	ompensati	on	HET-WINE	SAN CHISCONY COLUMN TO VALLE	NAME OF PERSONS ASSESSED.	20	personal property of the state		19	24.5
	Add: Other income						8			2	
NEW COLUMN	Free cash flow (5)	SERVICE TO CONTRACT OF THE PARTY OF THE PART		an an air sin sin sin sin sin sin sin sin sin sin	CONTROL STATES THE PARTY OF	Control of the Contro	\$ 186	A CONTRACTOR OF THE CONTRACTOR	A STATE OF THE PARTY OF THE PAR	651	
	the property of the second of the second										1 5 . 0

SPECIAL ITEMS

- (1) Includes severance costs associated with recent headcount reductions (\$4 million), integration costs associated with our acquisition of Qwest (\$1 million) and costs associated with a large billing system integration project (\$7 million), less an offsetting gain on the sale of a building \$4 million.
- (2) Includes severance costs associated with reduction in force initiatives (\$58 million), integration costs associated with our acquisition of Qwest (\$8 million) and litigation and other adjustments associated with pre-acquisition activities of Qwest and Embarq (\$12 million).

FREE CASH FLOW

- (3) Excludes \$6 million in second quarter 2016 and \$3 million in second quarter 2015 of capital expenditures related to the integration of Qwest and Savvis.
- (4) 2016 includes net periodic pension benefit income of (\$18 million), net periodic post-retirement benefit expense of \$36 million, contributions to our qualified pension plan trust of (\$100 million) and (\$2 million) of benefits paid to participants of our non-qualified pension plans. Post-retirement contributions included benefits paid by company (\$47 million) offset by participant contributions \$14 million and direct subsidy receipts \$2 million.
 - 2015 includes net periodic pension benefit income of (\$21 million), net periodic post-retirement benefit expense of \$41 million, contributions to our qualified pension plan trust of (\$100 million) and (\$2 million) of benefits paid to participants of our non-qualified pension plans. Post-retirement contributions included benefits paid by company (\$49 million) offset by participant contributions \$14 million and direct subsidy receipts \$2 million.
- (5) Excludes special items identified in items (1) and (2).

RECONCILIATION OF NON-GAAP FINANCIAL MEASURES

(UNAUDITED)

(Dollars in millions)

	Nine month	s ended Septem	ber 30, 2016	Nine months ended September 30, 2015			
i indipende di gradualista di speciali morta delegación segui	As reported	Less special items	As adjusted excluding special items	As reported	Less special items	As adjusted excluding special items	
perating cash flow and cash flow margin							eratio
Operating income	\$ 1,939	(42) (1)	1,981	1,854	(151) (2)	2,005	
Add: Depreciation and amortization	2,958		2,958	3,136		3,136	3.5
Operating cash flow	\$ 4,897	(42)	4,939	4,990	(151)	5,141	ti Jey
Revenues	\$13,181		13,181	13,424		13,424	Med
Operating income margin (operating income divided by revenues)	14.7%		15.0%	13.8%		14.9%	Op
Operating cash flow margin (operating cash flow divided by revenues)	37.2%		37.5%	37.2%		38.3%	Oga
ee cash flow			The state of the s			Red addition of the Mark	ic Wito
Operating cash flow	-0. 10.5		\$ 4,939			5,141	1 327
Less: Capital expenditures (3)	-1. :30)	/	(1,995)			(2,031)	[1, g]
Less: Cash paid for interest, net of amounts capitalized			(922)		19 2 A	(914)	1.60
Less: Pension and post-retirement impacts (4)	- LESS)		(143)			(135)	1.63
Less: Cash paid for income taxes, net of refunds			(344)			(54)	
Add: Share-based compensation	AC of	(Vice 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	60	And the control of th		57	
Add: Other income			32			16	7-15
Free cash flow (5)		The second secon	\$ 1,627		The second secon	2,080	

SPECIAL ITEMS

- (1) Includes's everance costs associated with recent headcount reductions (\$25 million), integration costs associated with our acquisition of Qwest (\$8 million) and costs associated with a large billing system integration project (\$13 million), less an offsetting gain on the sale of a building \$4 million.
- (2) Includes severance costs associated with reduction in force initiatives (\$90 million), integration costs associated with our acquisition of Qwest (\$26 million), the impairment of office buildings (\$8 million), regulatory fines associated with a 911 system outage (\$15 million) and litigation and other adjustments associated with pre-acquisition activities of Qwest and Embarq (\$12 million).

FREE CASH FLOW

- (3) Excludes \$15 million in 2016 and \$8 million in 2015 of capital expenditures related to the integration of Qwest and Savvis.
- (4) 2016 includes net periodic pension benefit income of (\$56 million), net periodic post-retirement benefit expense of \$107 million, contributions to our pension plan trust of (\$100 million) and (\$5 million) of benefits paid to participants of our non-qualified pension plans. Post-retirement contributions included benefits paid by company (\$136 million) offset by participant contributions \$43 million and direct subsidy receipts \$4 million.
 - 2015 includes net periodic pension benefit income of (\$62 million), net periodic post-retirement benefit expense of \$123 million, contributions to our pension plan trust of (\$100 million) and (\$5 million) of benefits paid to participants of our non-qualified pension plans. Post-retirement contributions included benefits paid by company (\$139 million) offset by participant contributions \$43 million and direct subsidy receipts \$5 million.
- (5) Excludes special items identified in items (1) and (2).

REVENUES

(UNAUDITED)

(Dollars in millions)

handy we get the strength of the say the say		Three mo	nths ended	Nine months ended			
Byan milyar sid. September 30.		ember 30, 2016	September 30, 2015	September 30, 2016	September 30, 2015		
Strategic services *							
Business high-bandwidth data services (1)	1,80	744	699	2,235	2,083		
Business hosting services (2)	- L	303	324	915	961		
Other business strategic services (3)	40%	179	143	521	458		
Consumer broadband services (4)	- 51-27	674	658	2,023	1,945		
Other consumer strategic services (5)	312	115	105	340	314		
Total strategic services revenues	10%	2,015	1,929	6,034	5,761		
Légacy services *							
Business voice services (6)	1956	601	638	1,834	1,956		
Business low-bandwidth data services (7)	300	.339	391	1,057	1,243		
Other business legacy services (8)	584	277	288	844	885		
Consumer voice services (6)		605	664	1,854	2,027		
Other consumer legacy services (9)	223	78	81	237	221		
Total legacy services revenues		1,900	2,062	5,826	6,302		
Data integration							
Business data integration	4.34	163	153	401	435		
Consumer data integration		<u></u>	1	1	2		
Total data integration revenues	417	163	154	402	437		
Other revenues		a Lacott Sport of					
High-cost support revenue (10)	15.4	174	284	518	550		
Other revenue (11)	A 530 .	133	125	401	374		
Total other revenues	1 16 19	304	409	919	924		
Total revenues	\$	4,382	4,554	13,181	13,424		

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- (1) Includes MPLS and Ethernet revenue
- (2) Includes colocation, hosting (including cloud hosting and managed hosting) and hosting area network revenue
- (3) Includes primarily broadband, VoIP, video and IT services revenue
- (4) Includes broadband and related services revenue
- (5) Includes video and other revenue
- (6) Includes local and long-distance voice revenue
- (7) Includes private line (including special access) revenue
- (8) Includes UNEs, public access, switched access and other ancillary revenue
- (9) Includes other ancillary revenue
- (10) Includes CAF Phase 1, CAF Phase 2 and federal and state USF support revenue
- (11) Includes USF surcharges
 - During the second quarter of 2016, we determined that because of declines due to customer migration to other strategic products and services, certain of our business low-bandwidth data services, specifically our private line (including special access) services in our business segment, are more closely aligned with our legacy services than with our strategic services. As a result, we reflect these operating revenues as legacy services, and we have reclassified certain prior period amounts to conform to this change. The revision resulted in a reduction of revenue from strategic services and a corresponding increase in revenue from legacy services of \$389 million and \$1.207 billion (net of \$2 million and \$6 million of deferred revenue included in other business legacy services) for the three and nine months ended September 30, 2015, respectively. In addition, our business broadband services remain a strategic service and are included in our other business strategic services.

HOSTING REVENUES AND OPERATING METRICS (UNAUDITED)

Product of the S		the ends t	Three mo	nths ended	Nine mon	ths ended
Negota video 30. Ledis	September 19.	Neglinii Yazi Jin s	September 30, 2016	September 30, 2015	September 30, 2016	September 30, 2015
Hosting Revenue	Detail			(In m	illions)	
Colocation		\$	157	151	468	463
Managed Hostin	g / Cloud		126	152	384	434
Hosting Area N	etwork		20	21	63	64
Total Hosting	Revenue	\$	303	324	915	961

5506	2 5 Est	A \$ 415" .	As of	As of	As of
September 30.	18 18 18 18 18 18 18 18 18 18 18 18 18 1	Hepanaber 30. Ma	September 30, 2016	June 30, 2016	September 30, 2015
Hosting Data Cente	er Metrics	om i saleg septil gag 19 to sil Sameras i ind Millionies i vergiet			
Number of data cer	nters (11)		58	58	59
Sellable square feet	t, million sq ft	$\frac{1}{1-\frac{1}{2}}\frac{1}{2}\frac{1}{2}\frac{1}{2}$	1.54	1.55	1.59
Billed square feet,	million sq ft		1.03	1.02	1.01
Utilization	(40.	2 1 1 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	67%	66%	64%

(Time

We define a data center as any facility where we market, sell and deliver colocation services, managed hosting (including cloud hosting) services, multi-tenant managed services, or any combination thereof.

4501	the state	2 3 1 1 2	As of	As of	As of
September In.	Contract DATE	Aspertion 38 Lest	September 30, 2016	June 30, 2016	September 30, 2015
Operating Metrics	response to the second second second	which is the middle for 3 superior specified above and all 19 few margins in contact to me		(In thousands)	
Broadband subscri	bers		5,950	5,990	6,071
Access lines			11,231	11,413	11,915
Prism TV subscrib	ers		318	311	269

Our methodology for counting broadband subscribers, access lines and Prism TV subscribers may not be comparable to those of other companies.

SUPPLEMENTAL NON-GAAP INFORMATION - ADJUSTED DILUTED EPS

THREE MONTHS ENDED SEPTEMBER 30, 2016 AND 2015 AND NINE MONTHS ENDED SEPTEMBER 30, 2016 AND 2015 (UNAUDITED)

(Dollars and shares in millions, except per share amounts)

	Three months ended			Nine m	Nine months ended	
PETER TOTAL TOTAL TOTAL STATE OF THE STATE O		ember 30, 2016	September 30, 2015	September 30, 2016	September 30, 2015	
Net Income	\$	152	.205	. 584	540	
Less Special Items:	2		1	The second secon		
Special items (excluding tax items)		(35) (1)	(78)	(3) (69)	(5) (151) (7	
Special income tax items and income tax effect of other special items		13 (2)	33	(4) 26	(6) 55 (8	
Total impact of special items	C -OLL I - SUPENIO	(22)	(45)	(43)	(96)	
Net income, excluding special items		174	250	627	636	
Add back certain items arising from purchase acco	ounting:				a entire and a state of the second second	
Amortization of customer base intangibles:						
Qwest	COMMENT REPORTED TO THE REPORT	183	197	561	604	
Embarq		15	20	55	69	
Savvis		15	15	46	46	
Amortization of trademark intangibles		-	-	- in	1	
		July Far		, Senior, as a serior		
Amortization of fair value adjustment of long-term	n dedt:	enteres established and an expension			Section of the sectio	
Embarq	378	=	1	3		
Qwest	TO SALES THE THREE TRANSPORT	(3)	(5)	(12)	(17)	
Subtotal		210	228	653	707	
Tax effect of items arising from purchasing accounting		(79)	(88)	(247)		
Net adjustment, after taxes	Name of Street o	131	140	406	437	
Net income, as adjusted for above items	\$	305	390	1,033	1,073	
	A Section			Section 1		
Weighted average diluted shares outstanding		540.9	555.2	540.5	559.3	
Diluted EPS (excluding special items)	\$	0.32	0.45	1.16	1.14	
Adjusted diluted EPS as adjusted for the above- listed purchase accounting intangible and interest amortizations (excluding special items)	\$	0.56	0.70	1.91	1.92	

The above non-GAAP schedule presents adjusted net income and adjusted diluted earnings per share (both excluding special items) by adding back to net income and diluted earnings per share certain non-cash expense items that arise as a result of the application of business combination accounting rules to our major acquisitions since mid-2009. Such presentation is not in accordance with generally accepted accounting principles but management believes the presentation is useful to analysts and investors to understand the impacts of growing our business through acquisitions.

- (1) Includes severance costs associated with recent headcount reductions (\$4 million), integration costs associated with our acquisition of Qwest (\$1 million), costs associated with a large billing system integration project (\$7 million) and net loss associated with early retirement of debt (\$27 million), less an offsetting gain on the sale of a building \$4 million.
- (2) Income tax benefit of Items (1).
- (3) Includes severance costs associated with reduction in force initiatives (\$58 million), integration costs associated with our acquisition of Qwest (\$8 million) and litigation and other adjustments associated with pre-acquisition activities of Qwest and Embarq (\$12 million).
- (4) Income tax benefit of Item (4).
- (5) Includes severance costs associated with recent headcount reductions (\$25 million), integration costs associated with our acquisition of Qwest (\$8 million), costs associated with a large billing system integration project (\$13 million) and net loss associated with early retirement of debt (\$27 million), less an offsetting gain on the sale of a building \$4 million.
- (6) Income tax benefit of Item (5).
- (7) Includes severance costs associated with reduction in force initiatives (\$90 million), integration costs associated with our acquisition of Qwest (\$26 million), the impairment of office buildings (\$8 million), regulatory fines associated with a 911 system outage (\$15 million) and litigation and other adjustments associated with pre-acquisition activities of Qwest and Embarq (\$12 million).
- (8) Income tax benefit of Item (7).

Beier Howlett

Birmingham City Commission February 8, 2017 Page 2

RECOMMENDATION

Based upon my review of the application, permit, and the METRO Act, it is my recommendation that the Commission approve the application and permit submitted by CenturyLink Communications, LLC.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

Timothy J. Currier

TJC/jc

City of Birmingham A Walkable Community

MEMORANDUM

Planning Department

DATE: February 7, 2017

TO: Joseph A. Valentine, City Manager

FROM: Matthew Baka, Senior Planner

Bruce R. Johnson, Building Official

APPROVED: Jana Ecker, Planning Director

SUBJECT Set Public Hearing to consider adding regulations to the Zoning

Ordinance to regulate the size of rooftop dormers in the single-family

zone districts

At the request of City Staff, the Planning Board has been reviewing potential changes to the Zoning Ordinance that would alter the way that dormers are regulated on single-family homes. Over the past few months the Planning Board has been presented with draft ordinance language on this subject by the Planning staff in co-operation with the Building Department.

On February 8th, 2017 the Planning Board Held a Public Hearing to consider a recommendation to the City Commission on the most recent version of draft ordinance language. At the public hearing the Planning Board recommended that the City Commission approve the draft ordinance language. Please see the attached draft language, staff report, and relevant meeting minutes related to this subject. The draft minutes from the February 8th, 2017 Planning Board meeting are not yet available.

SUGGESTED ACTION:

Motion to set a public hearing for March 13, 2017 to consider amendments to Chapter 126, Zoning, Article 04, Structure Standards, Section 4.75 SS-02, to create limitations on the allowable size of dormers on single family homes; and Article 09, definitions, section 9.02, to add a definition of "Attic" and to amend the definitions of "Habitable attic" and "Story" for consistency with the Michigan Residential Code.



MEMORANDUM

Planning Department

DATE: February 1, 2017

TO: Planning Board Members

FROM: Matthew Baka, Senior Planner

Bruce R. Johnson, Building Official

SUBJECT Public Hearing to consider adding regulations to the Zoning Ordinance

to regulate the size of rooftop dormers in the single-family zone

districts

At the request of City Staff, the Planning Board has been reviewing potential changes to the Zoning Ordinance that would alter the way that dormers are regulated on single-family homes. Over the past few months the Planning Board has been presented with draft ordinance language on this subject.

On December 14th, 2016 the Planning Board opened a Public Hearing to consider a recommendation to the City Commission on the draft language as amended at that meeting. At the public hearing additional language was suggested by the board that would require all dormers facing interior lot lines that are subject to regulation by the proposed language to be set back a minimum of 8" from the face of the second floor façade below. In accordance with that suggestion, the Planning Division, in co-operation with the Building Department, prepared revised draft ordinance language that incorporates the comments made at the December 14th meeting. The revised language was then reviewed at the January 11, 2017 Planning Board meeting. The Planning Board then voted to reset and re-notice the hearing to the February 8, 2017 meeting in order to ensure that the new changes to the proposed amendment were properly noticed to the public. Please see the attached draft language, staff report, and relevant meeting minutes related to this subject.

SUGGESTED ACTION:

To recommend approval to the City Commission the following Zoning Ordinance amendments:

- (a) Article 04, Structure Standards, Section 4.75 SS-02, to create limitations on the allowable size of dormers on single family homes; and
- (b) Article 09, definitions, section 9.02, to add a definition of "Attic" and to amend the definitions of "Habitable attic" and "Story" for consistency with the Michigan Residential Code.

CITY OF BIRMINGHAM ORDINANCE NO.

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM TO AMEND ARTICLE 04, STRUCTURE STANDARDS, SECTION 4.75 SS- 02, TO ADD REGULATIONS FOR DORMERS PROJECTING FROM SECOND STORY ROOFS ON SINGLE-FAMILY HOMES.

THE CITY OF BIRMINGHAM ORDAINS:

Section 4.75 SS-02, Structure Standards: This Structure Standards section applies to the following districts: R1A, R1, R2, R3

The following structure standards apply:

- A. Unchanged.
- B. <u>Dormer Limitations:</u> Dormers projecting from second story roofs of principal structures are <u>subject to the following:</u>
 - 1. Dormers are limited in width to 33% of the roof they project from per elevation facing interior lot lines; and 50% of the roof they project from per elevation facing a street. No individual dormer may exceed 8 feet in width as measured to the interior dimension.
 - <u>2.</u> Dormers may not exceed the height of the roofline they project from.
 - 3. Dormers on elevations facing interior lot lines must be located behind the eaves of the roofline they project from and setback a minimum of 8" from the face of the second floor façade below.
 - 4. For purposes of this section, roof structures covering living space that projects a minimum of 24-inches from the main building and is supported on a foundation are not considered dormers.

ORDAINED this	day of	, 2017 to become effective 7
days after publication		
Mark Nickita, Mayor		
Cheryl Arft, City Clerk		

CITY OF BIRMINGHAM ORDINANCE NO.

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM TO AMEND ARTICLE 09, DEFINITIONS, SECTION 9.02, TO ADD A DEFINITION OF "ATTIC" AND TO AMEND THE DEFINITIONS OF "HABITABLE ATTIC" AND "STORY" FOR CONSISTENCY WITH THE MICHIGAN RESIDENTIAL CODE.

THE CITY OF BIRMINGHAM ORDAINS:

Section 9.02, Definitions:

Attic: The unfinished space between the ceiling assembly and the roof assembly.

Habitable Attic: An attic which has a stairway as a means of access and egress and in which the ceiling area at a height of 7 feet, 4 inches above the attic floor is not more than one-third of the area of the next floor below. A finished or unfinished area complying with all of the following requirements:

- 1. The occupiable floor area is not less than the minimum room dimensions required by the current Michigan Residential Code:
- 2. The occupiable floor area has a minimum ceiling height in accordance with the current Michigan Residential Code; and
- 3. The occupiable space is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.

<u>Story:</u> That portion of a building included between the upper surface of any floor and the upper surface of any floor above, or any portion of a building between the ceiling and the roof. A mezzanine **or Habitable Attic** shall not be counted as a story for purposes of determining number of stories (see Basement, Building height, and Mezzanine and Habitable Attic).

ORDAINED this after publication.	day of	, 2017 to become effective 7 days
Mark Nickita, Mayor		
Cheryl Arft, City Clerk		



MEMORANDUM

Planning Department

DATE: September 10, 2016

TO: Planning Board Members

FROM: Matthew Baka, Senior Planner

Bruce R. Johnson, Building Official

SUBJECT Study Session to consider adding regulations to the Zoning Ordinance to

regulate the size of rooftop dormers in the single-family zone districts

At the June 20, 2016 joint meeting of the City Commission and the Planning Board a topic was introduced by the City Building Official regarding the lack of regulations in the Zoning Ordinance to control the size of dormers in the single-family zone districts. The Zoning Ordinance does limit the number of stories in all single-family districts to two, but also allows a portion of the attic to be habitable. Habitable attics are typically located behind dormers projecting from the roof of the home. Dormers are often utilized to provide windows and additional ceiling height within a habitable attic. The Zoning Ordinance does not regulate the maximum width of dormers on single-family homes.

As a result of the discussion at the joint meeting, the City Commission subsequently directed the Planning Board to review the dormer and habitable attic regulations in the Zoning Ordinance as they relate to current dormer construction trends in residential zoned districts. Specifically, to conduct a detailed public input and review process to:

- (1) Clarify the types of dormers permissible that project from second story roofs enclosing habitable attics;
- (2) Provide recommended width limitations for dormers projecting from second story roofs; and
- (3) Refine the maximum area regulations for habitable attics that would not count as a story.

In accordance with the direction of the City Commission, the following information and recommendations are offered.

(1) Types of Dormers Permitted to Project from Second Story Roofs

Article 9, section 9.02 of the Zoning Ordinance defines dormer as follows:

<u>Dormer</u>: A subunit of a main structure interrupting a roof slope of the main roof structure with its own walls and roof, and characterized by the roof shape of the dormer including but not limited to: flat, deck, hipped, shed, gabled, inset, arched, segmental, and eyebrow style roofs.

Thus, Article 9, Section 9.02 clearly lists the types of dormer permitted to project from second story roofs. However, there are no corresponding illustrations to clarify each type of permissible dormer.

The current definition for dormer was added to the Zoning Ordinance on July 25, 2005. The City Commission at that time requested the Planning Board provide a definition for dormer after approving height increases in the Downtown Overlay District. The Planning Board provided sketches of dormer roof types to the City Commission for reference during its review of the proposed definition. A copy of the Ordinance 1870 adopting the definition is attached along with the sketches of the different types of dormer roofs that were considered.

Planning and Building staff recommend that the current dormer definition be maintained as it is clear and specific. However, the Planning Board may also wish to add illustrations to provide clarity on the types of dormers permissible to project from second story roofs on single-family homes.

(2) Recommended Limitations on Dormers

The Planning Board and City Commission most recently discussed dormer limitations on single-family homes and detached accessory structures in late 2006 and early 2007, when the height standards for homes and accessory structures were modified.

On March 19, 2016, the City Commission approved a regulation to limit the width of dormers on accessory structures to 50% of the width of the roof they project from per elevation, or a 10-foot interior dimension, whichever is greater. However, at that time, the proposed maximum width for dormers on single-family homes at 50% of the roof per elevation was not approved. There was concern at the City Commission that the proposed dormer limitation of 50% would prohibit the common practice to extend the roof on the rear of a traditional bungalow. However, the proposed dormer limitation at the time would not have affected the ability to extend the roof on the rear of a traditional bungalow however as a traditional bungalow is one to two stories in height, and the rear eave would not exceed the 24-foot maximum eave height even if the roof was extended or lifted as is commonly done.

Dormers on homes constructed during the past several years vary in width depending on whether the elevation faces an interior lot line or the street. Dormer widths on elevations facing interior lot lines are typically less than 50% of the width of the roof and most appear to be 33% of the width of the roof or less. To increase curb appeal, elevations facing a street typically have dormers widths in the range of 50% of the width of the roof.

There have also been a few homes constructed that appear to contain 3-stories However, the three story appearance is not necessarily due to the width of the dormer. Rather, it results from additional roof structures such as reverse gables that project out from the main exterior wall and cover small portions of construction below. (As an example: Think of an "L" shaped house that has a main roof line side to side and a secondary roof line front to back. A portion of the secondary roof will need to lay onto the main roof.) While a portion of the secondary roof ties back into the main roof, it is not considered a dormer. However, the Zoning Ordinance does not regulate the distance secondary construction needs to project from the main structure to

allow its roof to not be deemed a dormer. Such secondary roofs may only project a few inches from the main roof line, and give the appearance of being dormers, when they are not.

The Building Department has been applying the regulations for dormers on detached garages (50% of the elevation) to regulate dormer size over the past several years, but there is no language in the Zoning Ordinance to specifically limit dormers on houses. Accordingly, the Planning Board may wish to consider regulating dormer construction on single-family homes by adding a Subsection "B" to Article 04 Structure Standards, Section 4.74 to control the width of dormers on second story single-family homes, and to add language to clarify when a type of roof structure is not considered a dormer. Draft language is attached for review and discussion.

(3) Maximum Area Regulations for Habitable Attics

Article 9, section 9.02 of the Zoning Ordinance defines habitable attic as follows:

<u>Habitable Attic</u>: An attic which has a stairway as a means of access and egress and in which the ceiling area at a height of 7 feet, 4 inches above the attic floor is not more than one-third of the area of the next floor below.

Thus, the area of the habitable attic at a ceiling height of 7'4" or larger is limited to 1/3 of the floor below. This does not prohibit habitable space down to a ceiling height of 5' per the Building Code.

The definition for habitable attic was added to the Zoning Ordinance in 1992, at the same time that the maximum building heights and number of allowable stories were reduced for all single family zoned districts. The maximum building height in 1992 was lowered to 30-feet from 35-feet, and the allowable number of stories was reduced to 2 from 2.5. These changes were approved by the City Commission after extensive review by the Planning Board as a result of public concerns regarding the height of then recently constructed homes. Since the height and stories of single family homes were being reduced, the definition for habitable attic (as well as mezzanine), was added to allow some habitable space in an attic or loft area that would not formally count as a story. The ordinance definition of habitable space currently in force was taken verbatim from the building code in effect at the time (1990 BOCA Building Code), which also did not count habitable attic space as a story.

The building code has been updated several times since 1992 and its definition for habitable attic has been modified since that time. The building code definition from current code (2015 Michigan Residential Code) is as follows:

Attic, Habitable: A finished or unfinished area, not considered a story, complying with all of the following requirements:

- 1. The occupiable floor area is not less than 70 square feet (17m²), in accordance with Section R304.
- 2. The occupiable floor area has a ceiling height in accordance with Section R305.
- 3. The occupiable space is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.

The building code definition today more clearly defines the area within an attic that can be occupied as habitable space. The floor area to be occupied must meet the minimum room size

of 70 square feet, must meet the minimum ceiling height requirements in effect at the time, and must be enclosed by the roof, knee walls and floor/ceiling below. Rather than limit the area of a habitable attic to 1/3 of the floor below, the code now limits habitable attic size to the area within the attic that meets three specific requirement. including the current minimum ceiling height at the time. Presumably, this change was made to allow a space fitting inside an attic that meets minimum code standards to be habitable without counting it as an additional story as the space would be there whether occupied or not.

The Planning Board may wish to consider amending the definition in the Zoning Ordinance for habitable attic to be consistent with the current 2015 Building Code. This would clarify the definition make it consistent with the Building Code definition. In addition, the Planning Board may wish to add a definition for attic as well, based on the definition of attic in the 2015 Building Code to make it abundantly clear which portions of an attic may be occupied without becoming a new story in their own right.

The Building and Planning Departments have drafted ordinance language amendments aimed at addressing the issues outlined above as enumerated by the City Commission. The proposed language would limit the width of dormers to 50% of the roof line on elevations facing a street and 33% of the roof line facing an interior lot line. In addition, the draft language proposes amendments to the definitions section of the Zoning Ordinance that would clarify the portions of habitable attics that may be occupied without being considered as stories. The intent of these modifications is to allow the exterior regulations to control the massing and shape of the home while allowing for more flexibility on the inside.

Suggested Action:

The Planning Board may wish to review and discuss the recommendations above, and provide feedback on any additional improvements to the proposed amendments regarding dormers and habitable attic space. If the Board is comfortable with the changes as proposed, a public hearing can be set for a formal recommendation to the City Commission.

CITY OF BIRMINGHAM REGULAR MEETING OF THE PLANNING BOARD WEDNESDAY, SEPTEMBER 14, 2016

City Commission Room 151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on September 14, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck,

Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Student Representative

Colin Cousimano (left at 9:15 p.m.)

Absent: Alternate Board Members Lisa Prasad, Daniel Share

Administration: Jana Ecker, Planning Director

Bruce Johnson, Building Official Carole Salutes, Recording Secretary Scott Worthington, Asst. Building Official Mike Morad, Building Inspector Jeff Zielke, Building Inspector

09-160-16

STUDY SESSION ITEMS

1. Dormer Regulations

Ms. Ecker noted that as a result of the discussion at the joint meeting of the City Commission and the Planning Board on June 20, 2016, the City Commission directed the Planning Board to review the dormer and habitable attic regulations in the Zoning Ordinance in residential zoned districts. Specifically, to conduct a detailed public input and review process.

Mr. Johnson gave a PowerPoint presentation that covered some of the issues. Concern has been raised that some of the homes appear to be three stories in height, as well as how habitable attics are being designed. The three areas the City Commission has asked to be addressed are:

- (1) Clarify the types of dormers permissible that project from second-story roofs enclosing habitable attics;
- (2) Provide recommended width limitations for dormers projecting from second-story roofs; and
- (3) Refine the maximum area regulations for habitable attics that would not count as a story.

In accordance with the direction of the City Commission, staff offered the following information and recommendations.

> Types of dormers permitted to project from second-story roofs

Article 9, section 9.02 of the Zoning Ordinance clearly lists the types of dormers permitted to project from second-story windows. Planning and Building staff recommend that the current dormer definition be maintained as it is clear and specific. However, the Planning Board may also wish to add illustrations to provide clarity on the types of dormers permissible on single-family homes.

Dormer width limitations

The Building Dept. has been applying the regulations for dormers on accessory structures (50% of the roof width per elevation) to regulate dormer size over the past several years, but there is no language in the Zoning Ordinance to specifically limit dormers on single-family homes. Typical dormer widths are 33% for elevations facing interior property lines and 50% width for elevations facing a street, including side streets. A dormer doesn't exceed the maximum width permitted and does not project out past the exterior surface of the wall. When it comes out past that, it stops being a dormer and is a reverse gable.

It has been the Building Official's determination that a secondary roof line is not a dormer. As soon it comes out past the surface of the main wall, then it is considered a secondary roof line. Secondary roof lines typically enclose living space projecting at least 24 in. from the main building.

