

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



Municipal Building, 151 Martin, Birmingham, MI 48009

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BIRMINGHAM CITY COMMISSION AGENDA NOVEMBER 13, 2017 MUNICIPAL BUILDING, 151 MARTIN 7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mark Nickita, Mayor

II. ROLL CALL

J. Cherilynn Mynsberge, City Clerk

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

Announcements:

 City offices will be closed for Thanksgiving on Thursday, November 23rd and Friday, November 24th.

Recognition of Citizen's Academy Graduates

Administration of Oath to Elected Officials:

- A. Administration of Oath of Office to City Commissioners
- B. Administration of Oath of Office to Library Board Members

Organization of City Commission

- C. Election of Temporary Chair of City Commission for purposes of conducting the Mayor and Mayor Pro Tem election.
- D. Election of Mayor and Mayor Pro Tem:
 - 1. Acceptance of nominations for Mayor from City Commissioners
 - 2. Election of Mayor
 - 3. Acceptance of nominations for Mayor Pro Tem from City Commissioners
 - 4. Election of Mayor Pro Tem
- E. Oath of Office to Mayor and Mayor Pro Tem
- F. Comments by newly elected Mayor and Mayor Pro Tem
- G. Presentation to outgoing mayor Commissioner Nickita by new mayor
- H. Comments by Commissioner Nickita

INTERMISSION

- I. Appointment of ______, Mayor, to the Retirement Board.
- J. Appointment of ______, Mayor Pro Tem, to the Retirement Board.
- K. Appointment of ______, Mayor, to the Retirees Health Care Fund Committee.
- L. Appointment of ______ (Mayor or his/her assignee), to the Triangle District Corridor Improvement Authority. *Member shall be appointed by the Mayor, subject to approval by the City Commission.* (Commissioner Sherman is currently serving on the Authority.)

M. Appointment of ______ (city commissioner), to the Foundation for Birmingham Senior Residents. *Member shall be appointed by the Mayor.* (Commissioner Hoff is currently serving on the Foundation.)

IV. CONSENT AGENDA

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

- A. Approval of City Commission minutes of October 30, 2017.
- B. Approval of warrant list, including Automated Clearing House payments dated 11/1/17, in the amount of \$665,659.89.
- C. Approval of warrant list, including Automated Clearing House payments dated 11/8/17, in the amount of \$1,446,526.12.
- D. Resolution accepting the resignation of Lisa Prasad from the Planning Board, thanking her for her service, and directing the City Clerk to begin the process of filling the vacancy.
- E. Resolution authorizing the mayor to sign the 2017 Program Year Community Development Block Grant (CDBG) Subrecipient Agreement on behalf of the City.
- F. Resolution setting Monday, December 4, 2017 at 7:30 PM for the Public Hearing date for the 2018 Community Development Block Grant Program.
- G. Resolution setting Monday, December 4, 2017 at 7:30 PM for a Public Hearing to consider the Final Site Plan and Special Land Use Permit to allow service to patrons in their vehicles at 33353 Woodward Avenue Tide Dry Cleaners.
- H. Resolution setting Monday, December 4, 2017 at 7:30 PM for a Public Hearing to consider the approval of the Final Site Plan and Special Land Use Permit Amendment to allow the sale of Rojo and Sidecar restaurants at 250 & 280 E. Merrill from Rojo Five, LLC to Sidecar Birmingham, LLC., subject to execution of a Special Land Use Permit contract between Sidecar Birmingham, LLC and the City of Birmingham.
- I. Resolution approving a request from the Birmingham Shopping District to hold Birmingham Farmers' Market on Sundays, May through October, 2018 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.
- J. Resolution approving a request from the Birmingham Shopping District to hold the Family Movie Night on June 22, July 20, and August 24 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.
- K. Resolution approving the settlement agreement and mutual release and authorizing the Mayor and Clerk to sign the same on behalf of the city.

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

A. Public Hearing to consider the Final Site Plan and Special Land Use Permit Amendment-505 N. Old Woodward.

- 1. Resolution approving the Final Site Plan and Special Land Use Permit Amendment for 505 N. Old Woodward to allow interior and exterior changes to the existing Salvatore Scallopini bistro at 505 N. Old Woodward.
- B. Public Hearing to consider the proposed lot combination-607 & 635 S. Bates
 - 1. **Resolution** approving the proposed lot combination of 607 & 635 S. Bates as proposed.
- C. Public Hearing to consider an amendment to Article 9 of the Zoning Ordinance.
 - 1. Ordinance amending Article 9, Section 9.02, Definitions, to add a definition for personal services to the Zoning Ordinance.

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

A. Common Ground

X. REPORTS

- A. Commissioner Reports
 - 1. Notice of Intention to appoint to the Triangle District Corridor Improvement Authority and Board of Review on December 4, 2017.
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. Parking usage report, submitted by City Engineer O'Meara
 - 2. 1st Quarter Financial Reports, submitted by Finance Director Gerber

XI. ADJOURN

INFORMATION ONLY

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

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

BIRMINGHAM CITY COMMISSION MINUTES OCTOBER 30, 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 7:32 p.m.