Accordingly, the Planning Board may wish to consider regulating dormer construction on single-family homes by adding a Subsection "B" to Article 04 Structure Standards, section 4.74 to control the width of dormers on second-story single-family homes, and to add language to clarify when a type of roof structure is not considered a dormer.

> Maximum area regulations for habitable attics

The Planning Board may wish to consider amending the definition in the Zoning Ordinance for habitable attic to be consistent with the current 2015 Building Code. This would clarify the definition and make it consistent with the Building Code definition. In addition, the Planning Board may wish to add a definition for attic as well, based on the definition of attic in the 2015 Building Code to make it abundantly clear which portions of an attic may be occupied without becoming a new story in their own right.

- Attic: The unfinished space between the ceiling assembly and the roof assembly.
- Habitable Attic: A finished or unfinished area complying with all of the following requirements:
 - . The occupiable floor area is not less than the minimum room dimensions required by the current Michigan Residential Code;
 - . The occupiable floor area has a minimum ceiling height in accordance with the current Michigan Residential Code; and
 - . The occupiable space is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.

The Building and Planning Departments have drafted ordinance language amendments aimed at addressing the issues outlined above as enumerated by the City Commission. The proposed language would limit the width of dormers to 50% of the roof line on elevations facing a street and 33% of the roof line facing an interior lot line. In addition, the draft language proposes

amendments to the definitions section of the Zoning Ordinance that would clarify the portions of habitable attics that may be occupied without being considered as stories.

• Story: That portion of a building included between the upper surface of any floor and the upper surface of any floor above, or any portion of a building between the ceiling and the roof. A mezzanine or habitable attic shall not be counted as a story for purposes of determining number of stories.

The intent of these modifications is to allow the exterior regulations to control the massing and shape of the home while allowing for more flexibility on the inside.

In response to Ms. Whipple-Boyce, Mr. Johnson said there is no reason why dormers could not be 50% of the roof line all the way around. The Building Dept. has received very few complaints over the years about the size of dormers, except for several cases where the design appears to be three stories.

Mr. Koseck was not sure that the Building Code definition should be used as the definition in the Zoning Ordinance as these documents have very different purposes. Mr. Koseck and Mr. Jeffares expressed the desire for more time to formulate their opinions. Ms. Whipple-Boyce was comfortable with the attic definition but not dormer limitations.

The consensus of the board was to continue this study session item to October 12.

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 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.

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.

CITY OF BIRMINGHAM REGULAR MEETING OF THE PLANNING BOARD WEDNESDAY, NOVEMBER 9, 2016

City Commission Room 151 Martin Street, Birmingham, Michigan

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

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert

Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Student

Representative Colin Cousimano (left at 9 p.m.)

Absent: Alternate Board Members Lisa Prasad, Daniel Share

Administration: Matthew Baka, Sr. Planner

Jana Ecker, Planning Director Bruce Johnson, Building Official Mike Morad, Building Inspector Carole Salutes, Recording Secretary Scott Worthington, Asst. Building Official

Jeff Zielke, Building Inspector

11-192-16

STUDY SESSION ITEMS

1. Dormer Regulations

Mr. Baka noted that as a result of the discussion at the joint meeting of the City Commission and the Planning Board on June 20, 2016, the City Commission subsequently directed the Planning Board to review the dormer and habitable attic regulations. Specifically, to conduct a detailed public input and review process.

The Building and Planning Departments have drafted ordinance language amendments aimed at addressing the issues outlined above as enumerated by the City Commission Two amendments are proposed. One limits the size of dormers with interior lot lines restricted to 33% of the roof, and 50% facing a frontage line. Also, there is a revised definition for habitable attic.

Mr. Koseck thought the Ordinance is good in that it establishes in a gable house that the pitch of the roof will be a function of the height measured to the mean. The 50% rule is appropriate facing a street and the reduction to 33% is fine for internal lots. But then, go a step further and say that no dormer shall exceed 8 ft. in width. Mr. Johnson recommended that should be measured on an interior dimension. An internal stairway on the outside wall would work fine with that.

Ms. Whipple-Boyce was comfortable with not specifying a percentage of floor for the habitable attic. Also she was comfortable with the idea of a corner lot being able to have 50% dormers on the street side. She agrees with Mr. Koseck about dividing dormers into 8 ft. widths so they don't end up with one 20 ft. long dormer. Also she was in favor of not making it super easy to get a stairway to the third floor.

There was consensus to add a line to the suggested language for Chapter 126, Zoning, of the Code of the City of Birmingham (B) that says individual dormers shall not exceed 8 ft. as measured on the interior.

No one from the public cared to comment at 7:50 p.m.

Motion by Mr. Williams

Seconded by Mr. Koseck to schedule a public hearing on rooftop dormers in the single-family zone districts for December 14, 2016.

No public comments were heard.

Motion carried, 7-0.

ROLLCALL VOTE

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

Nays: None Absent: None

Mr. Williams asked the Building Dept. to start to put together their thoughts for the Master Plan in dealing with the neighborhoods. Involve the neighbors and neighborhood associations in discussion.

CITY OF BIRMINGHAM 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

12-205-16

PUBLIC HEARINGS

1. To consider the following amendments to Chapter 126, Zoning, of the Code of the City of Birmingham:

TO AMEND ARTICLE 04, STRUCTURE STANDARDS, SECTION 4.75 SS02, TO ADD REGULATIONS FOR **DORMERS** PROJECTING FROM SECOND-STORY ROOFS ON SINGLE-FAMILY HOMES.

TO AMEND ARTICLE 09, DEFINITIONS, SECTION 9.02, TO ADD A DEFINITION OF "ATTIC" AND TO AMEND THE DEFINITIONS OF "HABITABLE ATTIC" AND "STORY".

The Chairman formally opened the public hearing at 7:35 p.m.

Mr. Baka noted at the request of City Staff, the Planning Board has been reviewing potential changes to the Zoning Ordinance that would alter the way that dormers are regulated on single-family homes. Over the past few months the Planning Board has been presented with draft ordinance language on this subject. On November 9, 2016, the Planning Board set a public hearing to consider a recommendation to the City Commission on the draft language as amended at that meeting. In accordance with that motion, the Planning Division has prepared finalized draft ordinance language that

incorporates the comments made at the Nov. 9th meeting in regards to limiting the interior width of a dormer to 8 ft.

Mr. Koseck liked what is proposed but thinks a couple of things need to be tweaked. Key is that there is a break between the eave line and the dormer above the second floor. He would modify the language as follows: "No individual dormer may exceed 8 ft. in width as measured to the interior dimension. All dormers on a side or rear elevation must be set back a minimum of 8 in. from the face of the second-story wall below."

Mr. Williams had a problem because the Building Official was not present. Therefore he thought the hearing should be continued in January. He thought the language could be clarified, shown to Mr. Johnson, and the board can come back in January. If re-notice is necessary, it can be done then for February. He was not comfortable with re-noticing when the exact language has not been agreed upon and Mr. Johnson has not reviewed it

Motion by Mr. Williams Seconded by Mr. Boyle to continue the hearing to January 11, 2017 so that Mr. Johnson can review the language.

There were no comments from the public at 7:50 p.m.

Motion carried, 7-0.

VOICE VOTE

Yeas: Williams, Boyle, Clein, Jeffares, Koseck, Prasad, Whipple-Boyce

Nays: None Absent: Lazar

CITY OF BIRMINGHAM REGULAR MEETING OF THE PLANNING BOARD WEDNESDAY, JANUARY 11, 2017 City Commission Room

151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on January 11, 2017. Chairman Scott Clein convened the meeting at 7:30 p.m.

Present: Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck,

Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams

Absent: Alternate Board Members Lisa Prasad, Daniel Share

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

01-03-17

PUBLIC HEARINGS

1. To consider the following amendments to Chapter 126, Zoning, of the Code of the City of Birmingham:

TO AMEND ARTICLE 04, STRUCTURE STANDARDS, SECTION 4.75 SS02, TO ADD REGULATIONS FOR **DORMERS** PROJECTING FROM SECOND-STORY ROOFS ON SINGLE-FAMILY HOMES.

TO AMEND ARTICLE 09, DEFINITIONS, SECTION 9.02, TO ADD A DEFINITION OF "ATTIC" AND TO AMEND THE DEFINITIONS OF "HABITABLE ATTIC" AND "STORY". (continued from December 14, 2016)

The Chairman formally opened the continuation of the public hearing at 7:34 p.m.

Mr. Baka noted at the request of City Staff, the Planning Board has been reviewing potential changes to the Zoning Ordinance that would alter the way that dormers are regulated on single-family homes. Over the past few months the Planning Board has been presented with draft ordinance language on this subject.

On December 14, 2016, the Planning Board set a public hearing to consider a recommendation to the City Commission on the draft language as amended at that meeting. At the public

hearing additional language was suggested by the board. At that time the board decided to continue the public hearing to this evening. Therefore the Planning Division, in co-operation with the Building Dept., has prepared revised draft ordinance language that incorporates the comments made at the December 14th meeting.

The new language under Section 4.75 SS-02, Structure Standards states:

Dormers on elevations facing interior lot lines must be located behind the eaves of the roofline they project from and set back a minimum of 8 in. from the face of the second- floor facade below.

Mr. Johnson explained one of the reasons to insert this language was to make sure the eave lines are continuous on the elevations facing interior lot lines, side and rear. Also, the board discussed stepping that dormer back 8 in. from the exterior face of the wall. Accordingly, the eave line would be in front of the dormer.

Discussion disclosed the intent is not to control the third floor dormer, or habitable attic. When the third element is placed on the roof, Mr. Koseck said that is when the eave line needs to be broken.

No one from the public wished to comment at 7:40 p.m.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Koseck to re-set and re-notice this public hearing to February 8, 2017 to consider the following Zoning Ordinance amendments:

- (a) Article 04, Structure Standards, section 4.75 SS-02, to create limitations on the allowable size of dormers on single-family homes; and
- (b) Article 09, Definitions, section 9.02, to add a definition of "Attic" and to amend the definitions of "Habitable Attic" and "Story" for consistency with the Michigan Residential Code.

There were no comments from members of the public at 7:48 p.m.

Motion carried, 7-0.

ROLLCALL VOTE

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

Nays: None Absent: None

The chairman closed the public hearing at 7:50 p.m.

NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION REZONING & ZONING MAP AMENDMENT

Meeting - Date, Time, Location:	Monday, February 13, 2017, 7:30 PM Municipal Building, 151 Martin Birmingham, MI 48009		
Nature of Hearing:	To consider a proposal to rezone the property at 412-420 e. Frank Street from B1 (Neighborhood Business), R3 (Single-Family Residential) & B2B (General Commercial) to TZ1 (Transitional Zoning).		

City Staff Contact:	Jana Ecker, 248.530.1841
	jecker@bhamgov.org
Notice:	Publish: January 22, 2017
	Mailed to all property owners within 300 feet
	of subject address.
Approved minutes may be reviewed at:	City Clerk's Office

Should you have any statement regarding the above, you are invited to attend the meeting or present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.



MEMORANDUM

Planning Division

DATE: February 6, 2017

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: Public hearing to consider the rezoning of 412 – 420 E. Frank

Street, Lots 31 & 32 and the west 32' of lots 3 & 4 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.

On January 9, 2017, the City Commission set a public hearing date for February 13, 2017 to consider the requested rezoning of 412 -420 E. Frank Street.

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 Citywide transitional zoning study.

Suggested Action:

To approve the proposed rezoning of 412 - 420 E. Frank Street from R3 (Single-Family Residential), B1 (Neighborhood Business), and B2B (General Commercial) to TZ1 (Transitional Zoning) for all three parcels.



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 multifamily 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 multifamily 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 single-family 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

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

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 1:

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</u>, <u>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. 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:

John Shekerijan, its agent

Name of Owner:

Print Name:

Saverio R. Bitonti

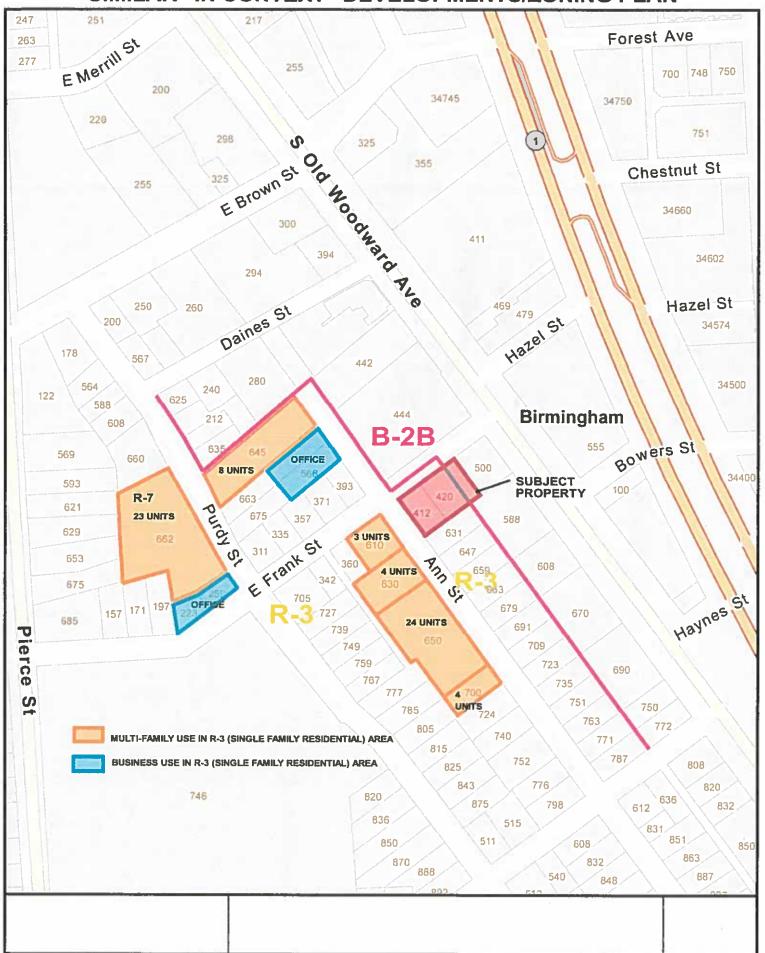
Applicant Address:

390 Baldwin, Birmingham, MI 48009

Applicant Telephone #:

(248) 885-1153

SIMILAR "IN CONTEXT" DEVELOPMENTS/ZONING PLAN



AGREEMENT FOR PURCHASE AND SALE

THIS AGREEMENT FOR PURCHASE AND SALE ("Agreement") 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 "Contract Date"), 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 ("Sellers"), and ARJA Holding, LLC, a Michigan limited liability company, or its assign ("Purchaser").

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 Exhibit "A" 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>").
- 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 quasi-governmental 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.

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IN WITNESS WHEREOF, the parties have hereto executed this Agreement as of the date first above written.

SELLERS:
Bitonti, Inc.
Bv:
Name: Saverio Bitonti
Its: President
Saverio R. Bitonti, as Trustee of the Saverio R.
Bitonti Trust Under Agreement Amended and
Restated October 7, 2009
Ву:
Name: Saverio Bitonti
Its: Trustee
Seller Execution Date July , 2016
PURCHASER:
ARJA Holding, LLC
By: Yomet Shekeyian
Name: Janet Shekerjian
Its: Member
Purchaser Execution Date: July 7, 2016

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.
 - $\circ\quad$ 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.
- o **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).
 - o TZ1 provides appropriate transition from the commercial properties.
 - Less stress on parking and traffic impacting the residential neighborhood.
 - o 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):
 - o Five unit for-sale residential condominium with adequate on-site parking for residents and guests.
 - o 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.
 - o 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.

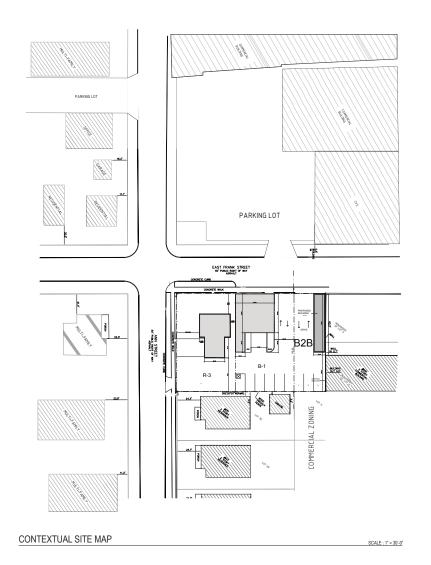
The B-1 site is 60' wide by 100' deep. Site Study #2 shows a one story 1,800 sq ft commercial building. Parking spaces for 6 cars, based on a 1 car per 300 sq ft of floor area standard, are provided as required in the rear of the site. A required 20' wide access drive serves the parking. Unlike the B2B 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.

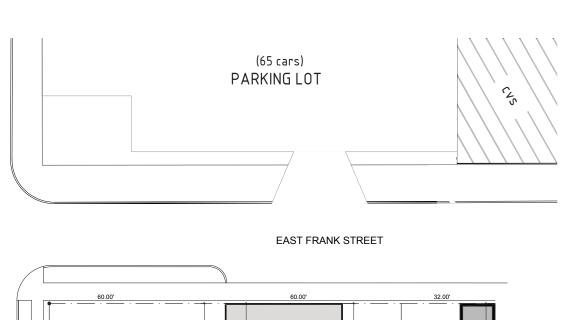
B-1 & B2B Sites (combined)

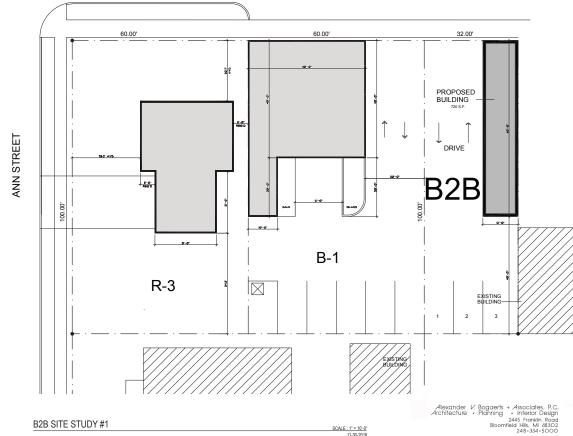
The combined B-1 and B2B sites are 92' wide by 100' deep. Site study # 3 shows a one story 2,950 sq ft commercial building. Parking spaces for 10 cars, based on a 1 car per 300 sq ft of floor area standard, are provided as required in the rear of the site. A required 20' wide access drive serves the 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.

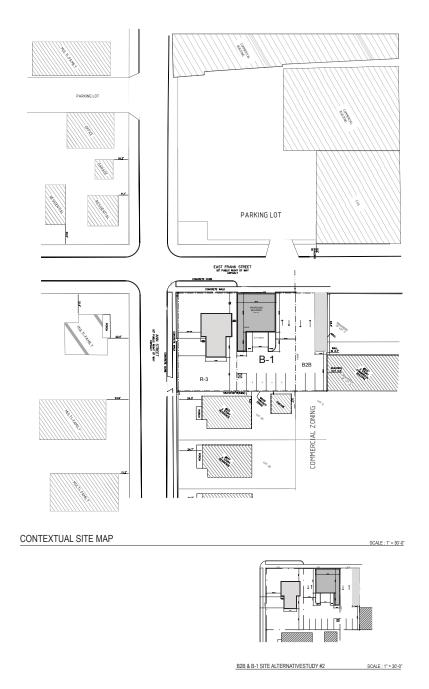
Aside from architectural issues, **traffic and parking** are major concerns as a result of developing these sites with commercial uses as compared to other options. Even though we are providing the required number of parking spaces on site, it is probable that the uses/tenants that may occupy this type of a building would end up parking in the street along Frank and Ann **causing additional traffic and parking pressure on the surrounding neighborhood**.





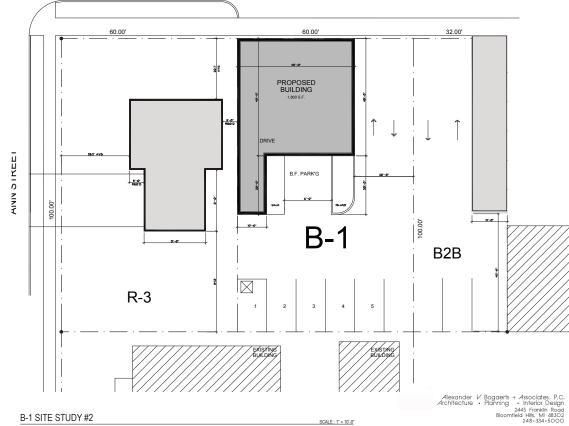


420 FRANK STREET RESIDENTIAL CONDOMINIUM DEVELOPMENT ARJA HOLDINGS, L.L.C.



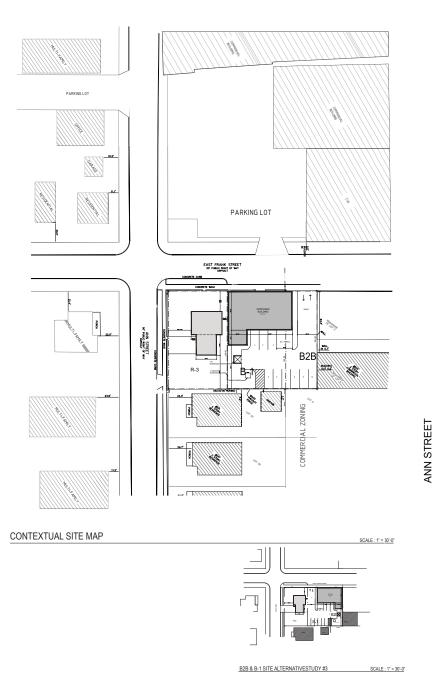
(65 cars) PARKING LOT

EAST FRANK STREET

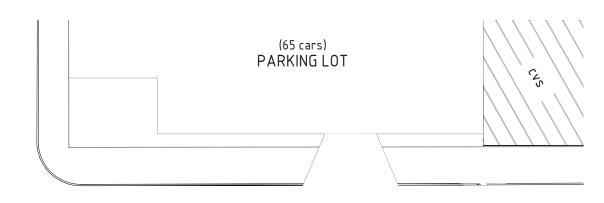


B-1 SITE STUDY #2

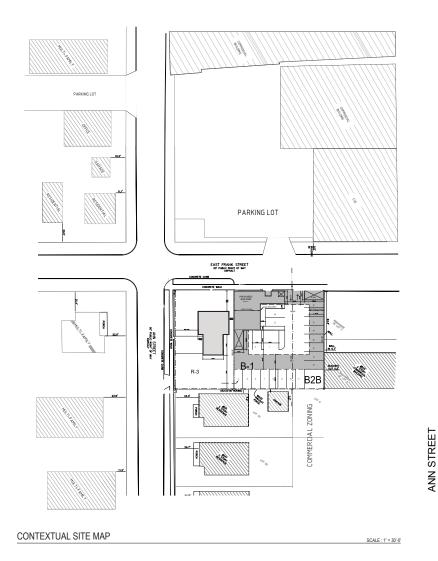
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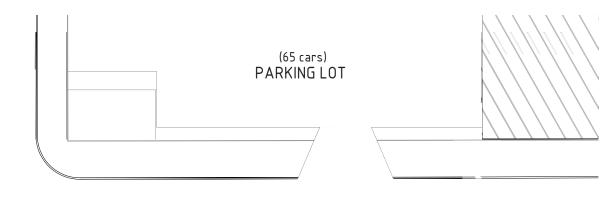


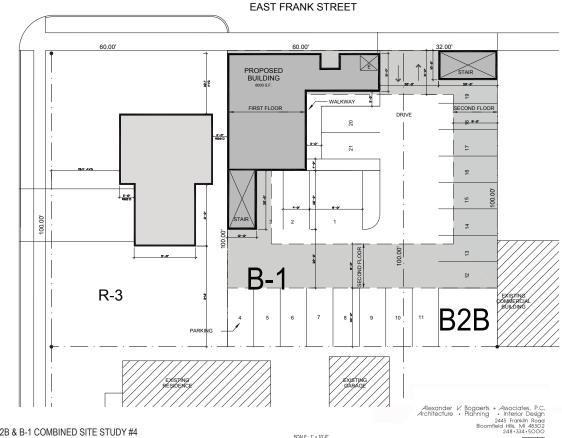
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420 FRANK STREET RESIDENTIAL CONDOMINIUM DEVELOPMENT ARJA HOLDINGS, L.L.C.

B2B & B-1 COMBINED SITE STUDY #4

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.

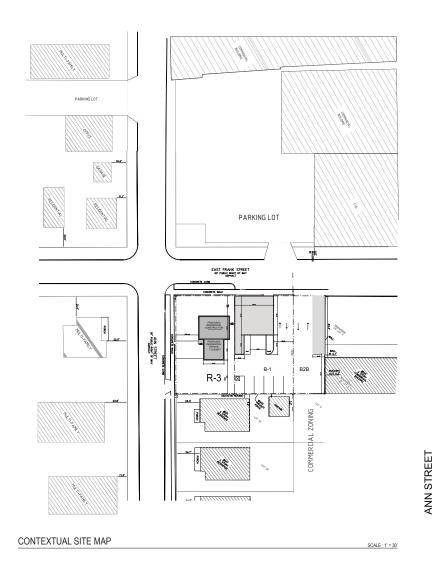
Additionally, the R-3 zoning of 412 E. Frank St is **inappropriate and inconsistent** with the other R-3 lots in the immediate neighborhood for a variety of reasons. Significantly, as a single family lot, this lot is an **anomaly as compared to the other R-3 lots** on the **east side** of Ann Street (See attached - 412 E. Frank St Birds Eye Aerial; and, Similar in Context – Developments/Zoning Plan):

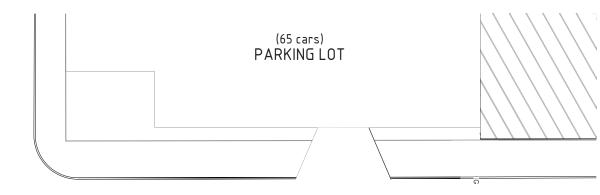
- 412 E. Frank St is the only R-3 lot with the front yard **not facing Ann St**.
- 412 E. Frank St is the only R-3 lot with the front yard facing a large commercial 65 car parking lot.
- 412 E. Frank St is the only R-3 lot that is not 120 feet deep which impacts its development in comparison.
- 412 E. 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.

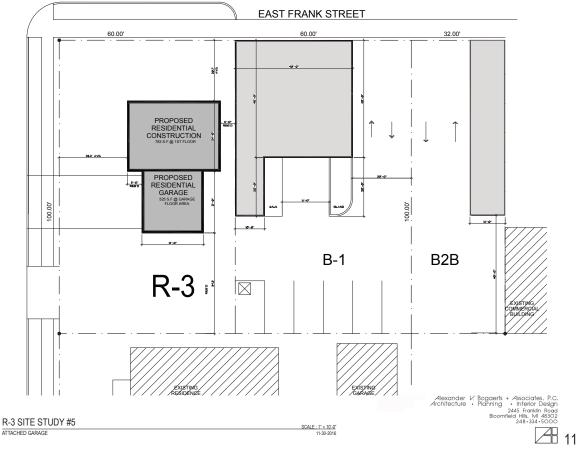
- If the lot were oriented with frontage on Ann St, as the others on Ann, and away from facing the 65 car parking lot, the ordinance proscribed setbacks together with the lot dimensions would preclude any possibility of a reasonable home design (see Site Study 6 inset sketch).
- Due to the many significant 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.

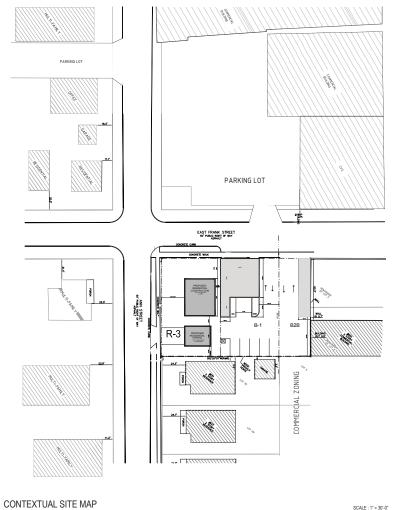




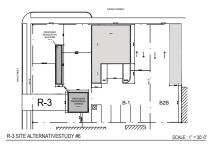


420 FRANK STREET RESIDENTIAL CONDOMINIUM DEVELOPMEN ARJA HOLDINGS, L.L.C.

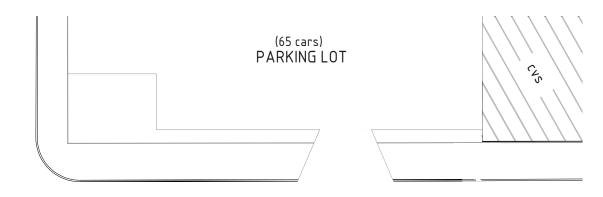
ATTACHED GARAGE

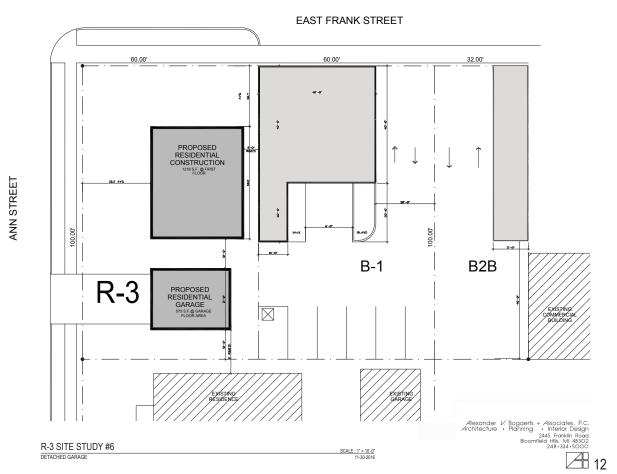


SCALE : 1" = 30'-0"

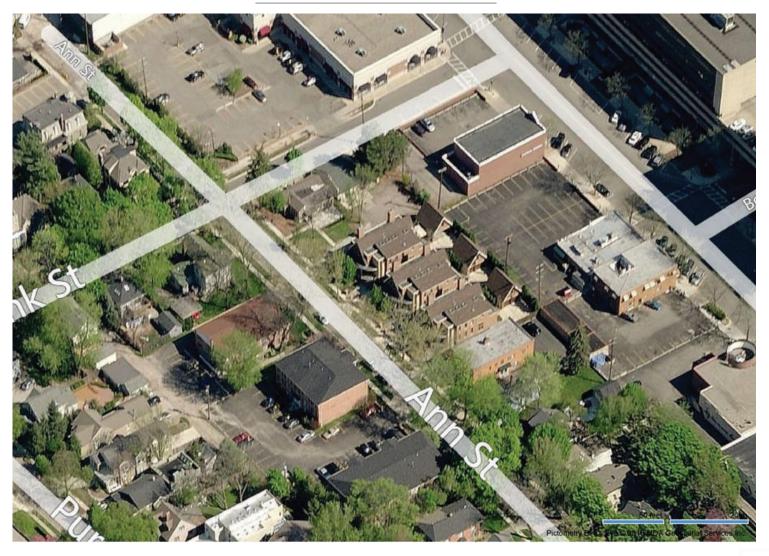


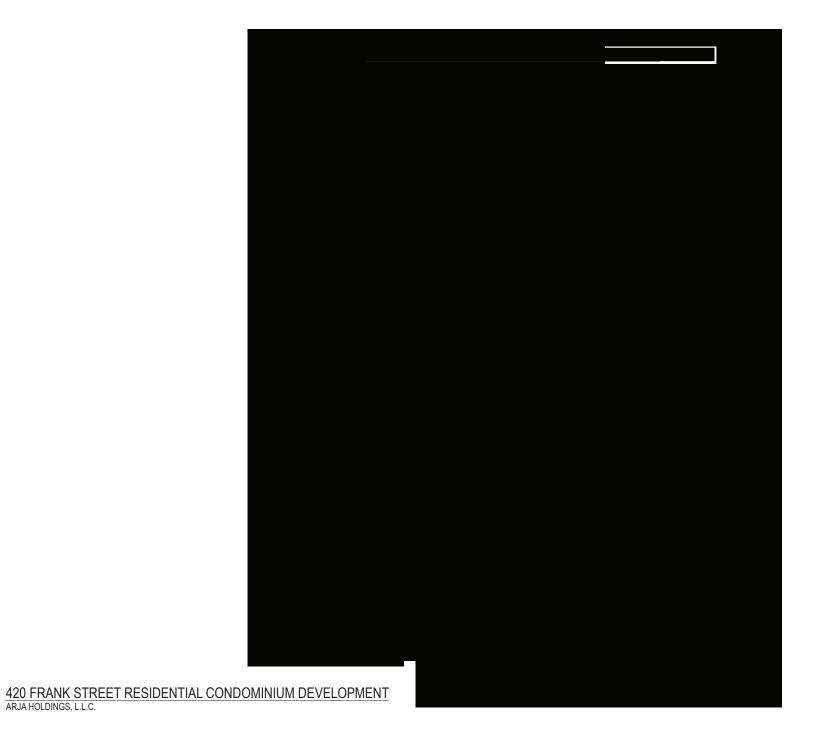
420 FRANK STREET RESIDENTIAL CONDOMINIUM DEVELOPMENT ARJA HOLDINGS, L.L.C.





412 E. FRANK ST. - BIRDS EYE AERIAL VIEW





Alexander I/. Bogaerls + Associates, P.C. Architecture • Planning • Interior Design 2445 Frankin Road Bloomfield Hills, MI 48302 248 • 334 • 5000

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'.

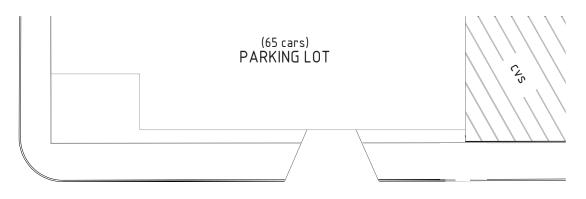
The end result will be a building which respects the scale, architecture and values of the adjacent single family homes. It is also consistent with the multi-family use in the five buildings along the west side of Ann Street.

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.

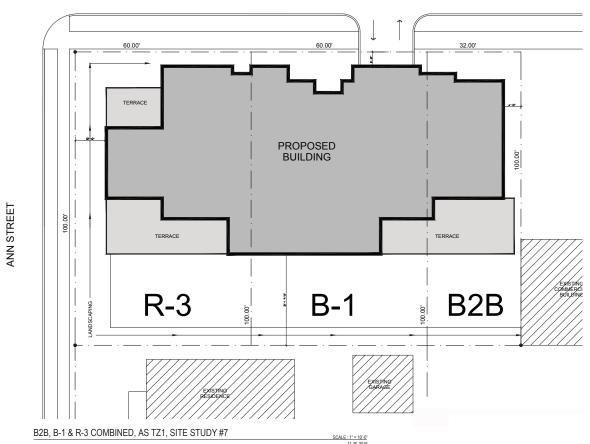
Traffic is also a concern if these parcels are not rezoned to a transitional use. As we have previously stated, developing these sites with commercial uses, it's probable that people would end up parking in the street causing additional traffic/parking pressure on the surrounding neighborhood. We believe 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.

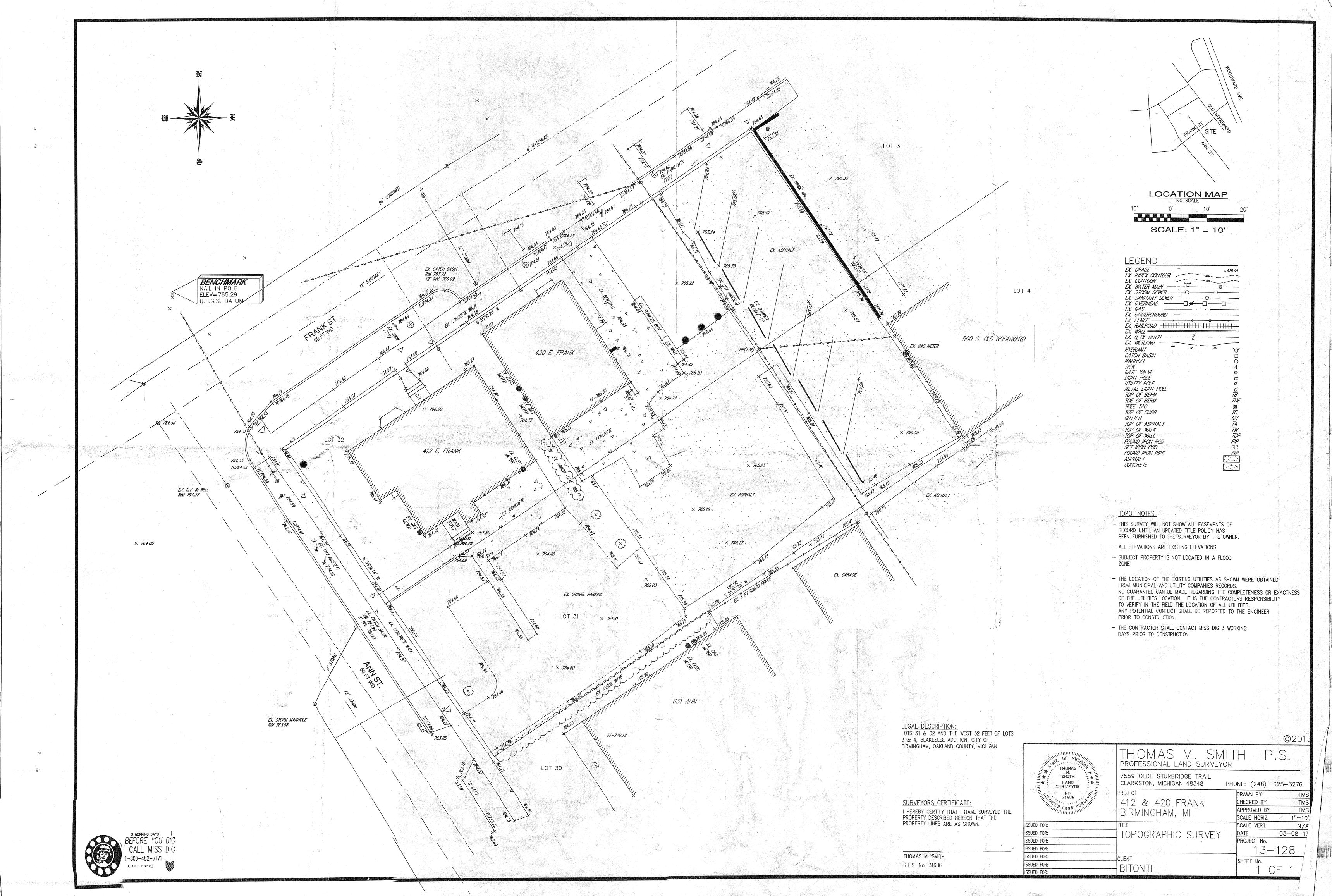
We would voluntarily offer in writing that we would build a residential building of the size and design we are proposing as a condition to rezoning.

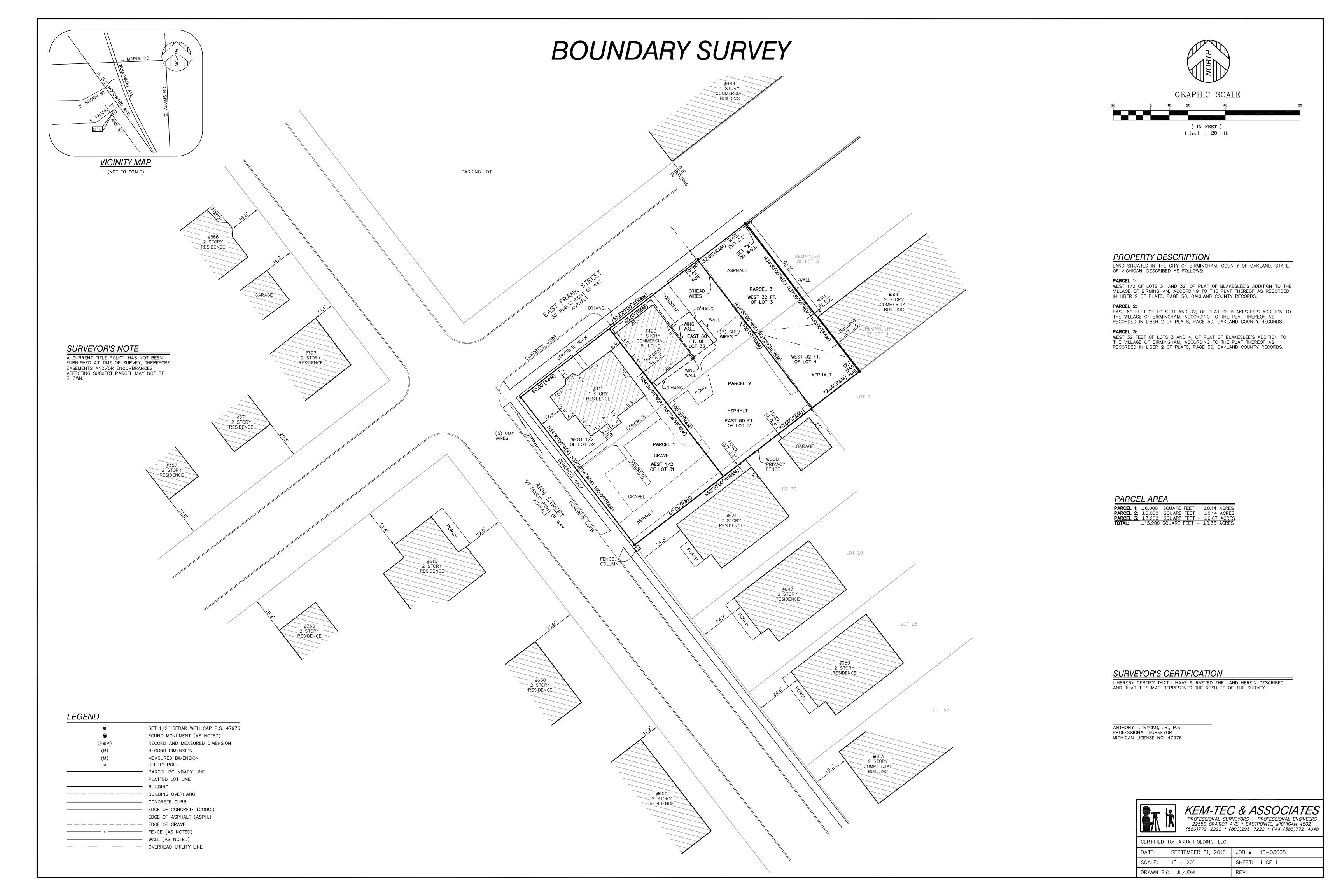


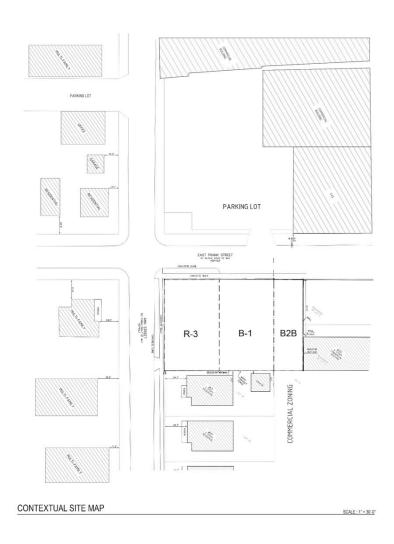
EAST FRANK STREET



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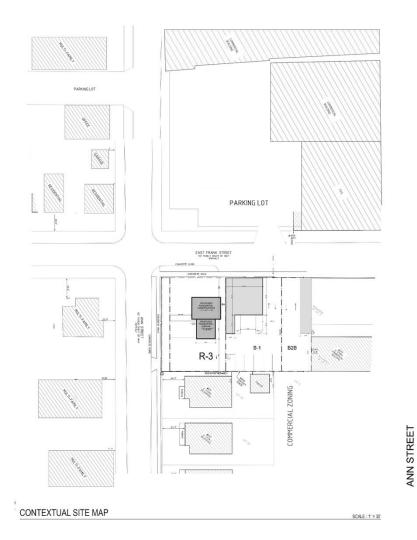


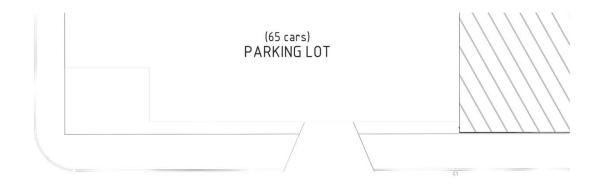


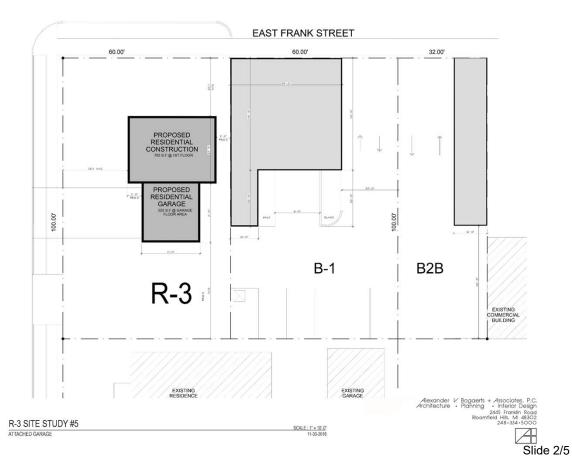
EAST FRANK STREET ANN STREET **R-3 B-1** B₂B R-3, B-1, B2B

(65 cars) PARKING LOT

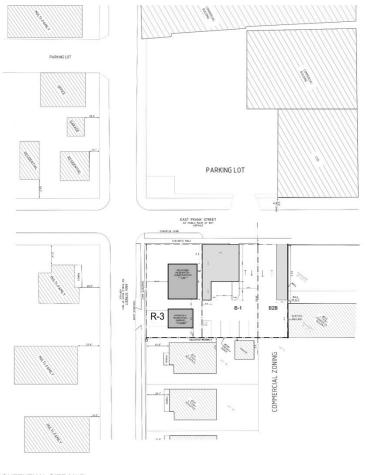
420 FRANK STREET RESIDENTIAL CONDOMINIUM DEVELOPMENT ARJA HOLDINGS, L.L.C.







420 FRANK STREET RESIDENTIAL CONDOMINIUM DEVELOPMENT ARJA HOLDINGS, L.L.C.

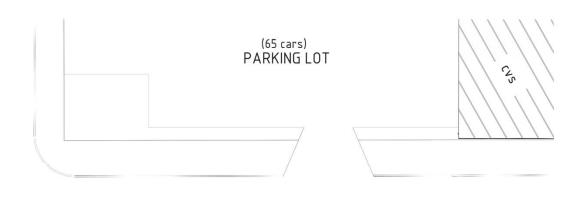


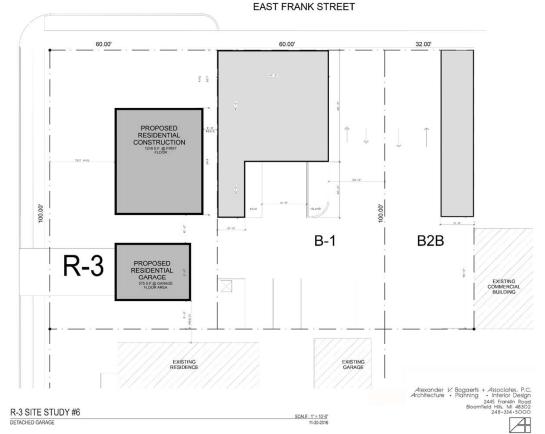
CONTEXTUAL SITE MAP SCALE: 1"= 30"4"



ANN STREET

420 FRANK STREET RESIDENTIAL CONDOMINIUM DEVELOPMENT ARJA HOLDINGS, L.L.C.





Slide 3/5

412 E. FRANK ST. - BIRDS EYE AERIAL VIEW



Alexander V. Bogaerts + Associates. P.C Architecture • Planning • Inferior Design 2445 Franklin Row Bloomfield Hills. MI 4830: 248 • 334 • 5000 Paraphrasing the stated intent in the Ordinance, the TZ1 (Transition Zone) District is established to:

- Provide for a reasonable and orderly transition from, and buffer between, commercial uses and predominantly single family residential area;
- Regulate building height and mass to achieve appropriate scale along streetscapes to ensure proper transition to nearby residential neighborhoods;
- Regulate site design to ensure compatibility with adjacent residential neighborhoods.
- Encourage design that calms traffic and creates a distinction between less intense residential areas and more intense commercial areas.
- A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning.

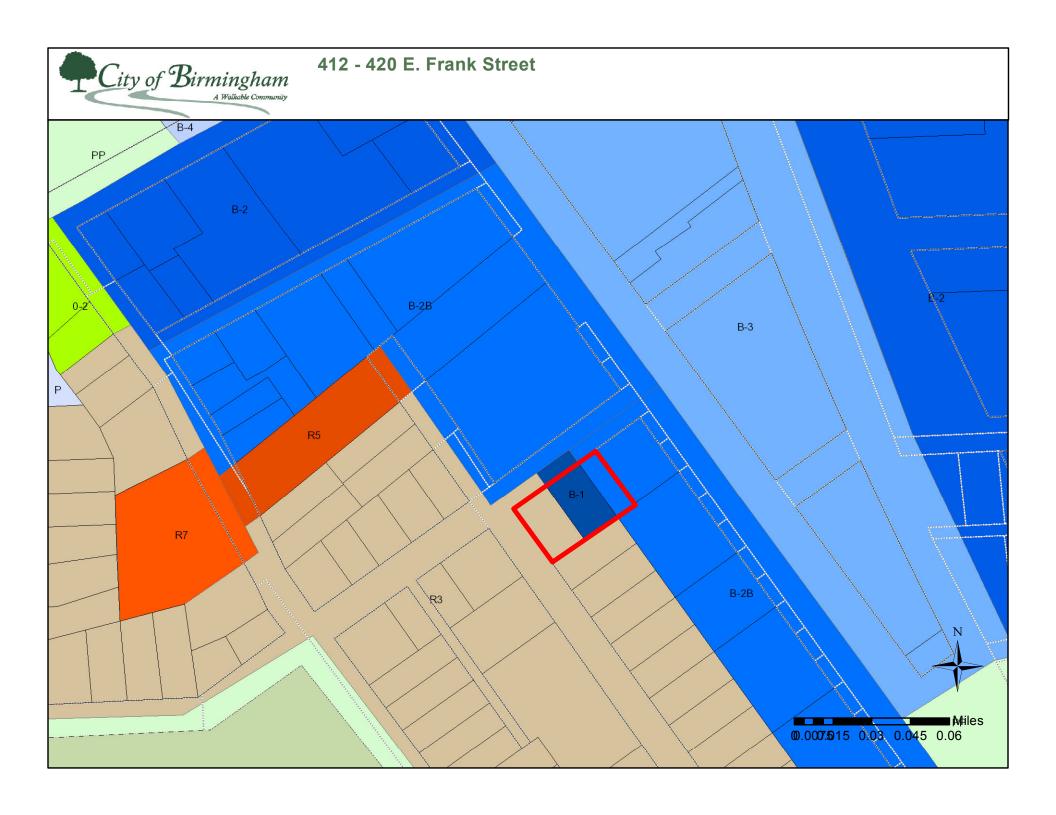






412 - 420 E. Frank Street





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 single-family residential areas or for property which either has direct access to a major traffic road or is located between major traffic roads and predominantly single-family residential areas.
- (b) Develop a fully integrated, mixed-use, pedestrian-oriented environment between residential and commercial districts by providing for graduated uses from the less intense residential areas to the more intense commercial areas.
- (c) Plan for future growth of transitional uses which will protect and preserve the integrity and land values of residential areas.
- (d) Regulate building height and mass to achieve appropriate scale along streetscapes to ensure proper transition to nearby residential neighborhoods.
- (e) Regulate building and site design to ensure compatibility with adjacent residential neighborhoods.
- (f) Encourage right-of-way design that calms traffic and creates a distinction between less intense residential areas and more intense commercial areas.

Permitted Uses

Residential Permitted Uses

- · dwelling attached single family
- · dwelling multiple-family
- · dwelling 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
- · independent hospice facility
- · independent senior living
- · skilled nursing facility

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:

Minimum Front Yard Setback:

0-5 feet

Minimum Rear Yard Setback:

10 feet

· 20 feet abutting single-family zoning district

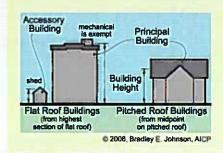
Minimum Combined Front and Rear Setback:

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

Minimum Floor Area Per Unit:

Maximum Total Floor Area:



Maximum Building Height: • 35 feet

- 3 stories

Minimum Building Height:

• 2 stories

Additional Development Standards that Apply						
Additional ! Accessory Structure (AS) • AS-01	Loading (LD) • LD-01	Structure (SS) SS-01 Page 4-45 SS-09 Page 4-48 Temporary Use (TU) TU-01 Page 4-50 Vision Clearance (VC) VC-01 Page 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 agency bakery bank barber shop/beauty salon catering child care center clothing store delicatessen drugstore dry cleaning flower/gift shop food or drink establishment furniture greenhouse grocery store hardware store hotel jewelry store motel neighborhood convenience store office paint party store retail photocopying school-business shoe store/shoe repair showroom of electricians/plumbers tailor theater		
Other permitted Uses		utility substation	utility substation		
Other permitted 03e3	*Use Specific Standards in Section 5.02	utility substation	*Use Specific Standards in Section 5.10		

Other Use Regulations

	412 Frank	420 Frank	420 Frank	
Zone	R3	B1	B-2B	TZ1
Accessory Permitted Uses	family day care home*	alcoholic beverage sales*	alcoholic beverage sales	family day care home
	garage - private	kennel*	(off-premise consumption)*	home occupation*
	greenhouse - private	laboratory - medical/dental*	kennel*	parking facility-private off-street
	home occupation*	loading facility - off-street*	laboratory - medical/dental*	parking - off street
	parking facility - private off street	outdoor café	loading facility - off-street	
	parking - public off street*	parking facility - off street*	outdoor café*	
	renting of rooms*	sign	outdoor display of goods*	
	sign		outdoor sales*	
	swimming pool - private		outdoor storage*	
	any use customarily incidental		parking facility - Off Street	
	to the permitted pricipal use		sign	
Uses Requiring a Special Land Use Permit	assisted living	alcoholic beverage sales	alcoholic beverage sales	assisted living
Land Ose Permit	church	(off-premise consumption)*	(on-premise consumption)*	independent hospice facility
	continued care retirement community		assisted living	independent senior living
	independent hospice facility	alcoholic beverage sales (on-premise consumption)*	auto laundry	skilled nursing facility
	independent senior living	child care center		Skilled Harsing raciney
			bistro (only permitted in the Triangle District)*	
	medical rehabilitation facility	continued care retirement	bus/train passenger station	
		community	and waiting facility	
	parking - public off street	independent hospice facility	continued care retirement	
	philanthropic use	drive-in facility*	community	
	public utility building	gasoline full service station*		
	publicly owned building	skilled nursing facility	display of broadcast media	
			devices (Only permitted in conjunction with a gasoline	
	school - private		service station)	
	skilled nursing facility		drive-in facility	
			actablishments aparating	
			establishments 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	
			1; Appendix C)	
			funeral home	
			gasoline full service station*	
			gasoline service station	
			independent hospice facility	
			independent senior living	
			skilled nursing facility	
	****		trailer camp	
	*Use Specific Standards in Section 5.02	*Use Specific Standards in Section 5.09 Apply	*Use Specific Standards in Section 5.10	*Use Specific Standards in Section 5.14 Apply



Jana Ecker < jecker@bhamgov.org>

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.

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;
- TO ADD **ARTICLE 4, SECTION 4.63, SETBACK STANDARDS, SB-06**, TO CREATE SETBACK STANDARDS FOR TZ2 AND TZ3 ZONE DISTRICTS:
- TO ADD ARTICLE 4, SECTION 4.69, STREETSCAPE STANDARDS, ST-01, TO CREATE STREETSCAPE STANDARDS FOR TZ1, TZ2 AND TZ3 ZONE DISTRICTS; TO ADD ARTICLE 4, SECTION 4.77, STRUCTURE STANDARDS, SS 09, TO CREATE STRUCTURE STANDARDS FOR THE TZ1 ZONE DISTRICT;
- TO ADD **ARTICLE 4, SECTION 4.78, STRUCTURE STANDARDS, SS 10**, TO CREATE STRUCTURE STANDARDS FOR TZ2 AND TZ3 ZONE DISTRICTS;
- TO ADD **ARTICLE 5, SECTION 5.14, TRANSITION ZONE 1**, TO CREATE USE SPECIFIC STANDARDS FOR THE TZ1 ZONE DISTRICT;
- TO ADD **ARTICLE 5, SECTION 5.15, TRANSITION ZONES 2 AND 3**, TO CREATE USE SPECIFIC STANDARDS FOR THE TZ2 AND TZ3 ZONE DISTRICTS;

AND

TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM, **ARTICLE 4, ALL SECTIONS NOTED BELOW,** TO APPLY EACH SECTION TO THE NEWLY CREATED TZ1, TZ2 AND/OR TZ3 ZONE DISTRICTS AS INDICATED:

Ordinance Section Name Section Number Applicable Zone to be Added Accessory Structures Standards (AS)

4.2

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. \times 40 ft. His is 120 ft. \times 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:
- TO ADD ARTICLE 02 DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, SECTION 2.41, TZ1 (TRANSITION ZONE) DISTRICT TO CREATE A DISTRICT INTENT AND LIST PERMITTED AND SPECIAL USES IN THIS ZONE DISTRICT;
- TO ADD ARTICLE 02 DEVELOPMENT STANDARDS, SECTION 2.42, TZ1 (TRANSITION ZONE) DISTRICT TO CREATE DEVELOPMENT STANDARDS IN THIS ZONE DISTRICT;
- TO ADD ARTICLE 02 DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, SECTION 2.43, TZ2 (TRANSITION ZONE) DISTRICT TO CREATE A DISTRICT INTENT AND LIST PERMITTED AND SPECIAL USES IN THIS ZONE DISTRICT;
- TO ADD ARTICLE 02 DEVELOPMENT STANDARDS, SECTION 2.44, TZ2 (TRANSITION ZONE) DISTRICT TO CREATE DEVELOPMENT STANDARDS IN THIS ZONE DISTRICT;
- TO ADD ARTICLE 02 DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, SECTION 2.45, TZ3 (TRANSITION ZONE) DISTRICT TO CREATE A DISTRICT INTENT AND LIST PERMITTED AND SPECIAL USES IN THIS ZONE DISTRICT;
- TO ADD ARTICLE 02 DEVELOPMENT STANDARDS, SECTION 2.46, TZ3 (TRANSITION ZONE) DISTRICT TO CREATE DEVELOPMENT STANDARDS IN THIS ZONE DISTRICT;
- TO ADD **ARTICLE 4, SECTION 4.53, PARKING STANDARDS, PK- 09**, TO CREATE PARKING STANDARDS FOR TZ1, TZ2 AND TZ3 ZONE DISTRICTS;
- TO ADD **ARTICLE 4, SECTION 4.58, SCREENING STANDARDS, SC-06**, TO CREATE SCREENING STANDARDS FOR TZ1, TZ2 AND TZ3 ZONE DISTRICTS;
- TO ADD ARTICLE 4, SECTION 4.62, SETBACK STANDARDS, SB- 05,
- TO CREATE SETBACK STANDARDS FOR TZ1 ZONE DISTRICTS; TO ADD ARTICLE 4, SECTION 4.63, SETBACK STANDARDS, SB- 06, TO CREATE SETBACK STANDARDS FOR TZ2 AND TZ3 ZONE DISTRICTS;
- TO ADD ARTICLE 4, SECTION 4.69, STREETSCAPE STANDARDS, ST-01, TO CREATE STREETSCAPE STANDARDS FOR TZ1, TZ2 AND TZ3 ZONE DISTRICTS;

TO ADD **ARTICLE 4, SECTION 4.77, STRUCTURE STANDARDS, SS – 09**, TO CREATE STRUCTURE STANDARDS FOR THE TZ1 ZONE DISTRICT;

TO ADD **ARTICLE 4, SECTION 4.78, STRUCTURE STANDARDS, SS – 10**, TO CREATE STRUCTURE STANDARDS FOR TZ2 AND TZ3 ZONE DISTRICTS;

TO ADD **ARTICLE 5, SECTION 5.14, TRANSITION ZONE 1**, TO CREATE USE SPECIFIC STANDARDS FOR THE TZ1 ZONE DISTRICT; TO ADD **ARTICLE 5, SECTION 5.15, TRANSITION ZONES 2 AND 3**, TO CREATE USE SPECIFIC STANDARDS FOR THE TZ2 AND TZ3 ZONE DISTRICTS;

AND

TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM, **ARTICLE 4, ALL SECTIONS NOTED BELOW**, TO APPLY EACH SECTION TO THE NEWLY CREATED TZ1, TZ2 AND/OR TZ3 ZONE DISTRICTS AS INDICATED:

Ordinance Section Name Section Number Applicable Zone to be Added

Accessory Structures Standards (AS)

4.2 TZ1, TZ2, TZ3 TZ1 **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)

4.24 TZ1, TZ2, TZ3

Open Space Standards (OS)

4.30 TZ1, TZ2, TZ3

Outdoor Dining Standards (OD)

4.44 TZ2, TZ3

Parking Standards (PK)

4.45

4.46

4.47

TZ1, TZ2, TZ3 TZ1, TZ2, TZ3 TZ1, TZ2, TZ3

Screening Standards (SC)

4.53 TZ1, TZ2, TZ3

Setback Standards (SB)

4.58 TZ1, TZ2, TZ3

Structure Standards (SS)

4.69 TZ1, TZ2, TZ3

Temporary Use Standards (TU)

4.77 TZ1, TZ2, TZ3

Utility Standards (UT)

4.81 TZ2, TZ3

Vision Clearance Standards (VC)

4.82 TZ1, TZ2, TZ3

Window Standards (WN)

4.83 TZ2, TZ3

AND

TO AMEND **ARTICLE 9, DEFINITIONS, SECTION 9.02** TO ADD DEFINISTIONS FOR BOUTIQUE, PARKING, SOCIAL CLUB, TOBACCONIST, INDOOR RECREATION FACILITY AND SPECIALTY FOOD STORE.

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Rezoning from R-2 Single-Family Residential to TZ1 - Attached Single-Family to allow attached Single-Family and Multi-Family Residential which are compatible with adjacent Single-Family Residential uses.

191 N. Chester Rd. Birmingham, MI.

Rezoning from R-2 Single-Family Residential to TZ1 - Attached Single-Family to allow Attached Single-Family and Multi-Family Residential uses which are compatible with adjacent Single-Family Residential uses.

400 W. Maple Birmingham, MI. - O1 Office to TZ3 Mixed Use to allow

Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

564 and 588 Purdy, 115, 123, 195 W. Brown, 122, 178 E. Brown Birmingham, MI. Rezoning from O2 Office to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single- Family Residential uses.

1221 Bowers & 1225 Bowers Birmingham, MI.

Rezoning from O1- Office/ P - Parking to TZ1 - Attached Single-Family to allow Attached Single-Family, Multi-Family Residential uses which are compatible with adjacent Single-Family Residential uses.

1111 & 1137 Holland; 801, 887, 999, 1035 & 1105 S. Adams Rd.; 1108, 1132 & 1140 Webster; 1137 & 1143 Cole St.; 1101 & 1120 E. Lincoln. Birmingham, MI.

Rezoning from O2 Office to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

500, 522 & 576 E. Lincoln; 1148 & 1160 Grant; 1193 Floyd; Parcel # 1936403030, Birmingham, MI.

Rezoning from B-1 Neighborhood Business to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single- Family Residential uses.

36801, 36823 & 36877 Woodward, Parcel #'s 1925101001, 1925101006, 1925101007, 1925101008, 1925101009, Birmingham MI.

Rezoning from O1- Office & P-Parking to TZ3 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

1775, 1803, 1915, 1971, 1999, 2055, 2075 & 2151 Fourteen Mile Rd., Parcel # 2031455006, Birmingham, MI.

Rezoning from O1- Office to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

100, 124, 130 & 152, W. Fourteen Mile Rd. & 101 E. Fourteen Mile Rd. Parcel #1936379020, Birmingham, MI.

Rezoning from B1-Neighborhood Business, P-Parking, R5-Multi-Family Residential to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

880 W. Fourteen Mile Rd., 1875, 1890 & 1950 Southfield Rd. Birmingham, MI.

Rezoning fromB1-Neighborhood Business, O1-Office to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single- Family Residential uses.

1712, 1728, 1732, 1740, 1744, 1794 & 1821 W. Maple Rd. Birmingham, MI.

Rezoning from B1-Neighborhood Business, P-Parking, O1-Office to TZ2 - Mixed Use to allow

Commercial and Residential uses which are compatible with adjacent Single-Family Residential uses.

2483 W. Maple Rd. Birmingham MI.

Rezoning from B1-Neighborhood Business to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single- Family Residential uses.

151 N. Eton, Birmingham MI.

Rezoning from B-1 Neighborhood Business to TZ2 - Mixed Use to allow Commercial and Residential uses which are compatible with adjacent Single- Family Residential uses.

412 & 420 E. Frank, Parcel # 1936253003, Birmingham MI.

Rezoning from B1-Neighborhood Business, B2B-General Business, R3-Single- Family Residential to TZ1 — Attached Single-Family Residential to allow Attached Single-Family and Multi-Family Residential uses which are compatible with adjacent Single-Family Residential uses.

Ms. Ecker advised that a typo has been corrected in the draft ordinance amendments for the TZ-2 development standards, and that is the only change to the draft ordinance language from the last meeting.

Mr. Baka recalled last time he covered the basics of each zone and started to get into each individual parcel. At the board's request, his presentation tonight will focus much more on individual properties and how each individual location would be affected by the proposed amendments as far as use and density. He briefly described the TZ-1, residential zone, and the TZ-2 and TZ-3 zones that are mixed-use. Any 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 <u>Property area of 404 Park - approximately</u> 14,000 sq. ft.

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# of residential units currently permitted - 2
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- # of residential units permitted under TZ-1 zoning 4 <u>Property area per lot on Park approximately 7,200 sq. ft.</u>
- # of residential units currently permitted 1
- # of residential units permitted under TZ-1 zoning 2

It was discussed that TZ-1, three stories, would have a similar impact as the current R-2 three story structures.

Willits and Chester - R-2 to TZ-1 (Church of Christ Scientist)

Total property area - approximately 17,000 sq. ft.

- # of residential units currently permitted 2
- # of residential units permitted under TZ-1 zoning 5

Bowers/Post Office - 0-1/P to TZ-1

Total property area - approximately 125,000 sq. ft.

- # of residential units currently permitted no limit
- # of residential units permitted under TZ-1 zoning 41

At 8:10 p.m. Chairman Clein invited the public to come forward and comment on anything related to the potential rezoning of the TZ-1 parcels.

Ms. Patti Shane who lives on Purdy did not understand why there has to be a major overhaul of all the zones when every issue could be approved by the Planning Board as it comes through. The neighborhood is thrilled with the little bakery at the corner of Frank and Ann and they don't want it to go away.

Mr. Benjamin Gill, 520 Park, received confirmation this is a continuation of the public hearing that began May 27 to discuss whether the Planning Board will recommend approval to the City Commission of the ordinance changes including the rezonings. The City Commission would consider the recommendation and hold a public hearing before making its decision.

Mr. Salvatore Bitonti, 709 Ann, said he is the owner of the Frank St. Bakery building. He asked for reassurance that if the bakery moves out he will not have to pay taxes on an empty space. Ms. Ecker observed this is a difficult site with the three parcels that all allow different things. The parcels are not big enough to develop each one separately.

Mr. Brad Host said he and his wife own the house next to 404 Park which under this proposal could be developed into four condo units. They see this as an expansion of the city. If TZ-1 is enacted, it would take away part of their neighborhood. The only advocate for this is the developer. Everyone else has said they don't want it. Density has always been their biggest issue and the TZ-1 proposal will exacerbate that problem.

Ms. Ann Stolcamp, 333 Ferndale, echoed what Mr. Host said. People in her neighborhood have asked not to be rezoned. Parking is an issue there. The suggestion that her neighborhood is a transition zone is disturbing to her.

Ms. Bev McCotter, the owner of 287 Oakland, urged the board to remove Little San Francisco from the TZ-1 zoning recommendation. Under TZ-1, future property owners could join together and sell their properties to a developer of multi-family residences. That would change the whole flavor of this neighborhood of single-family homes.

Ms. Gina Russo, 431 Park, said she also would appreciate a recommendation for removal of Little San Francisco from TZ-1. It would be a shame for their neighborhood to increase 100% in density.

Mr. Paul Reagan thought the problem isn't with crowding in Little San Francisco; the problem is with the principles of zoning that are being considered, which do not fit across the town. It is not an appropriate buffer concept anywhere in town.

Mr. Larry Bertolini, 1275 Webster, had concerns about traffic on Bowers if the Post Office moves out. Forty-one units seems dense for that small area. He received clarification that if the Post Office wants to make modifications to their building there are no restrictions because they are the Federal Government.

Mr. David Bloom said it looks to him like there has been an attempt to simplify zoning. Each of the properties has unique differences and presents a challenge with trying to fit it into TZ-1 zoning. He thinks more research is needed to maybe take each area and find some zoning for it that is individualized rather than crammed into TZ-1.

Mr. Michael Shook, owner of 247 and 267 Oakland, said it seems to him the only reason they are talking about rezoning is because of the vacant lot between Park and Ferndale. When the issue came up about rezoning the empty lot, the initial reaction of the board was they did not want to do spot zoning. So it looks like they got around spot zoning by rezoning the neighborhood. Theirs isn't a transitional zone; there is no reason to rezone them. The neighbors oppose it and therefore, he asked that they be removed from that consideration.

Ms. Sharon Self, 227 Euclid, observed that it is such a small neighborhood that anything that is done along Oakland or anywhere else in the area affects everyone.

Mr. Benjamin Gill noted theirs is a neighborhood and not a commercial place where people invest and just sell houses.

Mr. DeWeese expressed his opinion that area is clearly inappropriate for rezoning.

TZ-2 Properties

- > Brown at Pierce/Purdy 0-2 to TZ-2; P to TZ-2; R-3 to TZ-2
- S. Adams, Adams Square to Lincoln O-2 to TZ-2
- Lincoln at Grant B-1 to TZ-2
- > E. Fourteen Mile Rd. east of Woodward O-1 to TZ-2
- Fourteen Mile Rd. at Pierce B-1, P, and R-5 to TZ-2

- Market Square and Pennzoil B-1 to TZ-2
- Southfield at Fourteen Mile Rd. 0-1 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, multifamily 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	TZ1, TZ2, TZ3 TZ1
i crice standards (i iv)	4.11	121, 122, 123 121
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 (OD)	4.44	TZ2, TZ3
_		
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 (VC)	4.82	TZ1, TZ2, TZ3
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 at 412 & 420 East Frank 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, 7

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 ³/₄ 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

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-6 Multiple-Family Residential Zone District to B-1 Non-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.

> Harry M. Denyes, Jr. There 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.

Clerk

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 Busi-
ness.
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 lights and traffic makes my
property undesirable for residential use
Signature of Applicant
Name of Owner Frank VanFleteren
Address of Owner 412 E. Frank. Birmingham Tel. No. Mi 4-2222
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
Date Received Delivered by Resolution No. Disposition

September 8, 1959/bc

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 Business 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 Printing 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. VanPleteren'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,

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:

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 Fr. 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-l 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-l 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,

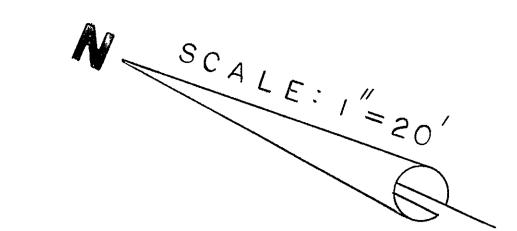
Herbert Herzberg

City Planner

HH/br

cc: Mr. VanFleteren

Abutting property owners

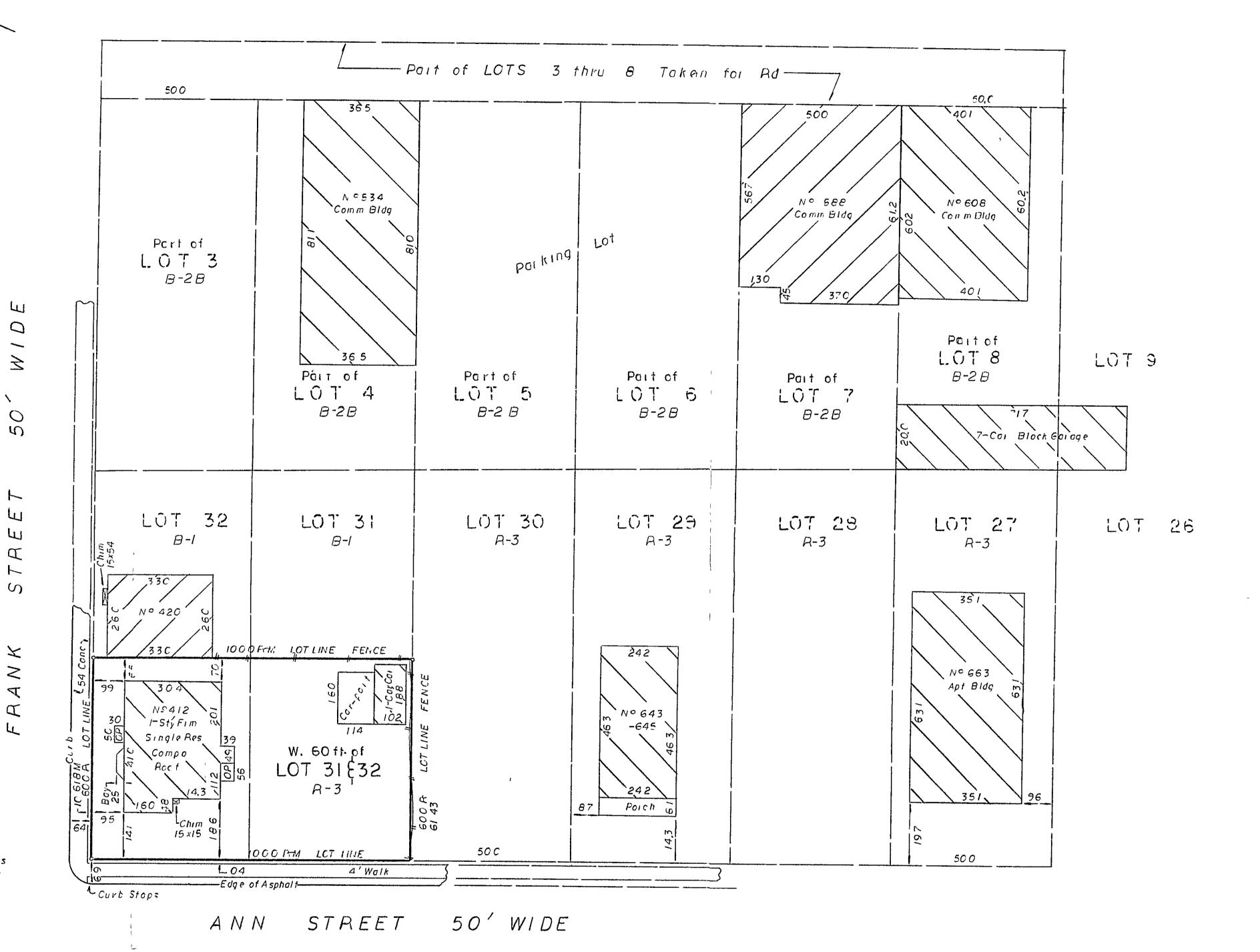


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Iron Stake Found

S. WOODWARD AVENUE



LEGAL DESCRIPTION OF PROPERTY

West 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



REZONING APPLICATION

Prepared For

WARREN VANFLETEREN

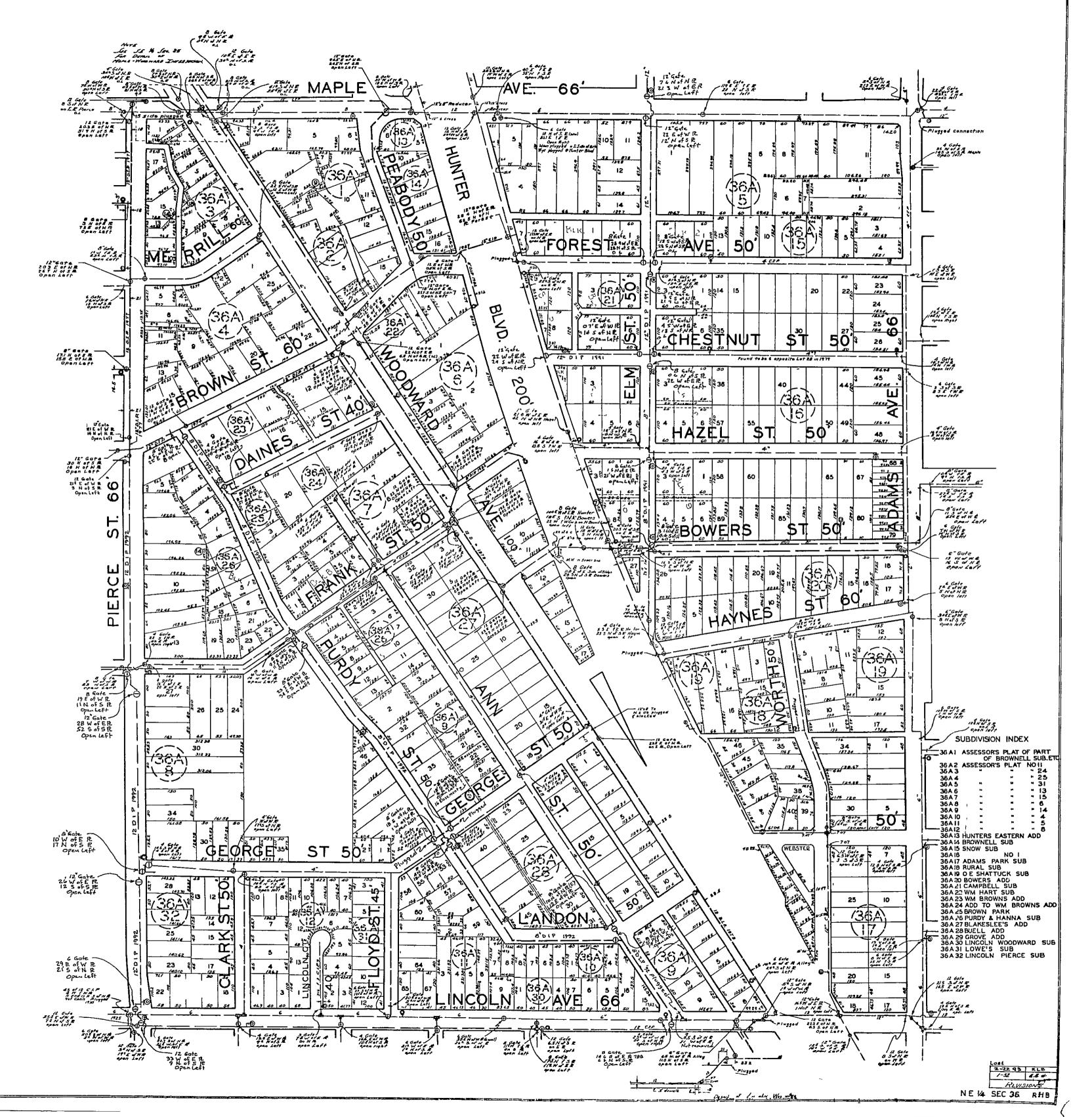
1-810-646-8745

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 I in 5000 and that all the requirements of P.A. 132, 1970 have been complied with.

DATE: 12 22 94

PETER G P TCHFORD
LESTER G CHARLES

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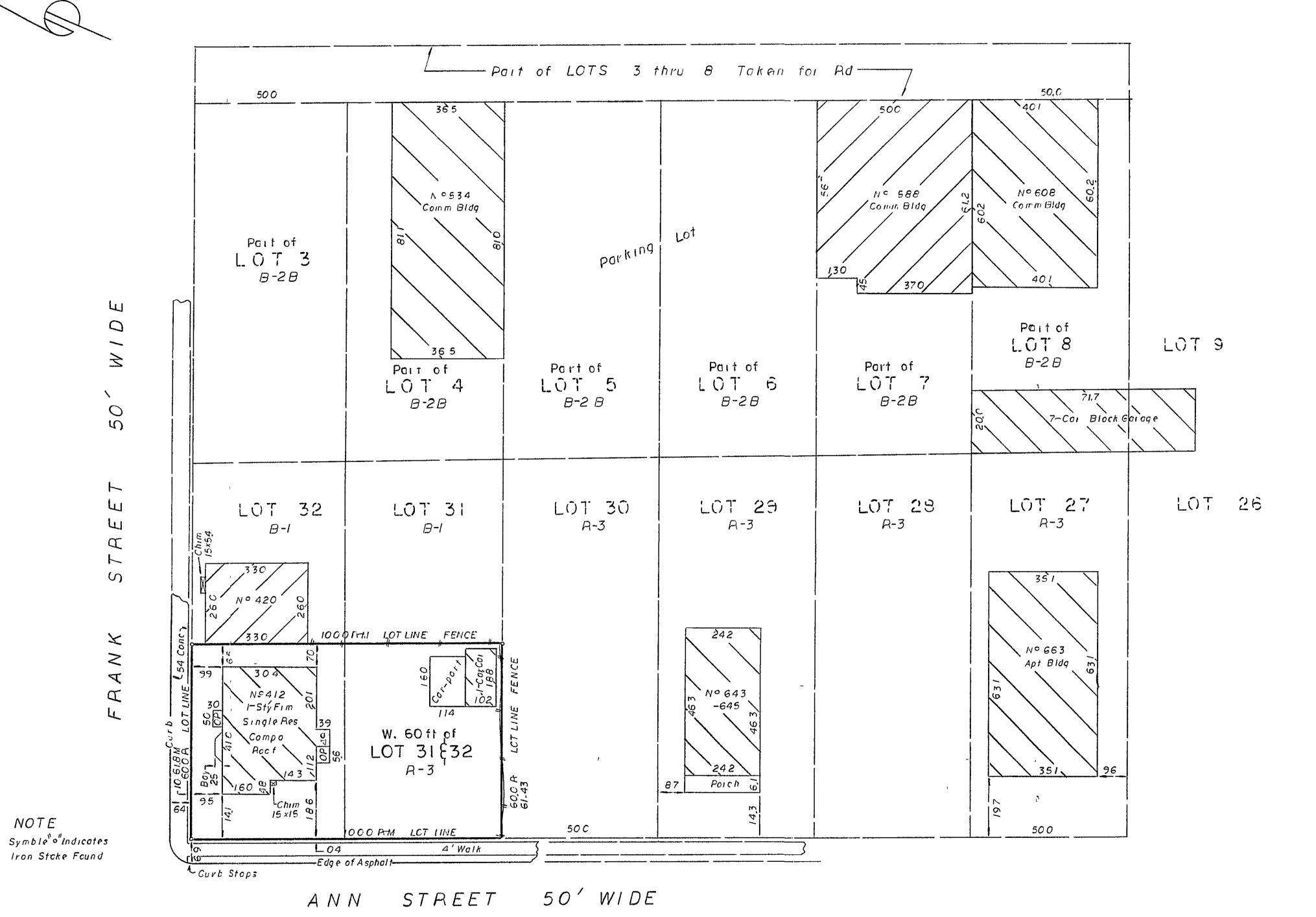
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SCALE: "=20'

NOTE

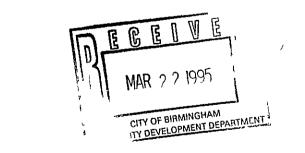
Iron Stake Found

WOODWARD AVENUE



LEGAL DESCRIPTION OF PROPERTY:

West 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



REZONING APPLICATION

Prepared For.

WARREN VANFLETEREN

1-810-646-0745

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.

DATE 12 22 94

GUARANTY SURVEY CO.
REGISTERED I AND SURVEYORS 1029 SOUTH WASHINGTO! I ROYAL OAK MICHIGAN 48057 PETER G P TCHFORD (313/545 1717 LESTER G CHARLES 1 1 FAX (3/3) 545 17 8

City of Birmingbam

644-3830

644-3800

151 Martin Street - P.O. Box 3001 Birmingham, Michigan 48012

January 31, 1989

MEMORANDUM

TO:

Lawrence W. Ternan, City Attorney

FROM:

Larry L. Bauman, City Planner

RE:

Fire Business

FIRE & E.M.S. EMERGENCY 644-1616

646-1127

Van Fleteren Vs. City of Birmingham

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. following ordinances were adopted within the year following the adoption of the Future Land-Use Plan:

Date	Ore	dinance _	Action					
4-14-80	4-14-80 10		092 Adopted definition of "Family"					
		Area Code (.	313)					
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	644-3405	City Manager	646-6454	Springdale Golf Course	644-2254			
POLICE EMERGENCY	644-3400	City Manager	Springuate Guy Course					

644-3865

645-0731

Treasurer

Water Department

Engineering/Planning

Ice Arena

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.

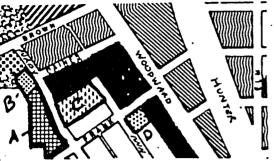
We trust that you will find the information provided sufficiently complete. However, should additional information be required, please call.

Respectfully submitted, CITY OF BIRMINGHAM

Larry L. Bauman City Planner

LLB/nn

cc: R.S. Kenning, City Manager

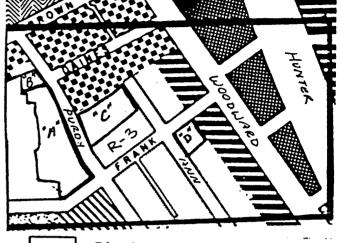


R-7 MULTIPLE FAMILY RESIDENTIAL

R-6 MULTIPLE FAMILY RESIDENTIAL

R-5 MULTIPLE FAMILY RESIDENTIAL

B-I NEIGHBORHOOD BUSINESS



Single-Family Residential

C.C. regere. Ond. # 138

CURRENT ZONING:

(A) R-7 Multi Family

(B) R-6 Multi Family

(C) R-5 Multi Family

(D) B-1 Néighborhood Business

MASTER PLAN: Single Family

```
(19-36-203-012)REZONEO TO R
CURRENT USES: _660 Purdy - Single Family
                                                  (19-36-203-025)
                666 Purdy - Multi-Family
                223 E. Frank - Single Family (19-36-203-022) 7
-259,275,283 E. Frank - Office (19-36-203-022/023)
                                                                      REZONED
                                                  (19-36-203-012)
                · 564 Purdy - Single Family
                                                  (19-36-203-013) (LEZONED TO K
                 588 Purdy - Single Family
                >608 Purdy - Single Family
                                                  (19-36-203-014)
                 645-53, 647-55,
                                                  (19-36-205-005)
                 649-57 Purdy - Multi-Family
                 663 Purdy - Single Family
                                                  (19-36-205-006)
                                                  (19-36-205-007) LEZONED TO .
                 675 Purdy - Single Family
                                                  (19-36-205-008)
                 Lot 4 - Vacant/Parking
                                                  (19-36-205-034)
                 566/8 Ann - Two Family
                                                  (19-36-253-001) REZONED TO R.
                 412 Frank - Single Family
                                                  (19-36-253-002) REZONED TO B
                -420 Frank - Office-Medical
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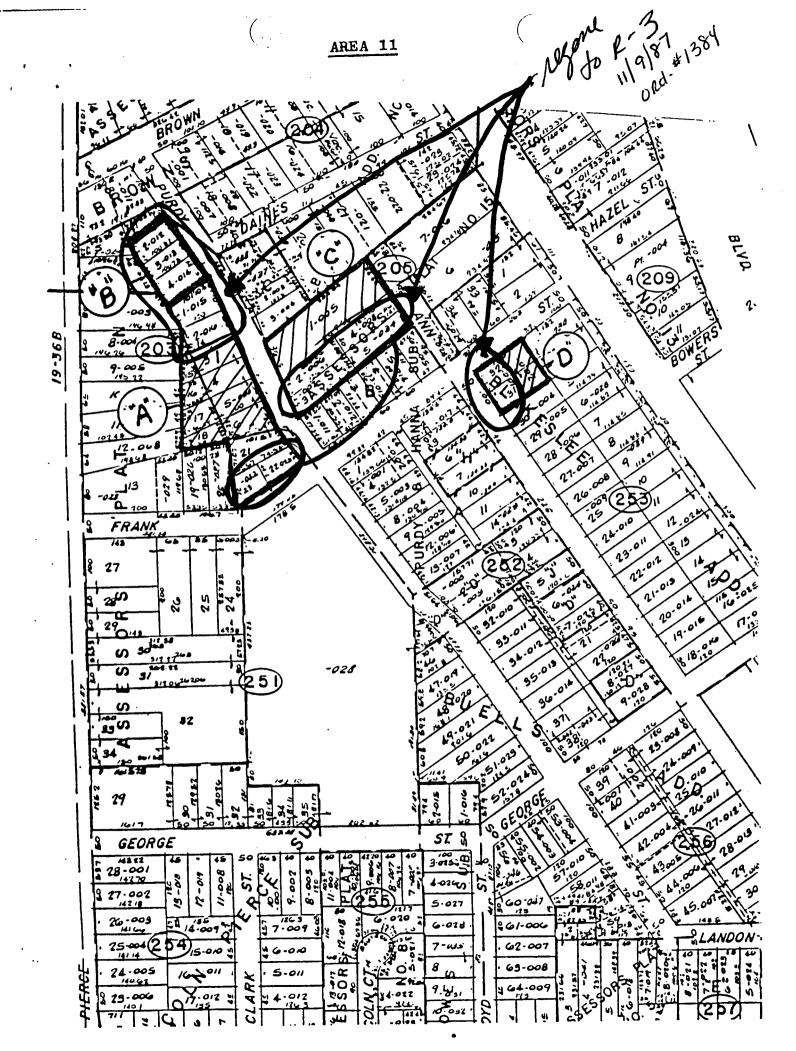
ADJACENT ZONING: R-3 Single Family, B-2B General Business.

Adjacent zoning is compatible with Master

Plan.

HISTORIC: None

RECOMMENDATION: See Attached



APPLICATION	FOR ZONING MAP CHANGE RORD W 12
Birmi	ngham, Michigan
Date <u>3 22-95</u>	MAR 2 2 1995
TO THE CITY COMMISSION:	CITY OF BIRMINGMAM
The undersigned hereby make	application to the City Commission to:
Change premises described as	: 412 E. Frank
West 2 of Lots 31	and 32 Blakeslee's Addition al Description)
to the Village of Birming	MM from its present zoning
classification of $\frac{R-3}{2}$	to <u>B-1</u>
A sealed land survey showing building (if any) on the lot	location, size of lot and placement of to scale must be attached.
Statements and reasons for rebearing on the request.	request, or other data having a direct
See attached letter from Raymond L. King Attorney at Law Dated Nov. 12, 1994	
	Mary M- King Print Name
Name of Owner Mary M. Ki	ing and F.W. VanFleteren
Address of Owner 4356 Lo	keside Dr- Tel No: (517) 345-1310
West Bro A letter of authority, or po case the appeal is made by a the property.	ower of attorney, shall be attached in person other than the actual owner of
Date Received	Received by
Resolution No	Approved/Denied
Application Fee: \$500.00	Receipt No:

3

12-17-91





342 E. Houghton Ave. West Branch, MI 48661 Telephone (517) 345-KING (517) 345-5464 FAX: CALL FOR NUMBER

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.

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.

NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION AMENDMENT TO ZONING ORDINANCE

Meeting - Date, Time, Location:	Monday, February 13, 2017 7:30 PM Municipal Building, 151 Martin Birmingham, MI 48009
Nature of Hearing:	To consider an amendment to the Zoning Ordinance, Chapter 126, to amend:
	TO ADD ARTICLE 02, SECTION 2.29 (GENERAL BUSINESS), TO ALLOW BISTROS IN THE RAIL DISTRICT AS A USE REQUIRING A SPECIAL LAND USE PERMIT;
	TO ADD ARTICLE 02, SECTION 2.31 (GENERAL BUSINESS) TO ALLOW BISTROS IN THE RAIL DISTRICT AS A USE REQUIRING A SPECIAL LAND USE PERMIT; AND
	TO ADD ARTICLE 09, SECTION 9.02 (DEFINITIONS) TO ADD A DEFINITION FOR RAIL DISTRICT.
	A complete copy of the proposed ordinance amendment may be reviewed at the City Clerk's Office.
City Staff Contact:	Jana Ecker 248.530.1841 jecker@bhamgov.org
Notice:	Publish: January 22, 2017
Approved minutes may be reviewed at:	City Clerk's Office

Should you have any statement regarding the above, you are invited to attend the meeting or present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.



MEMORANDUM

Planning Division

DATE: February 6, 2017

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: 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, and allow bistros on all properties within the Rail District, with a Special Land Use Permit. The second possible change would amend the Economic Development Map to add the parcel at 2100 E. Maple, and to allow the use of an Economic Development license on this property with a Special Land Use Permit.

On January 9, 2017, 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.

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

Suggested Action:

To amend Chapter 126, Zoning as follows to establish the boundaries of the Rail District and to allow bistros in B2 and B2B zone districts located within the Rail District with an approved Special Land Use Permit:

- (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.

To amend Chapter 126, Zoning as follows to allow the use of an Economic Development license at 2100 E. Maple with an approved Special Land Use Permit:

- (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.

City of Birmingham

MEMORANDUM

Planning Division

DATE: December 5, 2016

TO: Planning Board Members

FROM: Matthew Baka, Senior Planner

SUBJECT: Public Hearing to consider allowing Bistro or Economic

Development license at 2100 E. Maple (Whole Foods)

On November 9th, 2016 the Planning Board set a public hearing for December 14th, 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*

3		
ORDAINED this	day of	_, 2017 to become effective 7 days after publication
Mark Nickita, Mayor		
Cheryl Arft, Acting City C	 Clerk	

ORDIN	ANCE	NO	
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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 Commissiregulated uses*	on Approval
ORDAINED this day of	, 2017 to become effective 7 days after publication
Mark Nickita, Mayor	_
Cheryl Arft, Acting City Clerk	_

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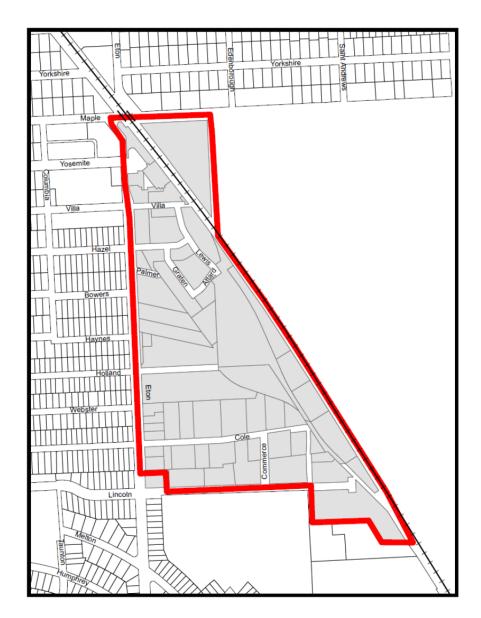
THE CITY OF BIRMINGHAM ORDAINS:

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 _____, 2017 to become effective 7 days after publication.

Mark Nickita, Mayor	
Cheryl Arft, Acting 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*

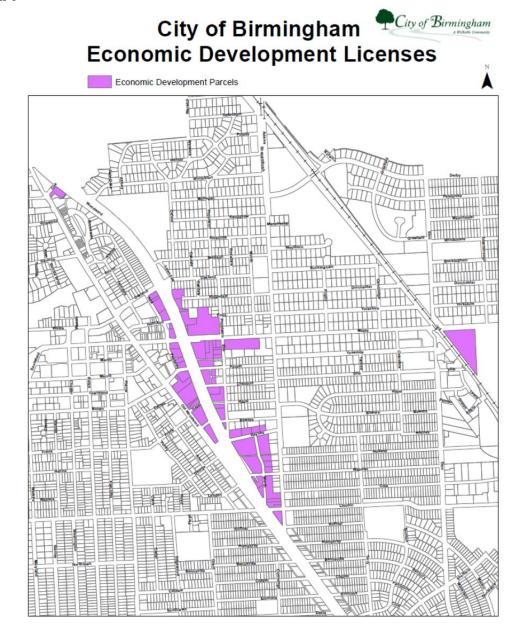
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ORDAINED this	day of	, 2017 to become effective 7 days after publication.
Mark Nickita, Mayor		
Cheryl Arft, Acting City (Clerk	

0	RD	IN	AN	CE	NO		

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	, 2017 to become effective 7 days after publication.
Mark Nickita, Mayor		

Cheryl Arft, Acting City Clerk



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 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 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.

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.



ADKISON, NEED, ALLEN, & RENTROP

PHILLIP G. ADKISON KELLY A. ALLEN SALAM F. ELIA GREGORY K. NEED G. HANS 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).

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.

On behalf of Whole Foods, thank you for your consideration. Please contact me should you have any questions or require any further information.

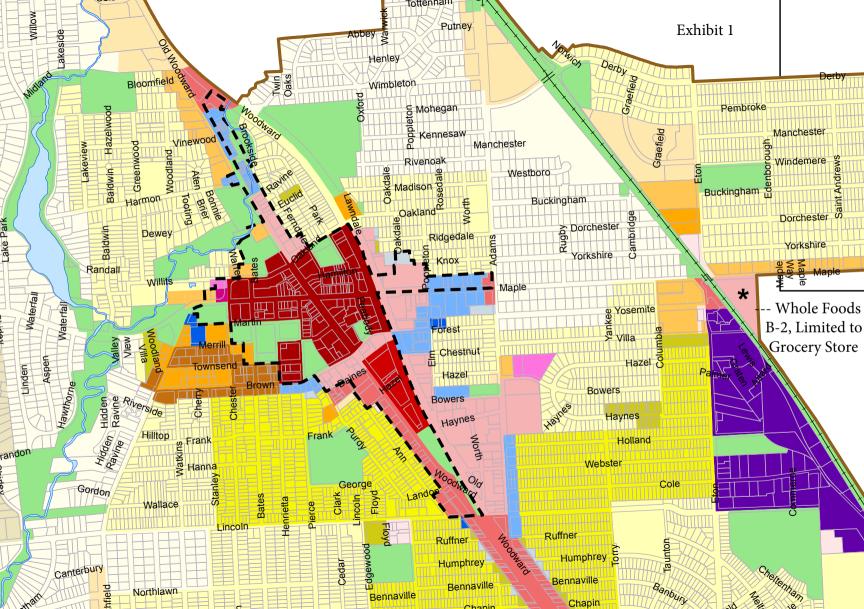
Very truly yours,

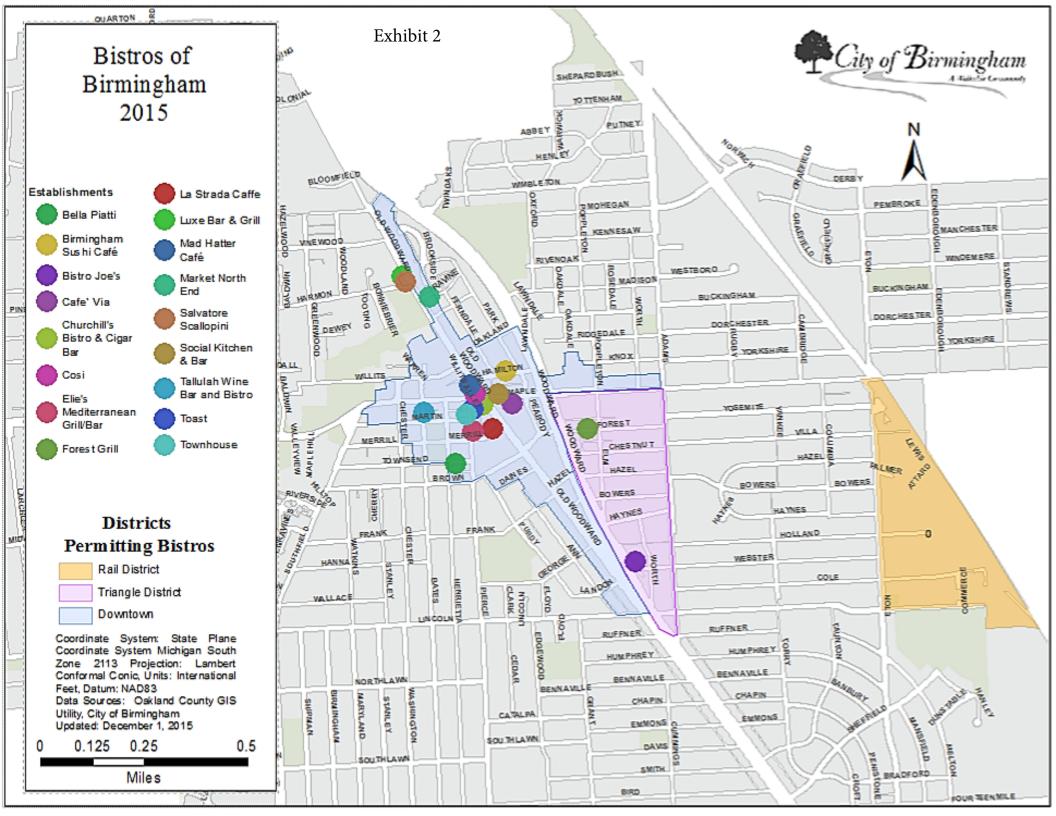
ADKISON, NEED, ALLEN, & RENTROP, PLLC

Kelly A. Allen

KAA/kjf

cc: Ryan Bissett Linden Nelson







2.39 MX (Mixed Use) District Intent, Permitted Uses, and Special Uses

District Intent

The MX (Mixed Use) District is established 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 with adjacent residential neighborhoods.
- (c) Encourage the retention, improvement, and expansion of existing uses that help define the Eton Road Corridor.
- (d) Allow mixed use developments including residential uses within the Eton Road Corridor.
- (e) Minimize the adverse effects of nonresidential traffic on the adjacent residential neighborhood.

Permitted Uses

Residential Permitted Uses

- family day care facility*
- group day care home*
- · live/work unit

Institutional Permitted Uses

- bus/train passenger station
- government office
- government use
- · publicly owned building

Recreational Permitted Uses

- · indoor/outdoor recreational facility
- parł
- · swimming pool public, semipublic

Commercial Permitted Uses

- · animal medical hospital
- · art gallery
- · artisan use
- auto rental agency*
- automobile repair and conversion
- bakery
- · barber shop/beauty salon
- boutique
- · child care center
- clothing store
- · drugstore
- dry cleaning
- · flower/gift shop
- · food or drink establishment*
- furniture
- greenhouse
- · grocery store
- hardware store
- health club/studio
- interior design shop
- · jewelry store
- · kennel*
- laboratory
- · leather and luggage goods shop
- neighborhood convenience store
- office
- pet grooming facility
- · photography studio
- · shoe store/shoe repair
- specialty food store
- · specialty home furnishing shop
- · tailor
- tobacconist
- · veterinary clinic

Industrial Permitted Uses

- · light industrial uses
- · warehousing

Other Permitted Uses

- gas regulatory station
- · telephone exchange building
- utility substation

* = Use Specific Standards in Section 5.13 Apply

Other Use Regulations

Accessory Permitted Uses

- alcoholic beverage sales*
- dwelling accessory*
- garage private
- · greenhouse private
- home occupation
- loading facility off-street*
- · outdoor cafe*
- outdoor sales or display of goods*
- · parking facility off-street*
- · parking structure*
- · renting of rooms*
- sign
- · swimming pool private

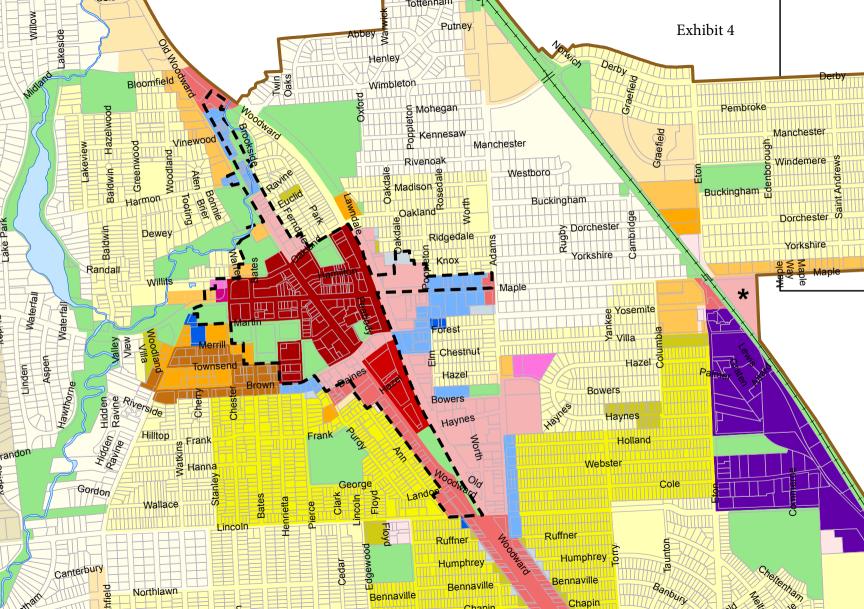
Uses Requiring a Special Land Use Permit

- alcoholic beverage sales (on-premise consumption)
- bistros operating with a liquor license granted under the authority of Chapter 10, Alcoholic Liquors, Division 4 - Bistro Licenses
- church
- college
- · dwelling first floor with frontage on Eton Road
- · outdoor storage*
- parking structure (not accessory to principal use)
- · religious institution
- · school private
- school public
- residential use combined with a permitted nonresidential use with frontage on Eton Road
- any permitted principal use with a total floor area greater than 6,000 sq. ft.

Uses Requiring City Commission Approval

- assisted living
- · continued care retirement community
- · independent hospice facility
- independent senior living
- regulated uses*
- skilled nursing facility

*=Use Specific Standards in Section 5.13 Apply



APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE Birmingham, Michigan

TO THE CITY COMMISSION:

The undersigned hereby makes application to the City Commission to:

No. (see attached)	Street		
	al Description		7
Log.		from	its present zoning
classification of B-2, I	Limited to Grocery Store	inclusion in the	e MX orRail District
A sealed land survey the lot to scale must	showing location, size be attached. (On file	e of lot and plac with City.)	eement of building (if
Statements and reaso (See letter attache	on for request or other d).	data have a dire	ect bearing on the req
Change premises des	scribed as:		
2100 East Maple Road			
(see attached)	Street		
	Legal Description		
		from	its present zoning
classification of B-2,	Limited to Grocery Store	"Rail District" _tot	8
The state of the s			2
A sealed land survey	showing location, size be attached. (On file	of lot and plac with City.)	ement of building (if
A sealed land survey the lot to scale must	showing location, size be attached. (On file ons for request or other	with City.)	
A sealed land survey the lot to scale must	be attached. (On file	with City.)	
A sealed land survey the lot to scale must Statements and reason Signature of Applica Print Name:	be attached. (On file	with City.)	

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

NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION AMENDMENT TO ZONING ORDINANCE

Meeting - Date, Time, Location:	Monday, February 13, 2017 7:30 PM Municipal Building, 151 Martin Birmingham, MI 48009
Nature of Hearing:	To consider an amendment to the Zoning Ordinance, Chapter 126: • TO AMEND ARTICLE 2, SECTION 2.37, B-4 BUSINESS RESIDENTIAL, TO ALLOW THE USE OF LIQUOR LICENSE IN THEATERS IN THE B-4 ZONING DISTRICT; AND, To consider the associated amendments to Chapter 10, Alcoholic Liquors, Article II: • TO ADD A DIVISION 5, LICENSES FOR THEATERS. A complete copy of the proposed ordinance amendments may be reviewed at the City Clerk's
	Office.
City Staff Contact:	Jana Ecker 248.530.1841
	jecker@bhamgov.org
Notice:	Publish: January 29, 2017
Approved minutes may be reviewed at:	City Clerk's Office

Should you have any statement regarding the above, you are invited to attend the meeting or present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.



MEMORANDUM

Planning Division

DATE: February 6, 2017

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: Public Hearing to consider allowing Liquor Licenses for Theaters

in Downtown Birmingham

On August 31, 2016, the owners of 211 S. Old Woodward submitted a request for a Zoning Ordinance amendment that would permit the issuance of a liquor license for qualified theaters in Birmingham. Specifically, an amendment was requested to Chapter 10, Alcoholic Liquors, of the City Code to create a new Division 5 to establish a new category of liquor licenses for theaters in Birmingham.

On January 11, 2017, the Planning Board conducted a public hearing to consider ordinance amendments to allow liquor licenses for theaters in Downtown Birmingham. Amendments to both Chapter 10, Alcoholic Liquors and Chapter 126, Zoning require amendments if the City Commission wishes to allow the use of liquor license in theaters in Downtown Birmingham. Amendments to Chapter 10, Alcoholic Liquors are not required to be reviewed by the Planning Board, nor is a public hearing at the Planning Board level required. However, the associated amendments to Chapter 126, Zoning are required to be reviewed by the Planning Board, and a public hearing at the Planning Board level was required. To ensure that full public notice was given, the Planning Board reviewed and made recommendations to the City Commission on both the proposed amendments to Chapter 10, Alcoholic Liquors, and Chapter 126, Zoning.

Specifically, the Planning Board unanimously approved a motion to recommend approval to the City Commission of the proposed amendments to Chapter 126, Zoning, Article 2, section 2.37, B-4 Business Residential, to allow the use of liquor license in theaters in the B-4 zoning district, and to recommend approval of the associated amendments to Chapter 10, Alcoholic Liquors, Article II, to add a Division 5, Licenses for Theaters. While there was discussion about potentially expanding the Zoning Ordinance amendments to include the Village Players in the Triangle District, the Planning Board determined that in the absence of a formal request by the Village Players for a theater liquor license, they were not inclined to recommend amendments to include that property at this time.

On January 23, 2017, the City Commission set a public hearing date of February 13, 2017 to consider the proposed amendments to Chapter 126, Zoning, Article 2, section 2.37, B-4 Business Residential, to allow the use of liquor license in theaters in the B-4 zoning district, and to consider the associated amendments to Chapter 10, Alcoholic Liquors, Article II, to add a Division 5, Licenses for Theaters.

Please see the attached Planning Board staff report, draft ordinance language and meeting minutes for your review.

SUGGESTED ACTION:

Motion to approve amendments to Chapter 126, Zoning, Article 2, section 2.37, B-4 Business Residential, to allow the use of liquor license in theaters in the B-4 zoning district, and to consider the associated amendments to Chapter 10, Alcoholic Liquors, Article II, to add a Division 5, Licenses for Theaters.



MEMORANDUM

Planning Division

DATE: January 5, 2017

TO: Planning Board

FROM: Jana Ecker, Planning Director

SUBJECT: 211 S. Old Woodward - Request to allow Liquor Licenses for

Theaters in Downtown Birmingham

On August 31, 2016, the owners of the above-referenced property submitted a request for a Zoning Ordinance amendment that would permit the issuance of a liquor license for qualified theaters in Downtown Birmingham. Specifically, the owners of the Birmingham 8 Theaters have submitted a request for an amendment to Chapter 10, Alcoholic Liquors, of the City Code to create a new Division 5 to establish a new category of liquor licenses for theaters in Downtown Birmingham.

As a response to the request of the applicant, the City Attorney drafted ordinance language and amendments to create a new division 5 in Chapter 10, Alcoholic Liquors. Proposed amendments to Chapter 10 are not required to be reviewed by the Planning Board, nor is a public hearing at the Planning Board level required. In addition, in order to permit the use of such theater licenses, proposed zoning amendments are also attached that would allow the use of theater licenses, with a Special Land Use Permit, in the B4 (Business-Residential) zone district. Both the Birmingham 8 Theater and the Emagine Theater are located in the B4 zone district. All proposed amendments to the Zoning Ordinance are required to be reviewed by the Planning Board, and a public hearing at the Planning Board level is required. To ensure full public notice is given, the Planning Board will review and make recommendations to the City Commission on both the proposed amendments to Chapter 10, Alcoholic Liquors, and Chapter 126, Zoning. The City Commission has the final authority to approve or deny the proposed amendments.

On November 9, 2016, the Planning Board discussed the request to allow the use of liquor licenses in theaters, and voted to set a public hearing date of January 11, 2017 to consider ordinance amendments to allow liquor licenses for theaters in Downtown Birmingham. Please find attached the draft ordinance language and relevant meeting minutes for your review.

SUGGESTED ACTION:

Motion to recommend approval to the City Commission of the proposed amendments to Chapter 126, Zoning, Article 2, section 2.37, B-4 Business Residential, to allow the use of liquor license in theaters in the B-4 zoning district, and to recommend approval of the associated amendments to Chapter 10, Alcoholic Liquors, Article II, to add a Division 5, Licenses for Theaters.

(DOES NOT REQUIRE A FORMAL PUBLIC HEARING AT THE PLANNING BOARD)

CITY OF BIRMINGHAM
ORDINANCE NO.

AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 10 ALCOHOLIC LIQUORS, ARTICLE II. LICENSES, TO ADD DIVISION 5. LICENSES FOR THEATERS

THE CITY OF BIRMINGHAM ORDAINS:

Part II of the City Code, Chapter 10 Alcoholic Liquors, Article II. Licenses, shall be amended to add Division 5. Licenses for Theaters, as follows:

DIVISION 5. - LICENSES FOR THEATERS

Sec. 10-100. - Purpose.

The purpose of this division is to establish a policy and conditions to allow the city commission the ability to approve a request to transfer a liquor license into the city in excess of the city's quota licenses if the request is deemed to constitute a substantial benefit to the city for the continuation and development of theaters, and to establish criteria for selecting applicants, and to provide limitations on the influx of new liquor licenses and to insure controlled growth and development regarding liquor licenses and to evaluate the impact of increased liquor licenses on the city. For purposes of this division, theaters shall be defined as a building, part of a building for housing dramatic presentations, stage entertainments or motion picture shows.

Sec. 10-101. - Request for transfer of license into city.

Persons desiring to transfer a liquor license from outside the city limits into the city limits in excess of the city's quota licenses shall make an application to the city commission and pay the applicable theater liquor license transfer review fee as set forth in appendix A of this Code. In addition to those items and conditions set forth in section 10-42, the application shall set forth in detail its proposed project, including, but not limited to:

- (1) Utilization of said liquor licenses and details on the number of quota liquor licenses in escrow at the time of application.
- (2) Proposed and/or existing site plan of the property, building floor plan and an operations floor plan.
- (3) An economic impact analysis.
- (4) A copy of the special land use permit application and supporting documentation submitted by the applicant.
- (5) All documentation submitted to the LCC requesting the transfer.
- (6) Full identification and history of the license holder(s) as it pertains to the license proposed to be transferred, including all complaints filed with the

state liquor control commission (LCC) or actions taken by any municipality or the LCC to suspend, revoke or deny the non-renewal of said license and all other documentation setting forth the detail of the existing theater or proposed theater by the applicant, including the approximate dollar amount of the investment to be made, number of jobs to be created, minimum of 150 seats and other benefits to the city.

- (7) Information detailing how the proposed operation will create or sustain the theaters in the city.
- (8) Such other items deemed necessary by city administration.

Sec. 10-102. - Application for transfer of liquor license into the city for theater purposes.

- (a) Selection criteria. In addition to the usual factors and criteria used by the city commission for liquor license requests, including those listed in section 10-42, the commission shall consider the following non-exclusive list of criteria to assist in the determination of which of the existing establishment applicants, if any, should be approved:
 - (1) The applicant's demonstrated ability to finance the proposed project.
 - (2) The applicant's track record with the city including responding to city and/or citizen concerns.
 - (3) Whether the applicant has an adequate site plan to handle the proposed liquor license activities.
 - (4) Whether the applicant has adequate health and sanitary facilities.
 - (5) The percentage of proceeds from the sale of tickets and food products as compared to the sale of alcoholic beverages.
 - (6) Whether the applicant has outstanding obligations to the city (i.e. property taxes paid, utilities paid, etc.).
- (b) Maximum number of theater licenses. The city commission may approve a maximum of two theater licenses each calendar year in addition to the existing quota licenses otherwise permitted by state law.
- (c) Annual review of need. Every three calendar years, the city commission shall perform a review of the previously approved theater license(s), if any, and the impact of those decisions on the city's downtown. A time for public comment shall be provided.
- (d) If any new transfers of licenses for theaters are to be considered, the city commission shall set a schedule setting forth when all applicants must submit their application and supporting documentation, when interviews may be conducted and a timeframe within which a decision will be anticipated.

Sec. 10-103. - Transfer within city.

Should a theater license be issued by the city commission, said license is limited to the property proposed and approved and the applicant receiving the approval, and shall not be transferred to another location or person/entity within the city

without prior approval of the city commission. Standards to be considered by the city commission and the procedure to be followed shall include those set forth in section 10-42 and section 10-43. In addition, any expansion of the building located on the property must be approved by the city commission.

Sec. 10-104. - Contract and special land use permit required.

A contract for transfer and a special land use permit are required for all licenses approved under this division. The licensee must comply with all provisions of the contract and special land use permit, and any amendments thereto as a condition of granting of a requested transfer and subsequently maintaining the license under this division.

Sec. 10-105. - Renewals.

Once a license is issued under this division, the license holder must go through the license renewal process set forth in section 10-39 and is subject to the renewal standards set forth in section 10-40. A review of compliance with the contract and special land use permit shall also be included.

Sec. 10-106. - License types, endorsements, additional bar permits.

If a license is issued under this division, the license holder may apply for entertainment, dance and additional bar permits from the state liquor control commission for use only on the premises, but shall not apply for or seek from the state liquor control commission any permit endorsements to its liquor license or seek any change in its license status/class whether available in current state liquor control code or in future state liquor control codes, or amendments thereto, without the prior approval from the city commission.

Sec. 10-107. - Violation of license, contract, special land use permit.

Violations or failures to abide by terms of the liquor license, contract, the special land use permit or this Code shall be grounds for the state liquor control commission to suspend, revoke or not renew the liquor license. Further, should violations occur, or should the applicant fail to complete the project as required by plans and specifications presented to the city commission, or fail to comply with all representations made to the city commission, the city shall be entitled to exercise any or all remedies provided in those documents, in this Code, including but not limited to seeking the revocation of the special land use permit, pursuing breach of contract claims, and all other legal and equitable rights to enforce the terms thereunder. The licensee shall reimburse the city all of its costs and actual attorney fees incurred by the city in seeking the suspension, revocation or non-renewal of the liquor license, revocation of the special land use permit, or enforcement of such other rights and remedies, including contractual, as may be available at law or in equity.

Secs. 10-108—10-119. - Reserved.

Ordained this	day of	, 2017. Effective upon publication.
		Mark Nickita, Mayor
		Cheryl Arft, Acting City Clerk
		, , , , , , , , , , , , , , , , , , , ,
		f the City of Birmingham, do hereby certify that the
regular meeting	held February 13,	Commission of the City of Birmingham, Michigan at a 2017 and that a summary was published
	, 2017.	
		Cheryl Arft, Acting City Clerk
		Chery Art, Acting City Clerk

(REQUIRES A FORMAL PUBLIC HEARING AT THE PLANNING BOARD)

CITY	OF	BIRN	4ING	HAM
ORD	INA	NCE	NO.	

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CITY CODE, ARTICLE III, SECTION 2.37 (B4) TO ALLOW THE USE OF LIQUOR LICENSES FOR THEATERS.

THE CITY OF BIRMINGHAM ORDAINS:

Chapter 126 Zoning, Article III, Section 2.37 (B4 Business-Residential) shall be amended as follows:

Permitted Uses

Residential Permitted Uses

- dwelling multiple-family
- dwelling one-family*
- dwelling two-family*
- live/work unit

Institutional Permitted Uses

- 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

- bowling alley
- outdoor amusement*
- recreational club
- swimming pool public, semiprivate

Commercial Permitted Uses

- auto sales agency
- bakery
- bank
- barber shop/beauty salon
- catering
- child care center
- clothing store
- delicatessen

- department store
- drugstore
- dry cleaning
- flower/gift shop
- food or drink establishment*
- furniture
- greenhouse
- grocery store
- hardware store
- hotel
- jewelry store
- motel
- neighborhood convenience store
- office
- paint
- party store
- · retail photocopying
- school-business
- shoe store/shoe repair
- showroom of electricians/plumbers
- tailor
- theater*

Other Permitted Uses

utility substation

Other Use Regulations

Accessory Permitted Uses

- alcoholic beverage sales*
- laboratory medical/dental*
- loading facility off-street
- outdoor cafe*
- outdoor display of goods*
- outdoor sales*
- 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
- continued care retirement community
- establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 5, Licenses for Theaters
- independent hospice facility

independent senior livingskilled nursing facility	
Uses Requiring City Commission Approval • regulated uses*	
*=Use Specific Standards in Section 5.10 Appl	У
Ordained this day of	, 2017. Effective upon publication.
M	ark Nickita, Mayor
CI	heryl Arft, Acting City Clerk
foregoing ordinance was passed by the Comr	e City of Birmingham, do hereby certify that the mission of the City of Birmingham, Michigan at a 017 and that a summary was published
CI	heryl Arft, Acting City Clerk

Planning Board Minutes November 9, 2016

3. 211 S. Old Woodward Ave. Birmingham 8 Theaters Request for Zoning Ordinance Amendment to allow Liquor Licenses for theaters in Downtown Birmingham

Ms. Ecker advised that the owners of the Birmingham 8 Theaters have submitted a request for an amendment to Chapter 10, Alcoholic Liquors, of the City Code to create a new Division 5 to establish a new category of liquor licenses for theaters in Downtown Birmingham.

As a response to the request of the applicant, the City Attorney has drafted ordinance language and amendments that would create a new division 5 in Chapter 10, Alcoholic Liquors. In addition, in order to permit the use of such theater licenses, proposed zoning amendments are also attached that would allow the use of theater licenses, with a Special Land Use Permit ("SLUP") in the B-4 (Business-Residential) Zone District. Both the Birmingham 8 Theater and the Emagine Theater are located in the B-4 Zone District.

Ms. Kelly Allen, Adkison, Need, Allen, & Rentrop, Attorney for Birmingham 8 Theaters, was present along with Ms. Janet Leikas from theater management. Ms. Allen said the theater would be purchasing an Oakland County transferable license or possibly a Resort License. The reason the theater has come forward is because of the trend with regard to licensing theaters. This license would give the Birmingham 8 the ability to compete with theaters around the tricounty area and bring people into the core Downtown. According to the ordinance drafted the license cannot move from the property.

Discussion concluded that non customers would not be drawn to the theater just to have a drink. The concession area on the second floor will be converted to a small bar in order to service the customers who are already coming to the theater.

There was no one from the public that wished to comment at 9:37 p.m.

Motion by Mr. Williams

Seconded by Mr. Jeffares to set a public hearing for January 11, 2017 to amend Chapter 126 of the City Code, Article III, section 2.37 (B4) to allow the use of liquor licenses for theaters.

There was no discussion by members of the audience at 9:40 p.m.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None Absent: None

Planning Board Minutes January 11, 2017

2. To consider the following amendments to Chapter 10, Alcoholic Liquors and Chapter 126, Zoning, of the Code of the City of Birmingham:

TO AMEND PART II OF THE CITY CODE, CHAPTER 10 ALCOHOLIC LIQUORS, ARTICLE II, LICENSES, TO ADD DIVISION 5. LICENSES FOR THEATERS

(Public hearing not required at the Planning Board)

AND

TO AMEND CHAPTER 126, ZONING, OF THE CITY CODE, ARTICLE III SECTION 2.37 (B4) TO ALL OW THE USE OF LIQUOR LICENSES FOR THEATERS.

The chairman opened the public hearing at 7:49 p.m.

Ms. Ecker advised that the owners of the Birmingham 8 Theaters have submitted a request for an amendment to Chapter 10, Alcoholic Liquors, of the City Code to create a new Division 5 to establish a new category of liquor licenses for theaters in Downtown Birmingham.

As a response to the request of the applicant, the city attorney has drafted proposed ordinance language and amendments that would create a new division 5 in Chapter 10, Alcoholic Liquors. Proposed amendments to Chapter 10 are not required to be reviewed by the Planning Board. Essentially this sets up a new category of Liquor Licenses for theaters that would allow the service of alcohol in the theater.

The public hearing for this board is for Chapter 126, Zoning to amend section 2.37 B-4 Standards that would then allow the use of Liquor Licenses in theaters in B-4 Business Residential Zone Districts only. The Planning Board will review and make recommendations to the City Commission on both the proposed amendments to Chapter 10, Alcoholic Liquors, and Chapter 126, Zoning. The City Commission has the final authority to approve or deny the proposed amendments.

Chairman Clein clarified that tonight the board would potentially be recommending approval that would allow the applicant to procure a Liquor License in the B-4 Zoning District with a Special Land Use Permit ("SLUP").

It was discussed that the hours of operation for the bar would be set up as a SLUP condition and also by the State rules.

Ms. Kelly Allen, Adkison, Need, Allen, & Rentrop, Attorney for Birmingham 8 Theaters, was present and had no further comment.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Williams to recommend approval to the City Commission of the proposed amendments to Chapter 126, Zoning, Article 2, section 2.37, B-4 Business Residential, to allow the use of liquor licenses in theaters in the B-4 Zoning District, and to recommend approval of the associated amendments to Chapter 10, Alcoholic Liquors, Article II, to add a Division 5, Licenses for theaters.

No one from the audience had comments on the motion at 7:50 p.m.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None Absent: None

The chairman closed the public hearing at 7:50 p.m.



LAW OFFICES

ADKISON, NEED, ALLEN, & RENTROP

PROFESSIONAL LIMITED LIABILITY COMPANY

OF COUNSEL:
KEVIN M. CHUDLER
LINDA S. MAYER

PHILLIP G. ADKISON KELLY A. ALLEN SALAM F. ELIA GREGORY K. NEED G. HANS RENTROP

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

August 31, 2016

Vìa Electronic Mail

Joe Valentine, City Manager City of Birmingham 151 Martin St. Birmingham, MI 48009

Re: Birmingham Theatre's Request to Consider Amendment to

Economic Development Ordinance Chapter 10 Section 60

Dear Mr. Valentine:

We represent the Birmingham Theatre in its quest to operate a full service venue with a liquor license. The Birmingham Theatre has been an iconic entertainment establishment in the City since 1927. Mr. Ted Fuller, of Fuller Central Park Properties, purchased the building in 1976.

REASON FOR REQUEST

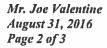
For quite a few years, the trend for high-class movie theaters in the United States has been to provide its guests with a full-service experience. In fact, many movie theaters in Michigan offer alcohol beverage service. Because of the technological explosion of home video, home movie channels, and movie access on computers and handheld devices, movie theaters across the country are striving to remain relevant to and popular for today's moviegoer. Theaters in and around Birmingham are licensed, including in Troy, Bloomfield Township, and Royal Oak. The idea is to keep the Theatre in Birmingham competitive and integral to the success of the downtown.

In order to continue its success, the Birmingham Theatre needs a Class C Liquor License. A Class C License would enable the Theatre to sell and serve beer, wine, and spirits for consumption on the premises. There are no Class C licenses available in the City of Birmingham for the Theatre to purchase.

It would be in the best interest of the City, as well as the theaters in the City, to create a category of license under Birmingham's existing ordinances which would allow the theaters to be licensed.

It is important to note that the Birmingham Theatre operated with a quota liquor license when the Nederlander family operated it in approximately 1978. Pursuant to an Agreement made with the City, the Nederlanders and Mr. Fuller were to "return" the liquor license to the City once the Nederlanders ceased operating the Theatre. Instead, Mr. Fuller donated the license to the Birmingham Community Center,

BIRMINGHAM



with the City's consent.

After the Nederlanders operated the Theatre, the Ilitch family operated the venue for many years. Upon the Ilitch's cessation of the operation, Mr. Fuller, with vast input from the community, decided to continue to operate the property as a theater, and has done so for several years.

CITY ORDINANCE AMENDMENT PROPOSAL

The proposal below would require amendments to Chapter 10-60 of the City Ordinance and to various sections of Chapter 126, the Zoning Ordinance.

An outline of proposed changes would include:

1. Chapter 10, Alcoholic Liquors, Article 11, Division 3, License for Economic Development

Amend to create a category of license entitled "Theater License" which would enable a theater with minimum seating capacity of 150 patrons to request a transfer of a liquor license into the City, utilizing the selection criteria set forth in 10-22(a) of (1) through (4) and (8). [NOTE: The selection criteria based upon the establishment's location (5), the cuisine (6), and the percentage of proceeds from sale of food vs. alcohol (7) would not apply.]

2. Chapter 126, Zoning of the Birmingham City Code

Currently, Economic Development Licenses are permitted in the Triangle District and on parcels with Woodward Avenue frontage identified on Map 3.1 contained in the Zoning Ordinance.

None of the theaters in the City are located in these areas. Therefore, an amendment of the description of the Zoning District and/or an amendment to Map 3.1 would be requested.

Chapter 10-64 requires an application for an Economic Development License to obtain a Special Land Use Permit. This requirement for a theater is important to this proposal as it provides the City with essential power over the theater's licensed operation.

THE BIRMINGHAM THEATRE

The Birmingham Theatre brings back fond memories to families who have patronized the Theatre since 1927. The original marquee and its central downtown location harken thoughts of old times, when going to the movies was an event at a reasonable price.

The Birmingham Theatre has been an anchor in Birmingham, no matter the changing economic climate, the population, or its ownership. Now owned and operated by Ted Fuller of Fuller Central Park Properties, the Theatre has undergone updates and improvements while retaining its charm. The latest investments and improvements include:



- Reduced capacity from 1150 to 625 seats to create state of the art electric reclining seating;
- Redesign of concession areas;
- New ticketing process;
- Replacement of movie screens and speakers;
- Electronic menu boards;
- · New carpet, flooring, and paint; and
- Restroom upgrades.

If awarded the right to operate the Theatre with a liquor license, Mr. Fuller will strictly comply with all rules and regulations of the Michigan Liquor Control Commission. The Theatre will have a procedure in place which will demonstrate the Theatre's "zero tolerance" of any issue whatsoever with alcohol sales.

The importance of the City's cooperation in allowing the Birmingham Theatre to be licensed cannot be understated. As the City has kept up "with the times," so must the Theatre. Just imagine your next movie experience or private event at the Birmingham Theatre with your favorite glass of wine!

Please let us know if this request will be considered at an upcoming meeting of the City Commissioners. Thank you in advance.

Very truly yours,

ADKISON, NEED, ALLEN, & RENTROP, PLLC

Kelly A Allen

KAA/kjf

cc:

Ted Fuller

Tim Currier, City Attorney

NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION AMENDMENT TO ZONING ORDINANCE

Meeting - Date, Time, Location:	Monday, February 13, 2017 7:30 PM Municipal Building, 151 Martin Birmingham, MI 48009
Nature of Hearing:	To consider an amendment to the Zoning Ordinance, Chapter 126, to amend:
	TO AMEND ARTICLE 03 DOWNTOWN BIRMINGHAM OVERLAY DISTRICT, SECTION 3.04, TO CREATE A NEW D5 ZONE & TO ESTABLISH DEVELOPMENT STANDARDS FOR THE DISTRICT.
	TO AMEND ARTICLE 06 NONCONFORMANCES, SECTION 6.02, TO ALLOW FOR THE EXTENSION AND/OR ENLARGEMENT OF EXISTING LEGAL, NON- CONFORMING BUILDINGS.
	A complete copy of the proposed ordinance amendment may be reviewed at the City Clerk's Office.
City Staff Contact:	Jana Ecker 248.530.1841 jecker@bhamgov.org
Notice:	Publish: January 22, 2017
Approved minutes may be reviewed at:	City Clerk's Office

Should you have any statement regarding the above, you are invited to attend the meeting or present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.

NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION REZONING & ZONING MAP AMENDMENT

Meeting - Date, Time,	Monday, February 13, 2017, 7:30 PM						
Location:	Municipal Building, 151 Martin						
	Birmingham, MI 48009						
Nature of Hearing:	To consider a proposal to rezone the following properties:						
	• 555 S. Old Woodward (555 Office & Residential						
	Buildings) from D4 in the Downtown Overlay to D5 in						
	the Downtown Overlay;						
	 411 S. Old Woodward (Birmingham Place) from D4 in 						
	the Downtown Overlay to D5 in the Downtown Overlay;						
	and						
	225 E. Merrill (Merrillwood Building) from D4 in the						
	Downtown Overlay to D5 in the Downtown Overlay.						
	Note: Each proposed rezoning will be considered						
	separately at the City Commission meeting.						

City Staff Contact:	Jana Ecker, 248.530.1841 jecker@bhamgov.org
Notice:	Publish: January 22, 2017 Mailed to all property owners within 300 feet of subject address.
Approved minutes may be reviewed at:	City Clerk's Office

Should you have any statement regarding the above, you are invited to attend the meeting or present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.



MEMORANDUM

Planning Division

DATE: February 6, 2017

TO: Joseph A. Valentine, City Manager

FROM: Matthew Baka, Senior Planner

Approved: Jana Ecker, Planning Director

SUBJECT: 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.

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. Specifically, the 555 S. Old Woodward building, the Merrillwood Building and Birmingham Place were referenced due to their non-conformity with regards to height and bulk, and the desire of the City 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 further.

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 nonconforming 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. The Planning Board recommended approval of the proposed ordinance amendment to the City Commission. In addition to the Zoning Ordinance amendments, the Planning Board also held a public hearing on December 14th, 2016 to consider the rezoning of three buildings/parcels 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). The Planning Board also recommended that the City Commission approve the rezoning of the three subject parcels. Attached is the draft ordinance language, staff report from the most recent study session, and relevant meeting minutes.

SUGGESTED ACTION:

Motion to approve amendments to Chapter 126, Zoning, Article 3, Downtown Birmingham Overlay District, Section 3.04, to create a new D5 Zone and to establish development standards for this district, and Article 6, Nonconformances, Section 6.02, to allow for the extension and/or enlargement of existing legal, non-conforming commercial buildings;

AND

Motion to approve 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.

DRAFT LANGUAGE

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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 INS day of	, 2017 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 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, 2017 to beco	ome effective 7 days afte	er publication.
Mark Nickita , Mayor			
Cheryl Arft, City Clerk			



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

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 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 D-5: Downtown Gateway (Over Five Stories) 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 10th, 2015 and July 8th, 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 non-conforming 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-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. Allow the Expansion of Existing Legal, Non-conforming Buildings To Match Existing Non-conforming Conditions

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.
 - a. 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.
 - b. 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 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:

Conversion of Non-conforming Status: 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. Re-establish the Zoning District(s) in effect when Building Permits 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:

- (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.

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?
- **②** 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 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.

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 nonconformity 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

CITY OF BIRMINGHAM 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.

APPLICATION FOR ZONING MAP OR ORDINANCE CHANGE Birmingham, Michigan

TO THE CITY COMMISSION:

T

Zoning Map Change:			mmission to:		
the Downtown Overlay Zoning District Map as follows: create a new Change premises described as "D-5 Gateway District".					
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Legal I					
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	Downtown Overlay Zoning District Text for the "Downtown Overlay Gateway Change preprises where the Downtown Overlay Gateway and the existing Zoning Map showing				
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PROPOSED DRAFT – SUBJECT TO FURTHER COMMENTS AND REVISIONS

Downtown Birmingham Overlay District

3.01 Purpose

The purposes of the Downtown Birmingham Overlay District are to:

- A. Encourage and direct development within the boundaries of the Downtown Birmingham Overlay District and implement the Downtown Birmingham 2016 Plan;
- B. Encourage a form of development that will achieve the physical qualities necessary to maintain and enhance the economic vitality of Downtown Birmingham and to maintain the desired character of the City of Birmingham as stated in the Downtown Birmingham 2016 Plan;
- C. Encourage the renovation of buildings; ensure that new buildings are compatible with their context and the desired character of the city; ensure that all uses relate to the pedestrian; and, ensure that retail be safeguarded along specific street frontages; and
- D. Ensure that new buildings are compatible with and enhance the historic districts which reflect the city's cultural, social, economic, political, and architectural heritage.
- E. Establish a gateway overlay zone to enhance and implement the master plan concept and desired character of Birmingham's gateway as stated in the Downtown Birmingham 2016 Plan, as has been applied and updated.

3.02 Applicability

- A. The Downtown Birmingham Overlay District shall be an overlay district that applies over the existing zoning districts.
- B. Use and development of land within the Downtown Birmingham Overlay District shall be regulated as follows:
 - Any existing use shall be permitted to continue and the use shall be subject to the underlying zoning requirements and not the Downtown Birmingham Overlay District.
 - 2. Where the usage within an existing building is proposed to be expanded by more than 50% of the existing size, the new use shall be subject to the building use standards of the Downtown Birmingham Overlay District to the maximum extent practical, as determined by the Planning Board.

- 3. Any expansion to an existing building that expands the area of the building by more than 40% of the existing building area shall subject the entire building to the requirements of the Downtown Birmingham Overlay District and shall be brought into compliance with the requirements of the Downtown Birmingham Overlay District to the maximum extent practical, as determined by the Planning Board.
- 4. Where a new building is proposed, the use and site shall be subject to the requirements of the Downtown Birmingham Overlay District.
- C. Development applications within the Downtown Birmingham Overlay District shall be required to follow the Site Plan Review and Design Review standards contained in Article 7.
- D. A Downtown Birmingham Overlay District Regulating Plan has been adopted that divides the Downtown Birmingham Overlay District into zones. Each zone designated on the Regulating Plan prescribes requirements for building form, height and use as follows:

D2: Downtown Two or Three Stories

D3: Downtown Three or Four Stories

D4: Downtown Four or Five Stories

D5: Downtown Gateway Over Five Stories

C: Community Use

P: Parking

3.03 General Standards

- A. The design of buildings and sites shall be regulated by the provisions of the Downtown Birmingham Overlay District.
- B. Section 3.01 to Section 3.04 shall govern the design of all privately owned land within the Downtown Birmingham Overlay District.
- C. The provisions of the Downtown Birmingham Overlay District, when in conflict with other articles of the Zoning Ordinance, shall take precedence.
- D. The provisions of the Downtown Birmingham Overlay District shall specifically supersede the floor-area ratio, maximum height, band minimum setback regulations contained in each two-page layout in Article 2 of the Zoning Ordinance.
- E. The provisions of the building and building regulations Chapter 22 of the Birmingham City Code and the historic preservation regulations in Chapter 62 of the Birmingham City Code, when in conflict with the Downtown Birmingham Overlay District, shall take precedence.

- F. The design of community buildings and improvements shall not be subject to the specific standards of this article, but shall be subject to design review by the Planning Board.
- G. Locations designated on the Regulating Plan for new PUBLIC parking garages and civic buildings shall be reserved for such development.

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 minimum 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. C and P-Zones: Downtown-Birmingham Overlay District building height-shall D5 Zone (over five stories).
 - a. Eve line or roof height of any flat roof building shall be no more than 168 feet as measured to the average grade.
 - b. Peak or ridge of any slope roof shall be no more than 180 feet as measured to the above average grade.
 - c. Maximum overall height including mechanical and other equipment shall be no more than 180 feet.
 - d. All buildings should be designed harmoniously with adjacent structures in the D5 Zone in terms of mass, scale and proportion to the best extent possible.
- 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.
 - 56. Stories at sidewalk level shall be a minimum of 10 feet in height from finished floor to finished ceiling-, except this subsection shall not apply to those renovations to existing buildings in the D5 Zone that do not have stories existing at the sidewalk level.
 - The Planning Board may reduce this standard for renovations to existing buildings that do not meet this standard.
 - 67. A transition line shall be provided between the first and second stories. The transition shall be detailed to facilitate an awning, except this subsection shall not apply to those renovations to existing buildings in the D5 Zone that do not have a transition line that will facilitate an awning.
 - 78. 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, except this subsection shall not apply to renovations to any existing building in the D5 Zone where the placement of the building shall not be relocated by the proposed renovations.

- 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, screenwalls 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. This Section 3.04 (B)(4) shall not apply to the D5 Zone where the rear property line abuts a street.
- 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. Except where a building faces more than one public street, loading docks, service areas and access doors shall not face the front property line that faces the public street designated as the address of the building.
- 8. All buildings shall have their principal pedestrian entrance FACING THE $\frac{1}{2}$ frontage line.
- C. <u>Building use</u>. Buildings shall accommodate the following range of uses for the various designations on the Regulating Plan of the Downtown Birmingham Overlay District:
 - 1. Uses shall be limited to those allowed in each underlying zoning district, unless otherwise specifically provided for herein.
 - 2. The following uses and conditions are prohibited:
 - a. Automatic food and drink vending machines outdoors;
 - b. Drive-in facilities or any commercial use that encourages patrons to remain in their automobiles while receiving goods or services; except for the D5 Zone where drive-in banks are permitted on the Woodward Avenue frontage;
 - c. Outdoor advertising.
 - 3. Community uses (C).
 - 4. Those sites designated as parking uses (P) on the Regulating Plan shall be premises used primarily for parking, except retail frontages shall be encouraged at the first floor level.
 - 5. Those sites designated D2 Zone, D3 Zone, er-D4 Zone, OR D5 ZONE on the Regulating Plan may be used for any commercial, office or residential use as

allowed in the underlying zoning district. Upper story uses may be commercial, office or

residential, provided that no commercial or office use shall be located on a story above a residential use.

- 6. Buildings that have frontage along the required retail frontages, as specified on the Regulating Plan, shall consist of retail with a minimum depth of 20 feet from the **front façade** line within the first story. Lobbies for hotels, offices, and multiple-family dwellings may be considered as part of
- __the required retail
- -frontage, provided that any such lobby occupies no more than 50% of the
- frontage of said building. Except those existing buildings in the D5 Zone where retail does not exist at the front façade line.
- 7. Retail, office or residential uses are required to have minimum depth of 20 feet from the frontage line on all stories. The remaining depth may be used for off street parking. Parking access on a frontage line shall be an opening a maximum of 25 feet wide. Openings for parking garage

access shall repeat the same rhythm and proportion as the rest of the building to maintain a consistent streetscape.

- 8. In any D2 Zone, D3 Zone, or D4 Zone, the first floor shall consist of retail with a minimum depth of 20 feet from the frontage line where designated on the Regulating Plan as a retail frontage line in conformance with Section 3.04(C)(5) and Section 3.04(C)(6).
- 9. Office use is limited to one story, except:
 - a. In any D3 Zone or D4 Zone, a two-story building dedicated to office use is permissible; and
 - b. In a D4 Zone, two stories may be dedicated to office use when the Planning Board permits a fifth story-; AND
 - C. in the D5 Zone, a maximum of 3 stories may be dedicated to office use.
- 10. Bistros are permitted with a valid Special Land Use Permit with the following conditions:
 - a. No direct connect additional bar permit is allowed and the maximum seating at a bar cannot exceed 10 seats;
 - Alcohol is served only to seated patrons, except those standing in a defined bar area;
 - c. No dance area is provided;
 - d. Only low key entertainment is permitted;
 - e. Bistros must have tables located in the storefront space lining any street, or pedestrian passage;
- f. A minimum of 70% glazing must be provided along building facades facing a street or pedestrian passage between 1 foot and 8 feet in height. Except in the D5 Zone, this subsection 3.04(C)(10)(f) shall apply only to the building façade facing the front property line for the building, and the 1 foot and 8 foot in height regulation shall not apply to other facades of the building that are not facing the front property line that is adjacent to the public street designated as the address of the building.

- g. All bistro owners must execute a contract with the City outlining the details of the operation of the bistro; and
- h. Outdoor dining must be provided, weather permitting, along an adjacent street or passage during the months of May through October each year. Outdoor dining is not permitted past 12:00 a.m. If there is not sufficient space to permit such dining on the sidewalk adjacent to the bistro, an elevated, ADA compliant, enclosed platform must be erected on the street adjacent to the bistro to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.
- 11. Establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 3, Licenses for Economic Development, are permitted with a valid Special Land Use Permit only on those parcels on Woodward Avenue identified on Exhibit 1; Appendix C AND IN THE D5 ZONE.

D. Parking requirements.

- 1. For all nonresidential uses located within the parking assessment district, parking on the site shall not be required, provided such site is in full compliance with the requirements of the parking assessment district.
- 2. For all residential uses located within the parking assessment district, the on-site parking requirements contained in Section 4.46, Section 4.49, Section 4.50 and Section 4.51 may be complied with through leasing the required spaces from an off-site parking area, provided the requirements of Section 4.45(G) are met and all parking is supplied on site or within 300 feet of the residential lobby entrance of the building.
- For all sites located outside of the parking assessment district, off-street parking must be provided in accordance with the requirements of Article 4 for parking, loading and screening.
- 4. Notwithstanding the above regulations, residential dwelling units within the existing second and third floors of landmark buildings, as defined in Section 62-87 of the Birmingham City Code, located within the central business historic district are exempt from required off-street parking requirements.
- 5. Off-street parking contained in the first story shall not be permitted within 20 feet of any building façade on a frontage line or between the building facade and the frontage line, except in the D5 Zone this section 3.04(D)(5) shall only apply to the building façade facing the front property line that is adjacent to the public street designated as the address of the building.
 - 6. The placement of two abutting off-street parking lots with continuous street frontages shall not be permitted.

E. <u>Architectural standards</u>. All buildings shall be subject to the following physical requirements:

1. At least 90% of the exterior finish material on all facades that face a street shall be limited to the following: glass, brick, cut stone, cast stone, pre-cast or cast in place concrete, coarsely textured stucco, or wood. Dryvit or E.F.I.S is prohibited.

- 2. The primary colors of building exteriors shall be compatible with the colors of adjacent buildings and in character with the surrounding area WITHIN THE SAME ZONE, although the trim may be of a contrasting color.
 - 3. Blank walls shall not face a public street. Walls facing a public street shall include windows and architectural features customarily found on the front facade of a building, such as awnings, cornice work, edge detailing or decorative finish materials.
 - 4. Storefronts shall be directly accessible from public sidewalks. Each storefront must have transparent areas, equal to A MINIMUM OF 70% of its portion of the facade, between
 - —one and eight feet from the ground. The wood or metal armature (structural
 - elements to support canopies or signage) of such storefronts shall be painted,
 - bronze, or powder-coated.
 - 5. Storefronts shall have mullion systems, with doorways and signage integrally
 - —designed. Mullion systems shall be painted, powder-coated, or stained.
 - 6. The glazed area of a facade above the first floor shall not exceed 35% of the total
 - area, with each façade being calculated independently.
 - 7. Glass shall be clear or lightly tinted only. Opaque applications shall not be applied to the glass surface.
 - 8. Facade openings, including porches, windows, and colonnades, shall be vertical in proportion.
- 9. Sliding doors and sliding windows are prohibited along frontage lines, except for residential uses in the D5 Zone above street level.
- 10. (Reserved for future use.) Notwithstanding any regulations set forth in the foregoing subsections, subsections 3.04(E)(3), (5), (6) and (7), in their entirety, do not apply to the existing buildings in the D5 Zone.
 - 11. Cantilevered mansard roofs are prohibited.
- 12. Balconies, railings, and porch structures shall be metal, wood, GLASS, cast IN PLACE OR PREFORMED concrete, or stone.
 - 13. Facades may be supplemented by awnings, which shall be straight sheds without side flaps, not cubed or curved. Awnings shall be between 8 and 12 feet above sidewalk grade at the lower drip edge.
 - 14. Outside dining tables and chairs shall be primarily metal, wood, or similar material. Plastic outside dining tables and chairs shall be prohibited.
 - 15. Any building that terminates a view, as designated on the Regulating Plan, shall provide distinct and prominent architectural features of enhanced character and visibility, which reflect the importance of the building's location and create a positive visual landmark.
 - 16. Flat roofs shall be enclosed by parapets. Rooftop mechanical and other equipment shall be limited, positioned and screened to minimize views from adjacent properties and public rights-of-way in accordance with the regulations

set forth in Section 4.16, Section 4.18, and Section 4.53.

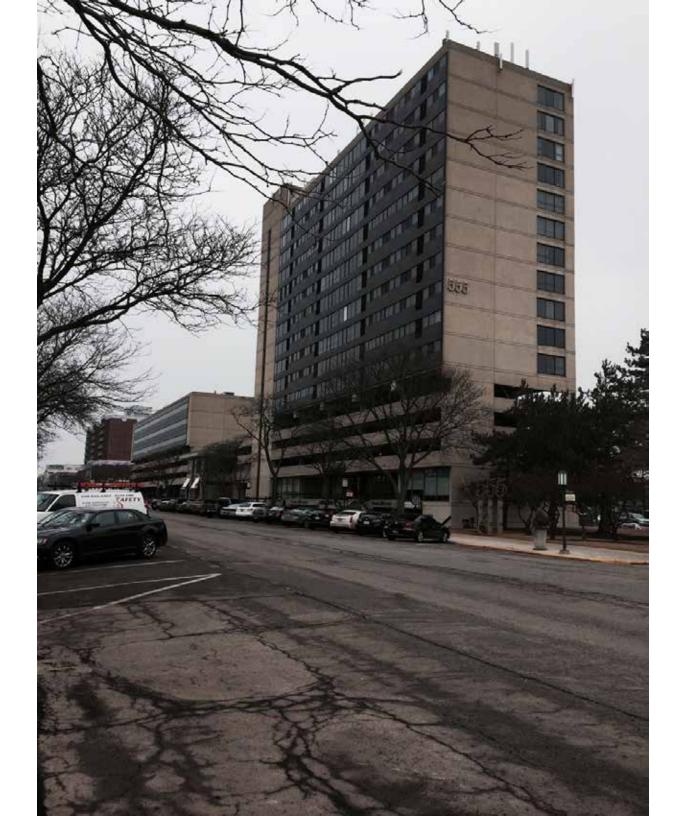
- F. Signage Standards. Signage, when provided, shall be as follows:
 - 1. Building Sign Design Plan: For all newly constructed or exterior renovated buildings, an overall building sign design plan shall be approved by the appropriate reviewing body.
 - 2. Design: Signage shall be integrally designed and painted with the storefront.
 - 3. Address Numbers: Address numbers shall be a maximum of 8 inches in vertical dimension.
 - 4. Sign Band:
 - a. General: A single external sign band or zone may be applied to the facade of a building between the first and second floors, provided that it shall be a maximum of 1.5 feet in vertical dimension by any horizontal dimension.
 - b. Woodward Avenue Address: The external sign band or zone shall be a maximum of 2 feet in vertical dimension by any horizontal dimension. The sign band or zone may contain multiple individual signs, but all must refer to a tenant of the building whose principal square footage is on the first floor.

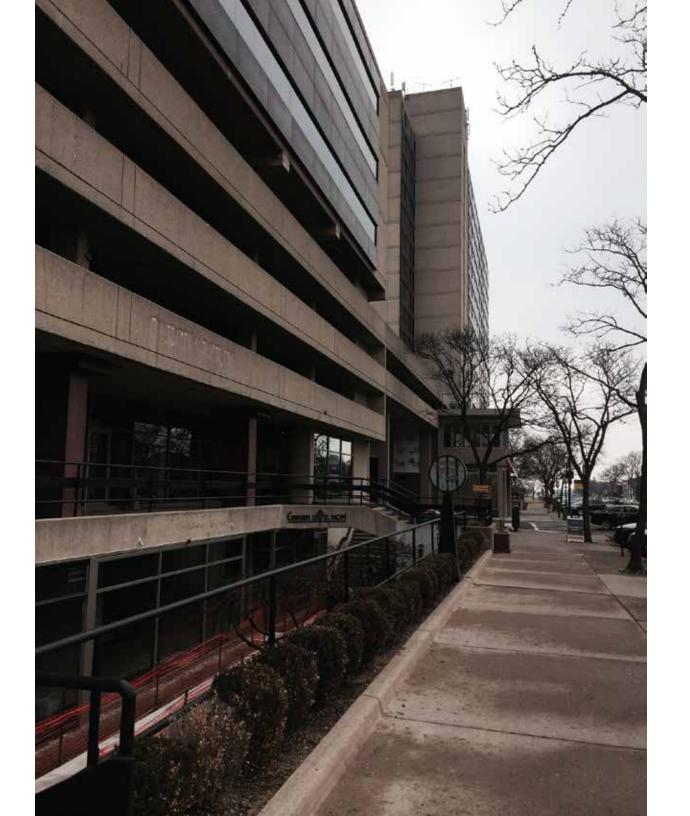
Except in the D5 Zone where an existing building has retail below grade level, the sign ban shall exist either between the below grade level or garden level, and the next story above the garden level, and/or above the first story that is above grade.

- c. Lowercase letters with ascenders and descenders that extend beyond the limits of the sign height by a maximum of 50% will not be calculated into total sign area.
- d. Each business whose principal square footage is on the first story, may have one sign per entry. Except in the D5 Zone, each business whose principal square footage is on either the lower level or the first floor may have one sign per entry.
- e. Where the Historic District Commission, Design Review Board or Planning Board has determined that a horizontal sign band is not architecturally feasible based on building design, an alternative design will be considered, provided the following conditions are met:
 - i. The sign must fit within the total sign area allowed for the business;
 - ii. The sign must be compatible with the building's street design and will enhance the streetscape.
 - iii. The sign adheres to the goals of the 2016 Plan.
- 5. Building Identification:
 - a. In the D5 Zone, lighted building identification signs may be placed on all sides of the building. The following sections 3.04 (F)(5)(c), (d) and (e) do not apply to the buildings in the D5 Zone.
 - b. Signage identifying the entire structure by a building name may be permitted on the sign band.
 - bc. One sign will be allowed on the principal building frontage.
 - ed. Two identical signs will be allowed on each elevation of a corner building.
 - de. Non-illuminated signs identifying the entire structure by a building name may be permitted above the first floor provided the following conditions apply:

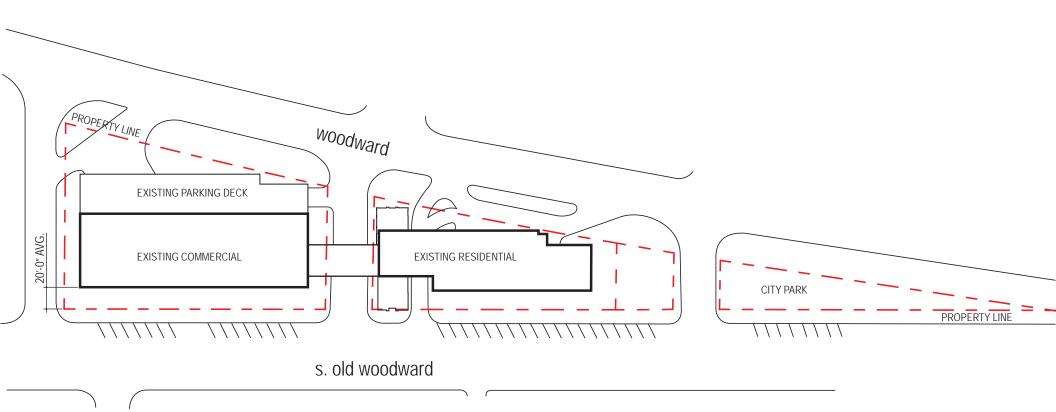
- i. The building must be located on Woodward:
- ii. A tenant name must have legal naming rights to the building;
- iii. The sign must located on the top floor; and
- iv. Only one Building Identification sign may be located on the principal _building frontage.
- 6. Tenant Directory Sign: A directory sign may be comprised of individual nameplates no larger than one square foot each, or a changeable copy board for characters not exceeding one inch in height.
- 7. Additional Signs: Additional pedestrian signs for first floor tenants shall meet the following requirements:
 - a. These signs shall be attached to a building perpendicular to the facade, and extend up to 4 feet from the facade.
 - b. These signs shall be a maximum of 1.5 feet in vertical dimension and 4 feet in horizontal dimension.
 - c. There may be one (1) individual pedestrian sign for each business located on the first floor, provided that such signs are spaced no less than 20 feet apart horizontally; this shall not deny any first floor place of business at least one projecting sign.
- 8. Glass: The storefront glass may be stenciled with signage not to exceed 1.5 feet in vertical dimension and 4 feet in horizontal dimension.
- 9. First Floor Awning: The valance shall not be more than 9 inches in height. The valance of an awning may be stenciled with signage totaling no more than 33% of the valance area.
- 10. Lighting:
 - a. General: External signs shall not be internally illuminated, but may be back lit or externally lit.
 - b. Woodward Avenue Address: External signs may be internally illuminated.







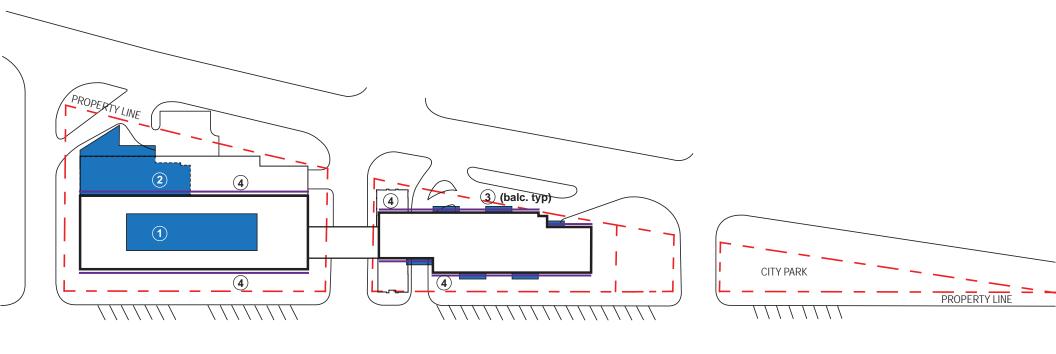
EXISTING





PHASE I

- **1.** Roof-top Restaurant
 - 2. Commercial/retail
 - 3. New Balconies
- **4.** New Curtain Walls









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?

<u>ANSWER</u>: 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

<u>ANSWER</u>: 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



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

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



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

RECEIVED BY

JUN 1 6 2016

CITY CLERK'S OFFICE
CITY OF BIRMINGHAM



Williams Williams Rattner & Plunkett, P.C. Attorneys and Counselors

380 North Old Woodward Avenue Suite 300 Birmingham, Michigan 48009

Tel: (248) 642-0333 Fax: (248) 642-0856

Richard D. Rattner rdr@wwrplaw.com

June 15, 2016

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

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.



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



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

		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 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

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.



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)

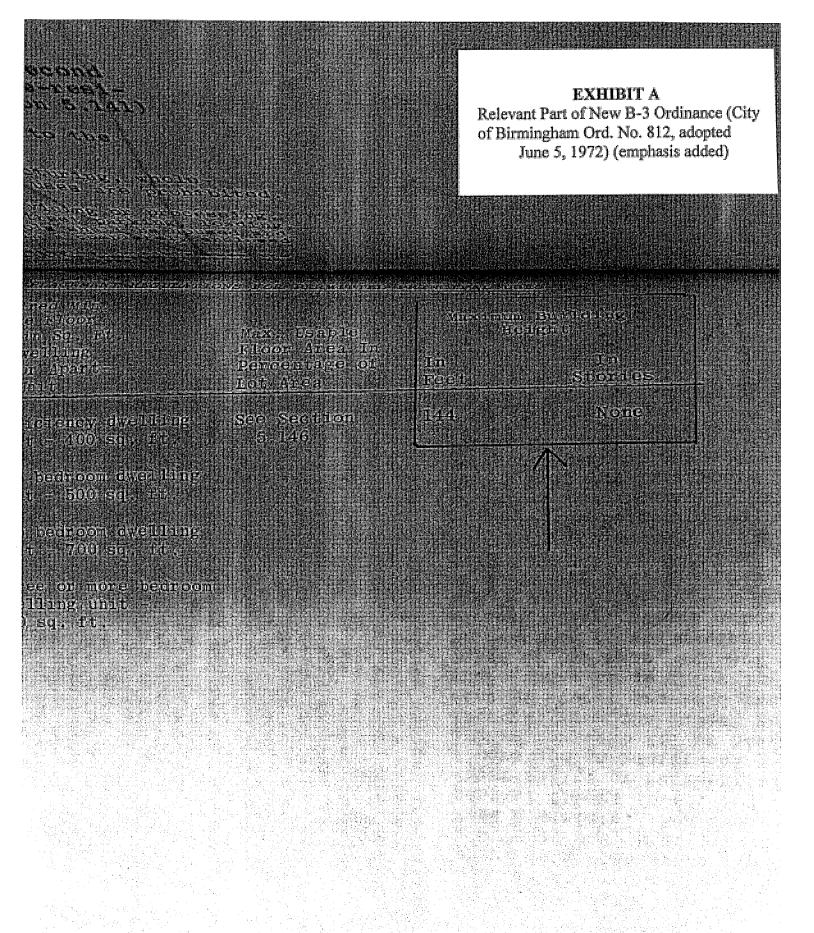
Property Owner respectfully requests that the City Commission adopt an amendment to the Zoning Ordinance creating the D-5 Zone as discussed in this letter.

Very truly yours,

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

Richard D. Rattner

RDR/cmc



-- coased and conducted within a completely EXHIBIT B rt said. enclosed building Relevant Part of 1977 Amendment to mer Conrad B-3 Ordinance (City of Birmingham c.No interior display, visible neetings, Ord. No. 983, adopted February 28, 1977) from the exterior shall be sel concurred. permitted above the first (emphasis added) General & to , No Regulated Use, as defined in Section 5.2(2) of this Chapter, shall be permitted in this Zone District Section 5.119A is hereby amended to read as follows: AND PLACEMENT REGULATIONS FOR PERMITTED PRINCIPAL USES Req. Min. Min: :::Max;; Not Area Floor Area MAXIMUM BUILDING 16,89 , Pt. Usable ln Sg. Pt. Floor drea HEIGHT Peri Dive 114ijg Per Dwelling in % of Unlt: Lot:Area In Feet In Stories S REQUIRING RD OF ZONING 1.Efficiency 90 ft. for None multiple family EALS PERMIT ...dwelling unite Sterikings. 400:sq.ft: ::: buildings and
buildings containing
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Combined with = 2.One bedroom --dwelling unit-08 . .:::500 sq.ft.;;::: Duguness, uses: 1 3.1wo pearcondt-dwelling.unit-7.00 sq.ft indica (Senice Chief literate) e complex: 1504 for inii kii inge indi containt og multiple 1:4:4.4.Three or more Aauily dwelling ... Dedroom dwell-ing unit-900

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:

un Feet:

60 feet for multiple family buildings and buildings containing business uses on the first story and tour Stories of multiple family dwelling units.

40 feet for buddings not containing multiple family (willing units.

in stopies:

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

. . . 3. supries, for bulloings not convaining multiple, family dwelling units.

ORDAINED this End day of September, 1986, to be tigethyerpronupublications



MEMORANDUM

Building Division

DATE: July 1, 2013

TO: Zoning Board of Appeals

FROM: Bruce R. Johnson, Building Official

SUBJECT: 555 S. Old Woodward Renovation

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

20 June 2013

Birmingham, MI





555 S. Old Woodward Avenue, 1974-2012



AGENDA











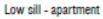






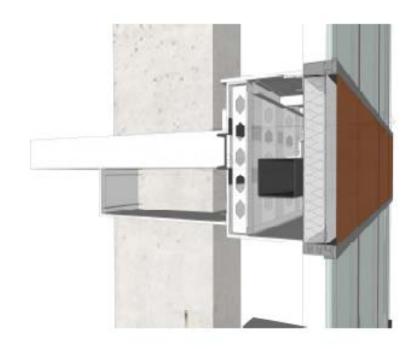
SECTION DEVELOPMENT





There are three typical window sections:

- Low sill apartment
- High sill apartment
- Office building





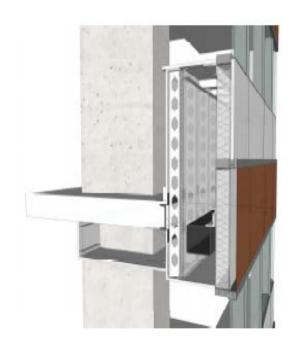
SECTION DEVELOPMENT



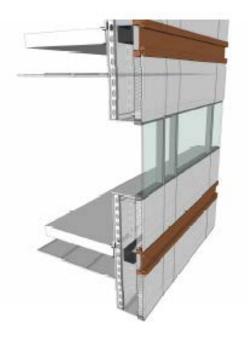


There are three typical window sections:

- Low sill apartment
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SECTION DEVELOPMENT

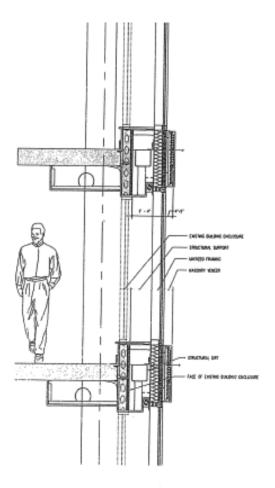




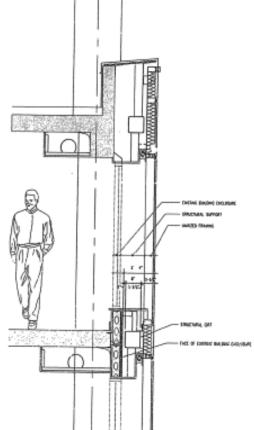
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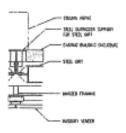






SECTION UNING ROOM AT COMME TORRE MEY OF





ACHOR MOVES

FEB **0 9** 2017

Dear Mr Valentine and City Commissions

February 8, 2017

CITY MANAGER'S OFFICE

I just read the article in "The Birmingham Eccentric" titled "Residents Want Sidewalks on Block" I am dismayed and disappointed that sidewalks on Fairway between Pleasant and Arden Lane are still an issue. A petition was circulated last Fall and signed by 33 of the residents (involving a total of 40 houses) stating that the following residents did NOT want sidewalks under any circumstances I understand that some residents did not want to sign the petition because of the possibility of causing friction or "problems" with their neighbors who were also good friends. It appears that that number of residents who oppose the sidewalks might be larger.

I moved to Fairway street almost 37 years ago with my husband and two children. We bought in the neighborhood because of the beautiful green lawns, variety of homes, clear sight lines making it easy to walk or ride a bike. In addition, the street is short and is NOT a thoroughfare between Cranbrook and Southfield. There is little traffic.

I am opposed to sidewalks on this very long block for the following reasons:

The cost to me to install sidewalks is considerable.

- 1) I have an irrigation system that will have to be reworked.
- 2) I will lose a a small garden near the street that I enjoy looking at from my front window and I think adds beauty to the neighborhood. It will have to be removed and/ or repositioned at a cost to me.
- 3) I may lose a beautiful Maple tree that was planted 35 years ago. I also worry that other trees that are in the path of the sidewalks will be cut down.
- 4) I will have to rebuild a brick driveway that I paid over \$8,000 to install. My driveway is steep, the sidewalk will be flat. The bricks will have to be re-graded from top to bottom.
- 5) I am a senior and on a fixed income. I do not have the extra cash to pay for this project. The article states that it will only cost us \$750 if they are able to get a \$200,000 grant. There are 69 homes involved in the total project which I understand involves other streets. If my math is correct, that means that I will have \$2,898 available to help defray my costs. Relaying the brick driveway, removing the tree (if needed), replanting the garden and reworking my irrigation system will cost a lot more. The cost will be much, much larger without the grant!!

Fairway, between Pleasant and Arden Lane is a street with curbs and straight sight lines. It is wide and safely and easily navigated. I have walked this area for many years. I have never had a problem or feared that I would be hit by a car. I have never heard of anybody being hit by a car. The picture in the Eccentric is not what our street looks like

people. I fear this will change if this project goes through. Relationships may become contentious and the beauty of the street will be lost (one of the reasons I moved here).

I am aware of other objections to this projects.

Some of the houses are close to the street. A sidewalk would mean the loss of privacy.

Some of the homes have short driveways. The distance between the garage and the sidewalk will not allow an SUV to park and clear the sidewalk. Some of the residents have more than two cars. (They will be ticketed if they block the sidewalk). This also means that more cars will be parked on the streets. THIS IS A MUCH MORE DANGEROUS SITUATION than not having sidewalks as children darting into the street will not be seen until it is too late.

Pierce school students will still be bused with or without sidewalks. I can't imagine any parent allowing their child to walk over a mile to school while crossing a major road like Southfield without great trepidation.

Children can still play in their front yards with or without sidewalks. Children under four years of age are usually monitored by their parents whether there are sidewalks or not. (That usually means that parents are physically present)

Residents on this block of Fairway DO care about the children in their neighborhood. We slow down when we see them playing outside, anticipating that one of them may dart into the street to retrieve a ball. We drive to the far side of the street when we see anybody walking their children or pets or when older kids return home from school.

Fairway between Pleasant and Arden Lane is still a walkable street. I see many adults walking with children, pets or friends. It appears residents are not deterred by not having sidewalks. As to Fairway being "one of the few streets that does not have sidewalks", just look around the city to see that this is not true.

I am open to exploring ways to make this part of Fairway as safe as possible. I believe there are other options that cost a LOT less and will still maintain the beauty of the street and the safety of its residents.

Last fall 83% of the residents signed a petition stating their objection to putting in sidewalks. The majority of residents do NOT want sidewalks. I would hope that the city would rule in favor of the majority.

If you have any questions, please feel free to contact me.

Peggy Dufault

Peggy Wufault (Marganet)

1700 Fairway 248-647-4811

e-mail: pdufault@ ameritech.net



Fairway

Joe Valentine <jvalentine@bhamgov.org>
To: pdufault@ameritech.net

Fri, Feb 10, 2017 at 8:29 AM

Ms. Dufault,

Thank you for your letter expressing your concerns with regard to the recent article in the Birmingham *Eccentric* concerning residents interested in installing sidewalks on Fairway. Per your request, I will forward your letter on to the City Commission.

In regard to your concern, I would like to express to you that nothing has changed involving the City's process. In order for the City to pursue the installation of sidewalks on Fairway a majority petition of the residents on the street is required.

Your concerns have been received and noted. Should you have any further questions, please feel free in contacting me.

Best Regards,

Joseph A. Valentine
City Manager
City of Birmingham
151 Martin Street
Birmingham, MI 48009
(248) 530-1809 Office Direct
(248) 530-1109 Fax
jvalentine@bhamgov.org
Twitter: @JoeValentine151

To get the latest information regarding the City of Birmingham, please sign up for our communication tools by clicking here www.bit.ly/bhamnews.

February 5, 2017 Dear Joe Valentine, Please forward this letter to the Birmingham City Commissioners. As a concerned homeowner on Fairway Drive between Pleasant and Arden Lane, I am opposed to a sidewalk in front of my house regardless of the cost of installation. The reasons include, but are not limited to: - Loss of greenspace - Loss of driveway use - Cost to repair disruption of landscaping, trees, shrubs, berms, sprinkler systems, brick paver and aggregate driveways, electric dog fences, etc. - Aesthetics - Maintenance - Liability - Privacy - Other Respectfully, Name (printed)

Name (signed)

2159 FAIR WAY DRIVE BIRMING NAM MI 48089

BIRMINGHAM

FEB 0 9 2017

CITY MANAGER'S OFFICE

Dear Joe Valentine,
Please forward this letter to the Birmingham City Commissioners.
As a concerned homeowner on Fairway Drive between Pleasant and Arden Lane, I am opposed to a sidewalk in front of my house regardless of the cost of installation. The reasons include:
 Loss of greenspace Loss of driveway use Cost to repair disruption of landscaping, trees, shrubs, berms, sprinkler systems, brick paver and aggregate driveways, electric dog fences, etc. Aesthetics Maintenance Liability Privacy Other
Respectfully,
Name (printed) RENEE SULHALA Name (signed) Kinel Suchara
Name (signed) Kinel Suchara
Address 2160 Farway

February 5, 2017

BIRMINGHAM

FEB 0 9 2017

CHYMANAGER'S OFFICE



NOTICE OF INTENTION TO APPOINT TO THE PARKS & RECREATION BOARD

At the regular meeting of Monday, March 13, 2017, the Birmingham City Commission intends to appoint two members to the Parks and Recreation Board to serve three-year terms to expire March 13, 2020.

Interested citizens may submit an application available at the City Clerk's office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk's office on or before noon on Wednesday, March 9, 2016. 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.

Responsibilities

The Parks & Recreation Board consists of seven members who serve for three-year terms without compensation. The goal of the board is to promote a recreation program and a park development program for the city of Birmingham. The Board shall recommend to the city commission for adoption such rules and regulations pertaining to the conduct and use of parks and public grounds as are necessary to administer the same and to protect public property and the safety, health, morals, and welfare of the public.

The meetings are held the first Tuesday of the month at 6:30 P.M.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Members must be electors (registered voters) of	3/8/17	3/13/17
the City of Birmingham.		



NOTICE OF INTENTION TO APPOINT TO THE MULTI-MODAL TRANSPORTATION BOARD

At the regular meeting of Monday, March 13, 2017, the Birmingham City Commission intends to appoint three members to the Multi-modal Transportation Board to serve three-year terms to expire March 24, 2020.

Interested citizens may submit an application available at the City Clerk's office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk's office on or before noon on Wednesday, March 8, 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.

<u>In so far as possible</u>, the seven member committee shall be composed of the following: one pedestrian advocate member; one member with a mobility or vision impairment; one member with traffic-focused education and/or experience; one bicycle advocate member; one member with urban planning, architecture or design education and/or experience; and two members at large living in different geographical areas of the City. Applicants for these three positions may or may not be electors or property owners in the City.

Duties of the Multi-modal Transportation Board

The purpose of the Multi-Modal Transportation Board shall be to assist in maintaining the safe and efficient movement of motorized and non-motorized vehicles and pedestrians on the streets and walkways of the city and to advise the City Commission on the implementation of the Multi-Modal Transportation Plan, including reviewing project phasing and budgeting.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
 In so far as possible, members shall represent, two members at large from different geographical areas of the City one member with mobility or vision impairment experience/expertise 	3/8/17	3/13/17
Members may or may not be electors (registered voter) or property owners of the City of Birmingham.		



NOTICE OF INTENTION TO APPOINT TO PLANNING BOARD

At the regular meeting of Monday, March 13, 2017, the Birmingham City Commission intends to appoint two members to serve three-year terms to expire March 28, 2020. Members must consist of an architect duly registered in this state, a building owner in the Central Business or Shain Park Districts, and the remaining members shall represent, insofar as possible, different occupations and professions such as, but not limited to, the legal profession, the financial or real estate professions, and the planning or design professions. Members must be residents of the City of Birmingham.

Interested citizens may submit an application available at the City Clerk's office or online at www.bhamgov.org/boardopportunites. Applications must be submitted to the City Clerk's office on or before noon on Wednesday, March 8, 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.

PLANNING BOARD DUTIES

The Planning Board consists of nine members who serve three-year terms without compensation. The board meets at 7:30 P.M. on the second and fourth Wednesdays of each month to hear design reviews, zoning ordinance text amendments and any other matters which bear relation to the physical development or growth of the city.

Specifically, the duties of the Planning Board are as follows:

- 1. Long range planning
- 2. Zoning ordinance amendments
- 3. Recommend action to the city commission regarding special land use permits.
- 4. Site plan/design review for non-historic properties
- 5. Joint site plan/design review for non-residential historic properties
- 6. Rezoning requests.
- 7. Soil filling permit requests
- 8. Requests for opening, closing or altering a street or alley

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Members shall represent, insofar as possible, different occupations and professions such as, but not limited to, the legal profession, the financial or real estate professions, and the planning or design professions.	3/8/17	3/13/17
One (Architect) Design Professional		
One general Member		
Members must be residents of the City of Birmingham.		

NOTICE OF INTENTION TO APPOINT TO THE CABLECASTING BOARD

At the regular meeting of Monday, March 13, 2017 the Birmingham City Commission intends to appoint to the Cablecasting Board three regular members to serve three-year terms. Applicants must be residents of the City of Birmingham.

Interested citizens may submit an application available at the City Clerk's office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk's office on or before noon on Wednesday, March 8, 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.

Duties of the Cablecasting Board

- 1) Advise the municipalities on matters relating to cable communications;
- 2) Monitor the franchisee's compliance with the franchise agreement and the cable communications ordinance;
- 3) Conduct performance reviews as outlined in Chapter 30, Article VII of the city code;
- 4) Act as liaison between the franchisee and the public; hear complaints from the public and seek their resolution from the franchisee;
- 5) Advise the various municipalities on rate adjustments and services according to the procedure outlined in Chapter 30; Article VI
- 6) Advise the municipalities on renewal, extension or termination of a franchise;
- 7) Appropriate those moneys deposited in an account in the name of the Cablecasting Board by the member communities;
- 8) Oversee the operation of the education, governmental and public access channels;
- 9) Apprise the municipalities of new developments in cable communications technology;
- 10) Hear and decide all matters or requests by the operator (Comcast Cablevision);
- 11) Hear and make recommendations to the municipalities of any request of the operator for modification of the franchise requirement as to channel capacity and addressable converters or maintenance of the security fund;
- Hear and decide all matters in the franchise agreement which would require the operator to expend moneys up to fifty thousand dollars;
- 13) Enter into contracts as authorized by resolutions of the member municipalities;
- 14) Administer contracts entered into by the Board and terminate such contracts.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Members must be residents of the City of Birmingham.	3/8/17	3/13/17



MEMORANDUM

Engineering Dept.

DATE: February 7, 2017

TO: Joseph Valentine, City Manager

FROM: Paul T. O'Meara, City Engineer

SUBJECT: Maple Rd. & Southfield Rd. Intersection

Easterly Crosswalk

City staff was recently asked to review the design of the crosswalk on the easterly leg of the Maple Rd. & Southfield Rd. intersection with the Multi-Modal Transportation Board. The attached information, with input from the City's traffic consultant (F&V), is attached. The Board discussed this matter at their regular meeting of February 2, 2017. Draft minutes of the discussion are also attached.

The Board voted to direct staff to update the signing as suggested. Unless directed otherwise, staff will proceed in the near future with this improvement.



MEMORANDUM

Engineering Dept.

DATE: January 27, 2017

TO: Multi-Modal Transportation Board

FROM: Paul T. O'Meara, City Engineer

SUBJECT: Maple Rd. & Southfield Rd. Intersection

Here is a brief history of some safety issues that have occurred over the years at this intersection:

Late 1990's:

The City converted the Allen House from its former use as a banquet facility for rent to the Birmingham Historical Museum. Visitors to the Museum are encouraged to park at the Chester St. Parking Structure and use the existing crosswalk when visiting.

2013:

The Museum staff received complaints from visitors over the years about the safety of the pedestrian crossing from the parking structure to the museum (the east leg of the intersection). It is clear that the main issue is the speed in which vehicles from northbound Southfield Rd. turn on to eastbound Maple Rd. The Museum Board reviewed the issue, and concluded that the location of the crossing is too close to the intersection, and drivers are not always able to react to pedestrians if they are turning too fast. The Board asked the City to relocate the crosswalk further away from Southfield Rd. to allow for better visibility. The crosswalk is relocated to its present location.

2015:

As part of the extensive traffic studies conducted for the W. Maple Rd. corridor, safety issues at the Maple Rd. & Southfield Rd. intersection are studied by our traffic consulting firm, Fleis & Vandenbrink. Lane configuration changes to Maple Rd. are approved, and subsequently put in place in October as a trial, and later approved for permanent status in June, 2016. During the studies, it becomes clear that the crash patterns at this intersection are such that safety could be improved if the intersection was relocated further west, allowing for the creation of a 90° intersection.

<u>2016:</u>

It is determined that the relocation of this intersection may qualify for federal funding. Further, it is decided that since Maple Rd. is planned for reconstruction further east (in downtown), if safety funding was awarded, it would be an appropriate time to address both areas within the same construction project. The City directs Fleis & Vandenbrink to apply for federal funding for

this potential safety improvement. The application is currently pending, and should be announced in May of 2017.

In December, Commissioner DeWeese expressed concerns about the crosswalk that appear similar to those that had been raised in the past. The speed of northbound right turning vehicles continues to be an issue. The matter was referred to F&V in preparation for a review by the Multi-Modal Transportation Board (MMTB). Since a major change will require significant spending, and since a federal funding application is currently pending, F&V suggested a change in signing as a possible small step while the status of the intersection is pending. While the suggestion is similar to the existing conditions, the suggested newer design is such that they should alert drivers better than the current ones.

The MMTB is encouraged to discuss this issue and help verify if this is the appropriate response at this time, or not. A suggested resolution follows.

SUGGESTED RESOLUTION:

To direct staff to change the existing WATCH FOR PEDESTRIANS WHILE TURNING at the Maple Rd. & Southfield Rd. intersection to updated R10-15 signs (TURNING VEHICLES YIELD TO PEDESTRIANS) for eastbound Maple Rd. and northbound Southfield Rd.



Paul O'Meara <pomeara@bhamgov.org>

Fwd: Traffic Hazard

1 message

Paul O'Meara <pomeara@bhamgov.org>
To: Paul O'Meara <Pomeara@bhamgov.org>

Fri, Jan 27, 2017 at 2:05 PM

On Mon, Dec 19, 2016 at 7:19 PM, Carroll DeWeese <carrolldeweese@comcast.net> wrote:

Thank you. I have heard people making complaints about this for years, ever since the crosswalk was moved further east. Actually almost becoming a victim put it into another perspective.

Carroll

From: Joe Valentine [mailto:jvalentine@bhamgov.org]

Sent: Monday, December 19, 2016 4:49 PM

To: Carroll DeWeese <carrolldeweese@comcast.net>

Cc: Pam DeWeese <pamdeweese@comcast.net>; Paul O'Meara <Pomeara@bhamgov.org>; Jana Ecker

<Jecker@bhamgov.org>; Mark Clemence <Mclemence@bhamgov.org>

Subject: Re: Traffic Hazard

Carroll,

Thank you for sharing this. By copy to staff I will ask that they include this on an upcoming MMTB agenda for review.

Joe

On Fri, Dec 16, 2016 at 3:48 PM, Carroll DeWeese <carrolldeweese@comcast.net> wrote:

Last night Pam and I went to an event at the Birmingham Museum. We parked in the parking garage across the street. At the traffic signal for crossing Maple between the parking garage and the museum we almost got hit by a car. The car had stopped when the traffic was proceeding on Maple. When the signal changed and stopped traffic on Maple and gave a walk signal for pedestrians, the car sped up from a stop on Southfield and was accelerating around the turn and barely was able to stop prior to otherwise hitting us. Besides it being dark, pedestrians trying to cross the street are hidden behind the signal light pole and are otherwise not clearly visible in the sightline of drivers making a right turn from

Southfield to Maple. My understanding that this was done to meet some engineering guidelines, but, ever since the crosswalk was moved east from its previous location, pedestrians have not been as visible to drivers coming off of Southfield onto Maple. It is harder for the pedestrians to see the drivers and the drivers seeing the pedestrians. At the gathering, we mentioned what happen to us and others indicated similar situations happening to them. This intersection is an accident waiting to happen.

In the daytime, in my experience, it is not quite as bad, but many drivers are not prepared for pedestrians at this crossing and start speeding around the corner. Many slow down or stop prior to entering the corner but then proceed "right turn on red" without being alert to pedestrian presence. Something needs to be done at this crossing to make it safer for pedestrians. I have actually had people tell me that they do not visit the Birmingham Museum if they know they will have to park in the parking garage since it involves crossing the street at this location.

Carroll DeWeese

Joseph A. Valentine

City Manager

City of Birmingham

151 Martin Street

Birmingham, MI 48009

(248) 530-1809 Office Direct

(248) 530-1109 Fax

jvalentine@bhamgov.org

Twitter: @JoeValentine151

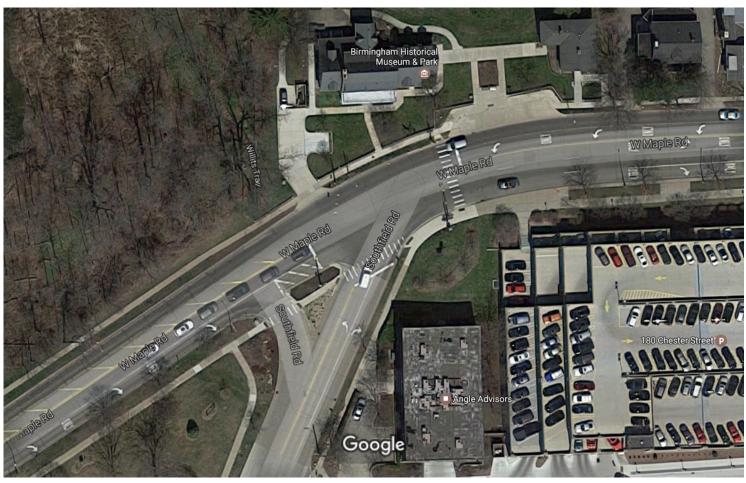
To get the latest information regarding the City of Birmingham, please sign up for our communication tools by clicking here www.bit.ly/bhamnews.

Paul T. O'Meara

1/27/2017 Google Maps

Google Maps

Maple Rd. & Southfield Rd.



Imagery ©2017 Google, Map data ©2017 Google 50 ft □



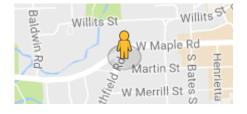
176 Southfield Rd

Maple Rd. & Southfield Rd. Looking Northeast



Image capture: Oct 2016 © 2017 Google

Birmingham, Michigan Street View - Oct 2016





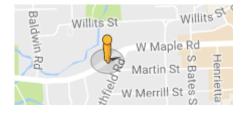
649 W Maple Rd

Maple Rd. & Southfield Rd. Looking East



Image capture: Oct 2016 © 2017 Google

Birmingham, Michigan Street View - Oct 2016





January 26, 2017

VIA EMAIL

Mr. Paul O'Meara City Engineer City of Birmingham 151 Martin Street Birmingham, MI 48012

RE: Maple & Southfield Crosswalk Review

Dear Mr. O'Meara,

The purpose of this letter is to provide an overview and evaluation of current pedestrian facilities at the intersection of Maple Road & Southfield Road in response to a request from the City of Birmingham. Crosswalks are currently provided on the south and east legs of the intersection. The pedestrian crossing on the south leg is completed in two stages with a median refuge island provided between crossings. Pedestrian signals are provided for all crossings at the intersection with the exception of crossing the EB Maple Road channelized right turn lane along the south leg. Additionally, "Watch for Pedestrians While Turning" signage is currently installed on both the EB and NB approaches.

F&V completed a review of existing geometrics and traffic control at the intersection and has the following observations:

- 1. The existing intersection alignment requires a large turning radius for right turning vehicles from Southfield Road onto EB Maple Road. As a result vehicles are able to navigate the turn at higher rates of speed making it more difficult to stop for pedestrians crossing Maple Road.
- 2. Lack of pedestrian signals in crossing the EB channelized right turn lane along the south leg requires pedestrians to exercise judgement in when it is safe to cross.
- Free flow right turning vehicles from EB Maple Road onto Southfield Road are more likely looking to their left as they complete their turn in order to find an adequate gap to enter Southfield Road and may not see a pedestrian in the crosswalk.

In order help improve driver awareness of the pedestrian movements at this intersection, a Turning Vehicles Yield to Pedestrians (R10-15) sign should be provided on the EB Maple Road and NB Southfield Road approaches. The long term option would be to realign the intersection to a 90 degree T-intersection. This would eliminate the free-flowing channelized right turn, eliminate the unsignalized pedestrian crossing, and improve sight distance at the intersection. Additionally, the realignment would result in slower turning speeds for right turning vehicles from Southfield Road to Maple Road. Safety funding for the intersection realignment was submitted by the City in 2016.

If you have any questions, please feel free to contact us.

Sincerely,

FLEIS & VANDENBRINK

Michael J. Labadie, PE

Group Manager

Attached: Figure 1 – MMUTCD R10-15 Sign





Figure 1: MMUTCD R10-15 Sign¹



¹ A fluorescent yellow-green background color may be used instead of yellow for this sign.

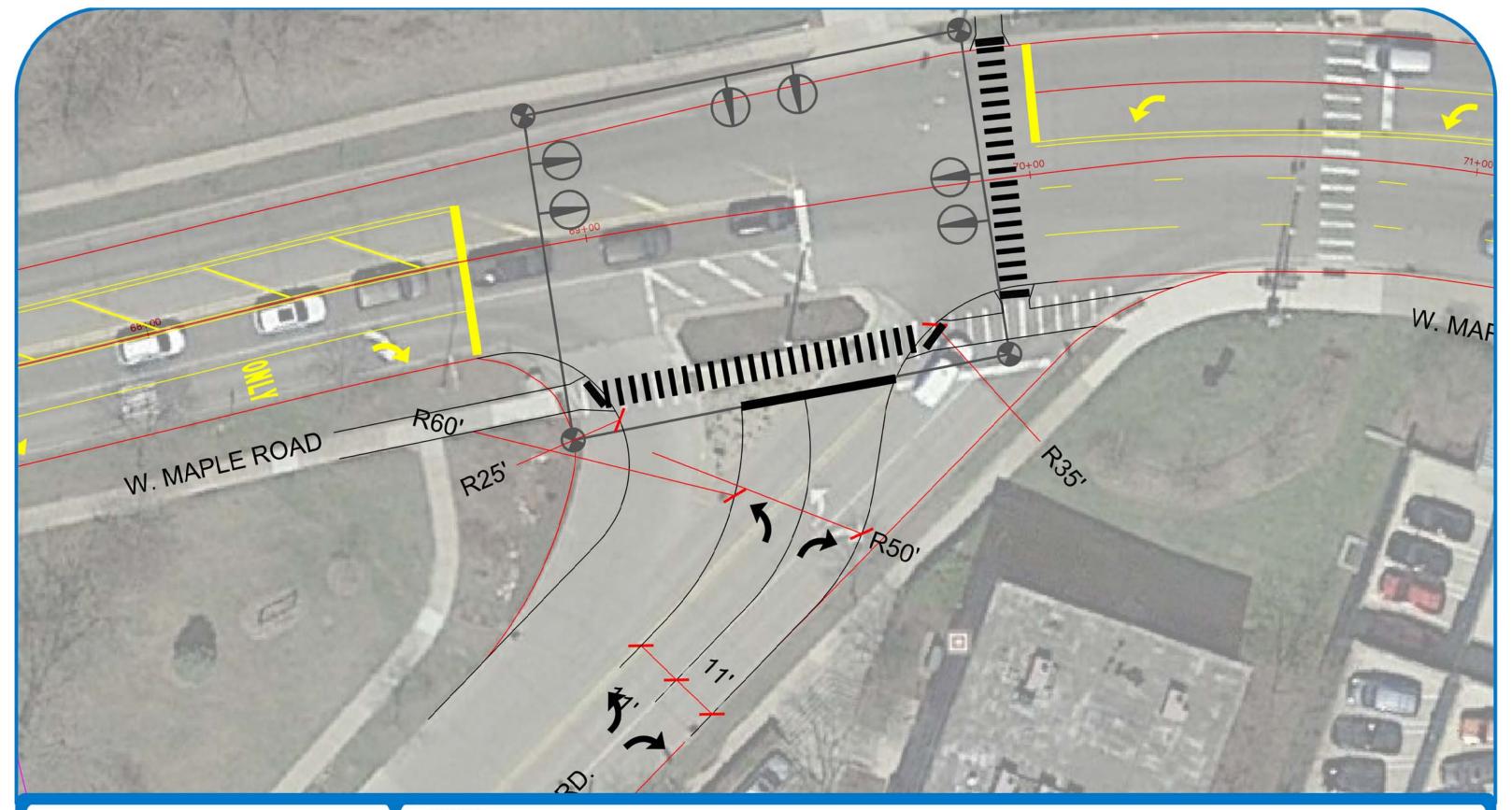


FIGURE 1 INTERSECTION DESIGN

MAPLE ROAD & SOUTHFIELD ROAD CITY OF BIRMINGHAM, MI

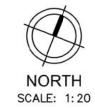
LEGEND



BOX SPAN POLE



SIGNAL HEAD





Multi-Modal Transportation Board Proceedings February 2, 2017 Page 4

green time on Maple Rd. She likes the idea of dotted lines to direct cars coming off of westbound Maple Rd. and going south on Eton Rd.

Commander Grewe said for westbound traffic stopped on the east side of the intersection he would suggest moving the stop line further west so when a vehicle makes a left turn to go south on Eton Rd. the radius isn't so sharp. Mr. Labadie noted the stop bar needs to be located so that drivers can see the signal. Chairperson Slanga cautioned that signage should be placed far enough back so people will know which lane to be in to make their turn.

Board members recommended that Mr. Labadie should study this further to ensure large trucks can make a nice clean turn; look at adding dotted lines to show the left track turning radius coming from westbound Maple Rd. south on Eton Rd.; also study moving the westbound Maple Rd. stop bar location and possibly extending the median at that same location. Additionally, study how to accommodate bikes through that intersection. The recommendation from the Ad Hoc Rail District Study Committee was to widen the sidewalks from 5 ft. to 8 ft. on the whole block of Eton Rd. going south. The board was in agreement.

7. MAPLE RD. AND SOUTHFIELD RD. Crosswalk Improvements

Mr. O'Meara recounted some safety issues that have occurred over the years at this intersection. In 2015 safety issues at the Maple Rd. & Southfield Rd. intersection were studied by the City's traffic consulting firm, Fleis & Vandenbrink ("F&V"). Lane configuration changes to Maple Rd. were approved, and subsequently put into place in October as a trial, and later approved for permanent status in June, 2016. During the studies, it became clear that the crash patterns at this intersection are such that safety could be improved if the intersection was relocated further west, allowing for the creation of a 90° intersection.

In 2016, it was determined that the relocation of this intersection may qualify for federal funding. Further, it was decided that since Maple Rd. is planned for reconstruction further east (in downtown), if safety funding was awarded, it would be an appropriate time to address both areas within the same construction project. The City directed F&V to apply for federal funding for this potential safety improvement. The application is currently pending, and should be announced in May of 2017.

In December, Commissioner DeWeese expressed concerns about the crosswalk that appear similar to those that have been raised in the past. The speed of northbound right turning vehicles continues to be an issue. The matter was referred to F&V in preparation for a review by the MMTB. Since a major change will require significant spending, and since a federal funding application is currently pending, F&V suggested a change in



Multi-Modal Transportation Board Proceedings February 2, 2017 Page 5

signing as a possible small step while awaiting the status of the intersection. The suggested newer signage should alert drivers better than the current sign.

Ms. Folberg suggested changing the signal so that pedestrians cannot cross when people are allowed to turn right. Also, the "WATCH FOR PEDESTRIANS" sign blocks the view of pedestrians. He was not in favor of creating delays that would back up traffic.

Motion by Ms. Edwards

Seconded by Ms. Folberg to direct staff to change the existing WATCH FOR PEDESTRIANS WHILE TURNING at the Maple Rd. and Southfield Rd. intersection to updated R10-15 signs (TURNING VEHICLES YIELD TO PEDESTRIANS) for eastbound Maple Rd. and northbound Southfield Rd. Reposition the new sign so it does not block the view of pedestrians. Also, add reflector material around the sign so it will stand out.

Motion carried, 5-0.

VOICE VOTE

Yeas: Edwards, Folberg, Rontal, Slanga, Surnow

Nays: None

Absent: Adams, Lawson

8. CROSSWALK STANDARDS UPDATE

Mr. O'Meara recalled the MMTB discussed the above topic three times in 2016. A suggested recommendation was agreed to at the meeting of November 2, 2016, and forwarded to the City Commission for approval at their meeting of November 21, 2016. After discussing the matter, the Commission referred it back to the MMTB for further study.

The comments from the commissioners can be summarized as follows:

- Definitions for various road types and conditions need to be very clear so that the outcome is clear.
- The suggested variance for spacing between the bars was too great.
- Information about how much the City pays to maintain crosswalks was requested.
- The use of 24 in. wide bars (instead of 12 in.) was preferred. It was noted that other cities such as Royal Oak and Ferndale are making more use of the 24 in. bars.

Mr. O'Meara said it is important to note that if 24 in. wide bars become the standard, generally existing painted markings will remain as-is until the pavement in the intersection is being replaced ore resurfaced.,. Moving to a 24 in. wide bar as the standard in all locations would translate into a slow, gradual increase as crosswalk markings are removed and replaced.





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CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

Office of the Chief Executive

735 Randolph Street, Suite 1900 Detroit, Michigan 48226

January 27, 2017

To Our Sewer Customers:

On behalf of the Great Lakes Water Authority ("GLWA"), we invite you to the Board of Directors' Public Hearing on the proposed FY 2018 wholesale sewer service charges scheduled for 10:00 a.m. on Wednesday, March 1, 2017 at 735 Randolph, 5th Floor Board Room, Detroit, Michigan 48226.

This hearing will provide GLWA an opportunity to present the Authority's budget, capital improvement program, estimated sales volume and other factors that serve as the basis for the proposed revenue requirements and schedule of charges. This hearing also provides an opportunity for our customers to comment or submit questions related to the proposed charges. All comments or questions raised during the hearing will receive a written response.

The Memorandum of Understanding ("MOU"), signed in September 2014 and which created the Great Lakes Regional Water Authority established a fundamental goal to limit annual budget ("BUDGET")¹ increases to no more than 4% for each of the first 10 years of the Authority's operation. This commitment was carried forward into the subsequent 40 year lease agreement ("Lease") between the City of Detroit and GLWA. The FY 2018 Sewer BUDGET honors this 4% commitment with a proposed 2.0% increase from FY 2017. Changes in service charges among customers may vary in order to meet their unique revenue requirements. Attached is your organization's proposed service charges worksheet for FY 2018. GLWA staff is available to answer any questions by contacting the Financial Services Group at (313) 964-9159 or via email at Jacqueline.Land@glwater.org. Please note that the proposed charges are subject to change after the public hearing and subsequent deliberation by the GLWA Board, but are not expected to increase from what is presented herein.

Our primary objective continues to be one of providing our customers with wholesale water and wastewater services of unquestionable quality at fair and equitable charges. We are committed to exceeding customer expectations. We thank you for working collaboratively with GLWA in the wholesale customer engagement process, and look forward to seeing you at the public hearing on March 1, 2017.

Sincerely yours,

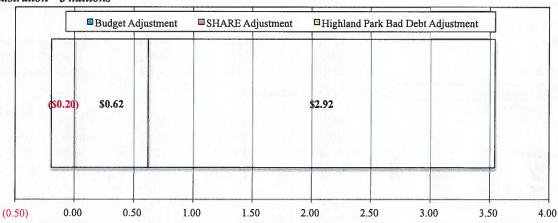
Sue F. McCormick Chief Executive Officer

 1 The annual BUDGET (i.e. "revenue requirement") includes 0&M, Debt Service, Non-Operating Expenses and Revenue Financed Capital

FY 2018 Suburban Wholesale Sewer Service Charge Schedule Calculation Evergreen Farmington

		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	BUDGET Categories	Total [Cost Pool	Evergreen Farm % Share	Allocation \$	Fixed Monthly Charge \$/mo	Existing Charge \$/mo	Adjustment \$/mo	Charge <u>Adj</u>	Unbundled Impact Adj
1 2 3 4 5	Common-To-All Suburban Only OMID Specific CSO Facilities Industrial Specific	388,162,000 8,082,900 7,669,700 47,195,700 9,473,700	8.287% 12.788% 0.000% 1.485% 0.000%	32,166,200 1,033,700 0 700,900 0	2,680,500 86,100 0 58,400				
6	Subtotal FY 2018 BUDGET	460,584,000		33,900,800	2,825,000				
7	Detroit / Suburban Capital Adjustment	5,516,000	12.788%	705,400	58,800				
8	Total FY 2018 BUDGET (a)			34,606,200	2,883,800	2,588,600	295,200	11.4%	11.0%
9 10	Sub Wholesale Bad Debt Adj Projected Sub Wholesale Bad Debt Adj True-Up	4,380,000 2,810,600	12.788% 12.788%	560,100 359,400	46,700 30,000	<i>57,500 35,500</i>	(10,800) (5,500)	-18.8% -15.5%	-0.4% -0.2%
11	Total Amount for Net Charges			35,525,700	2,960,500	2,681,600	278,900	10.4%	10.4%
12 13	Impact of Bad Debt Allocations - \$ (9) + (Impact of Bad Debt Allocations - \$ (12) /			919,500 2.7%	76,700 2.7%				
14 15	(a) BUDGET Adjustment Reconcilation BUDGET Adjustment - \$/month Cost of Service Allocation Adjustment (SHA	REs) - \$/month					51,800 243,400	2.0% 9.4%	1.9% 9.1%
16 17 18	Annual Impact of Proposed Charges Budget Adjustment SHARE Adjustment Highland Park Bad Debt Adjustment						621,600 2,920,800 (195,600)		1.9% 9.1% -0.6%
19	Total						3,346,800		10.4%

Impact Illustration - \$ millions



^{*} The proposed charges in this document are preliminary in nature and are subject to change or modification by the Great Lakes Water Authority Board following a public hearing of the FY 2018 Financial Plan and service charge schedule for the System. The public hearing is scheduled for March 1, 2017.

The Notice of this Public Hearing can be found in the customer portal.

Customer SHARE Calculation Sheet - Evergreen Farmington

	SHARE Change	Evergreen Farmingt 10.1%	M Class 4.6%	Variance 5.5%		
		Existing	Proposed			
		SHARES	SHARES	Variance	% Variance	Comment
	Volume Calculations	2008 - 2012	2013 - 2016			
	Evergreen Farmington Avg Annu	ial Volume - Mcf				
1	Sanitary	911,900	997,400	85,500	9.4%	
2	DWII	827,400	485,600	(341,800)	-41.3%	
3	Wet Weather	189,900	221,900	32,000	16.9%	
4	Total	1,929,200	1,704,900	(224,300)	-11.6%	
	All Customer Annual Volume - N	Acf				
5	Sanitary	9,885,200	9,661,500	(223,700)	-2.3%	
6	DWII	10,752,300	9,172,400	(1,579,900)	-14.7%	
7	Wet Weather	7,040,800	<u>5,105,000</u>	(1,935,800)	-27.5%	
8	Total Volume	27,678,300	23,938,900	(3,739,400)	-13.5%	
9	"Common" DWII - "Z"	5,353,200	5,941,400	588,200	11.0%	
10	Total Volume @ WWTP	33,031,500	29,880,300	(3,151,200)	-9.5%	
11	Z Factor	16.21%	19.88%	3.68%		Ln (9) / Ln (10)
11			17.0070	3.0070	22.770	Lii (2) / Lii (10)
	Evergreen Farmington Volume S		10.000/	1 100/	11.00/	- 20, / - 2-,
12	Sanitary	9.22%	10.32%	1.10%		Ln (1) / Ln (5)
13	DWII	7.70%	5.29%	-2.40%		Ln (2) / Ln (6)
14	Wet Weather	2.70%	4.35%	1.65%		Ln (3) / Ln (7)
15	Total	6.97%	7.12%	0.15%	2.2%	Ln (4) / Ln (8)
	Evergreen Farmington Volume D	Distribution				
16	Sanitary	47.3%	58.5%	11.2%	23.8%	Ln (1) / Ln (4)
17	DWII	42.9%	28.5%	-14.4%	-33.6%	Ln (2) / Ln (4)
18	Wet Weather	9.8%	13.0%	3.2%	32.2%	Ln (3) / Ln (4)
	All Cust Volume Distribution					
19	Sanitary	35.7%	40.4%	4.6%	13.0%	Ln (5) / Ln (8)
20	DWII	38.8%	38.3%	-0.5%		Ln (6) / Ln (8)
21	Wet Weather	25.4%	21.3%	-4.1%		Ln (7) / Ln (8)
	Loading Calculations	Non-San = 1/3 San	Technical Study			
	BOD Strength - mg/l	14011-Sali - 1/5 Sali	reclinical Study			% of Sanitary
22	Sanitary	184.2	234.2	50.0	27.2%	
23	DWII	61.4	11.7	(49.7)	-80.9%	
24	Wet Weather	61.4	58.6	(2.8)	-4.6%	
25	Total	105.2	111.5	6.3	5.9%	
==	DOD I andimon like					
26	BOD Loadings - lbs	14 277 000	15 740 100	1 265 100	0.50/	(1 21+(22 24)+0(24
26	Evergreen Farmington Loadings		15,742,100	1,365,100		(1~3)*(22~24)*.0624
27	System Loadings	181,765,000	166,552,900	(15,212,100)		(5~7)*(22~24)*.0624
28	Evergreen Farmington Pollutant	Sha 7.9%	9.5%	1.5%	19.5%	Ln (26) / Ln (27)
	SHARE Calculations					
	Cost Pool Allocation Share %					
29	Volume		50.0%			
30	Pollutants		50.0%			
	Evergreen Farmington SHARE	Calculation				
31	Volume		3.561%			Ln (15) * Ln (29)
32	Pollutants		<u>4.726%</u>			Ln (28) * Ln (30)
33	TOTAL SHARE	7.528%	8.287%	0.759%	10.1%	Sum (31) ~ (33)
			т F G			
			11 G			

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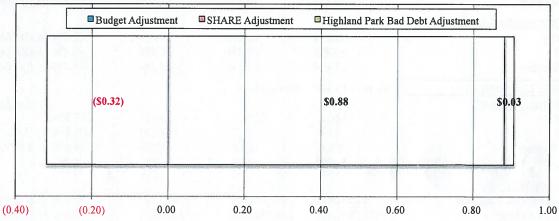
PRELIMINARY

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FY 2018 Suburban Wholesale Sewer Service Charge Schedule Calculation Oakland GWK

		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		Total	Oakland G	WK SHARE	Fixed Monthly	Existing		Charge	Unbundled
	BUDGET Categories	Cost Pool	% Share	Allocation	Charge	Charge	Adjustment	Adj	Impact Adj
	and the second of the second	\$	100000	\$	\$/mo	\$/mo	\$/mo		
1	Common-To-All	388,162,000	10.651%	41,343,700	3,445,300				
2	Suburban Only	8,082,900	18.580%	1,501,800	125,200				
3	OMID Specific	7,669,700	0.000%	0	0				
4	CSO Facilities	47,195,700	2.256%	1,064,700	88,700				
5	Industrial Specific	9,473,700	0.000%	0	0				
6	Subtotal FY 2018 BUDGET	460,584,000		43,910,200	3,659,200				
7	Detroit / Suburban Capital Adjustment	5,516,000	18.580%	1,024,900	85,400				
8	Total FY 2018 BUDGET (a)			44,935,100	3,744,600	3,669,100	75,500	2.1%	2.0%
9	Sub Wholesale Bad Debt Adj Projected	4,380,000	18.580%	813,800	67,800	85,200	(17,400)	-20.4%	-0.5%
10	Sub Wholesale Bad Debt Adj True-Up	2,810,600	18.580%	522,200	43,500	52,600	(9,100)	-17.3%	-0.2%
11	Total Amount for Net Charges			46,271,100	3,855,900	3,806,900	49,000	1.3%	1.3%
12	Impact of Bad Debt Allocations - \$ (9) +	(10)		1,336,000	111,300				
13	Impact of Bad Debt Allocations - % (12)	(8)		3.0%	3.0%				
	(a) BUDGET Adjustment Reconcilation								
14							73,400	2.0%	1.9%
15	Cost of Service Allocation Adjustment (SHA	REs) - \$/month					2,100	0.1%	0.1%
	Annual Impact of Proposed Charges								
16	Budget Adjustment						880,800		1.9%
17	SHARE Adjustment						25,200		0.1%
18	Highland Park Bad Debt Adjustment						(318,000)		-0.7%
19	Total						588,000		1.3%

Impact Illustration - \$ millions



^{*} The proposed charges in this document are preliminary in nature and are subject to change or modification by the Great Lakes Water Authority Board following a public hearing of the FY 2018 Financial Plan and service charge schedule for the System. The public hearing is scheduled for March 1, 2017.

The Notice of this Public Hearing can be found in the customer portal.

Customer SHARE Calculation Sheet - Oakland GWK

	SHARE Change	Oakland GWK 0.3%	M Class 4.6%	Variance -4.2%		
		Existing	Proposed			
		SHAREs	SHAREs	<u>Variance</u>	% Variance	Comment
	Volume Calculations	2008 - 2012	2013 - 2016			
	Oakland GWK Avg Annual Volume	- Mcf				
1	Sanitary	1,132,200	1,011,100	(121,100)	-10.7%	
2	DWII	755,900	645,800	(110,100)	-14.6%	
3	Wet Weather	<u>977,400</u>	820,200	(157,200)	<u>-16.1%</u>	
4	Total	2,865,500	2,477,100	(388,400)	-13.6%	
	All Customer Annual Volume - Mcf					
5	Sanitary	9,885,200	9,661,500	(223,700)	-2.3%	
6	DWII	10,752,300	9,172,400	(1,579,900)	-14.7%	
7	Wet Weather	7,040,800	5,105,000	(1,935,800)	-27.5%	
8	Total Volume	27,678,300	23,938,900	(3,739,400)	-13.5%	
9	"Common" DWII - "Z"	5,353,200	5,941,400	588,200	11.0%	
10	Total Volume @ WWTP	33,031,500	29,880,300	(3,151,200)	-9.5%	
11	Z Factor	16.21%	19.88%	3.68%		Ln (9) / Ln (10)
11		10.2170	19.0070	3.0070	22.770	Lit ()) / Lit (10)
	Oakland GWK Volume Share					
12	Sanitary	11.45%	10.47%	-0.99%		Ln(1)/Ln(5)
13	DWII	7.03%	7.04%	0.01%		Ln (2) / Ln (6)
14	Wet Weather	13.88%	16.07%	2.18%		Ln(3)/Ln(7)
15	Total	10.35%	10.35%	-0.01%	-0.1%	Ln(4)/Ln(8)
	Oakland GWK Volume Distribution					
16		39.5%	40.8%	1.3%	3.3%	Ln (1) / Ln (4)
17	DWII	26.4%	26.1%	-0.3%		Ln (2) / Ln (4)
18	Wet Weather	34.1%	33.1%	-1.0%		Ln (3) / Ln (4)
10		27,170	33.170	2.070		2.1 (5) / 2.1 (3)
	All Cust Volume Distribution	2.5.50	10.101		12.00/	T (5) (T (0)
19	Sanitary	35.7%	40.4%	4.6%		Ln (5) / Ln (8)
20	DWII	38.8%	38.3%	-0.5%		Ln (6) / Ln (8)
21	Wet Weather	25.4%	21.3%	-4.1%	-16.2%	Ln (7) / Ln (8)
	Loading Calculations	Non-San = 1/3 San	Technical Study			
	BOD Strength - mg/l	•				% of Sanitary
22	Sanitary	184.2	234.2	50.0	27.2%	
23	DWII	61.4	11.7	(49.7)	-80.9%	33% / 5.0%
24	Wet Weather	61.4	58.6	(2.8)	-4.6%	33% / 25.0%
25	Total	105.2	111.5	6.3	5.9%	
	DOD I andimon the					
26	BOD Loadings - lbs	19,651,500	19 245 400	(1,406,100)	7 20/	(1~3)*(22~24)*.0624
26	Oakland GWK Loadings		18,245,400			
27	System Loadings	181,765,000	166,552,900	(15,212,100) 0.1%		(5~7)*(22~24)*.0624
28	Oakland GWK Pollutant Share	10.8%	11.0%	0.1%	1.370	Ln (26) / Ln (27)
	SHARE Calculations					
	Cost Pool Allocation Share %					
29	Volume		50.0%			
30	Pollutants		50.0%			
	Oakland GWK SHARE Calculation					
31	Volume		5.174%			Ln (15) * Ln (29)
32	Pollutants		5.477%			Ln (28) * Ln (30)
33					$Sum(31) \sim (33)$	
23	CIALSHARE	10.01//0		0.034/0	0.570	. Done (21) - (20)
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