II. ROLL CALL

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

Administration: City Manager Valentine, City Attorney Currier, City Planner Ecker, Police Commander Grewe, City Clerk Mynsberge, City Engineer O'Meara, BSD Director Tighe, DPS Director Wood

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

Mayor Nickita announced:

- On Monday, November 13, from 7:00 to 8:30 p.m. in the Library, a community forum will be held about the initial design phase of a proposed expansion and renovation of the Baldwin Library's Youth Services wing. Parents, caregivers, children, residents, and other community members are welcome to attend. People wishing to comment on the Youth Services expansion and renovation, but unable to attend the community forum on November 13, may send their thoughts to Director Doug Koschik.
- Tuesday, November 7th is Election Day in Birmingham. Polls will be open from 7:00 a.m. to 8:00 p.m. Complete election information is available at www.Michigan.gov/VOTE. The City Clerk's Office will be open on Saturday, November 4th from 9:00 a.m. to 2:00 p.m. for issuing Absent Voter ballots.
- Celebrate the 90th anniversary of the Baldwin Public Library at a speakeasy-themed fundraiser on Friday, November 10th from 6:00 until 9:00 p.m. Proceeds will be used for an expansion and renovation of the Youth Room. Tickets can be purchased at www.baldwinlib.org, or by calling 248.554.4683.
- The Veterans Day wreath laying ceremony is at 11:00 a.m. on Saturday, November 11th in Shain Park. The ceremony is sponsored by the Piety Hill Chapter of the D.A.R.
- Boy Scouts from Troop 1001 are in attendance as they work on earning the Citizen in the Community badge.

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IV. CONSENT AGENDA

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10-278-17 APPROVAL OF CONSENT AGENDA

The following item was removed from the Consent Agenda:

• Commissioner Hoff: Item F

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Boutros: To approve the Consent Agenda, with Item F removed.

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

- A. Resolution approving the City Commission minutes of October 16, 2017.
- B. Resolution approving the warrant list, including Automated Clearing House payments, of October 18, 2017 in the amount of \$1,678,786.55.
- C. Resolution approving the warrant list, including Automated Clearing House payments, of October 25, 2017 in the amount of \$350,282.57.
- D. Resolution approving a request from the Birmingham Bloomfield Art Center to hold Art Birmingham in Shain Park and on the surrounding streets on May 11 – 13, 2018 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.
- E. Resolution accepting the resignation of Scott Weller from the Cablecasting Board, thanking him for his service, and directing the City Clerk to begin the process of filling the vacancy.
- G. Resolution approving the purchase and planting of 134 trees from KLM Landscape for the 2017 fall tree purchase and planting project for a total project cost not to exceed \$43,280.00. Funds are available from the Local Streets Fund-Forestry Service Contract account #203-449.005-819.0000, the Major Streets Fund-Forestry Service Contract account #202-449.005-819.0000, the Local Streets Fund-Operating Supplies account #203-449.005-729.0000 and the Major Streets Fund-Operating Supplies account #202-449.005-729.0000 for these services. Further, authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.
- H. Resolution approving the contract with Gardiner C. Vose, Inc., in the amount of \$13,065.00 to replace the Wall Partition System in conference rooms 202 and 203. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.
- I. Resolution setting Monday, November 20, 2017 at 7:30 p.m. for a Public Hearing to consider ordinance amendments to allow the use of Economic Development Liquor Licenses in an expanded area.

J. Resolution setting Monday, November 20, 2017 at 7:30 p.m. for a Public Hearing to consider the proposed lot combination of 412 & 420 E. Frank as well as the small strip of parking that abuts 420 E. Frank on the east.

10-279-17 2017 BIRMINGHAM SHOPPING DISTRICT HOLIDAY ADVERTISING CAMPAIGN PARKING (Item F)

BSD Director Tighe confirmed for Commissioner Hoff that:

- Birmingham currently advertises with WXYZ and Comcast.
- The advertising contracts are not exclusive.
- The BSD is looking into advertising on other stations as well.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner DeWeese: Resolution authorizing the expenditure of \$25,000 from the Automobile Parking System fund promotion account (Account No. 585-538.001-901.0300) to assist the BSD in creating their proposed 2017 holiday promotional TV campaign.

VOTE: Yeas, 7 Nays, 0 Absent, 0

V. UNFINISHED BUSINESS

10-280-17SET A PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO
ADD A DEFINITION FOR PERSONAL SERVICES.

Commissioner Sherman suggested postponing the public hearing until November 20 or December 4, 2017.

Commissioner Hoff stated that she would not like the public hearing postponed to December 4, especially because three Commissioners had previously expressed dissent regarding having the public hearing as late as November 13.

City Manager Valentine confirmed for Commissioner Sherman and Mayor Nickita that some items scheduled for November 13 could be moved to allow time for both the Commission's organizational meeting and the public hearing.

MOTION: Motion by Commissioner Sherman, seconded by Mayor Pro Tem Harris: To set Monday, November 13 at 7:30 PM for a public hearing to consider an amendment to Article 9, section 9.02 to add a definition for personal services to the Zoning Ordinance.

VOTE: Yeas, 7 Nays, 0 Absent, 0

VI. NEW BUSINESS 10-281-17 SPECIAL EVENT REQUEST – HOTWORKS BIRMINGHAM FINE ART SHOW

From City Clerk Mynsberge's staff report to City Manager Valentine dated October 23, 2017:

Hot Works, LLC Fine Art & Fine Craft Shows is requesting permission to hold Hotworks Birmingham Fine Art Show in Shain Park on August 24 – 26, 2018. This will be the first time in Birmingham for this event.

The set-up is August 24^{th} , and the show will be open 10:00 AM – 5:00 PM on Saturday, August 25^{th} and Sunday, August 26^{th} . Tear-down begins at 5:15 PM on Sunday, August 26^{th} , and is scheduled to be completed at 10:00 PM.

There are no approved events or planned events that would affect the use of Shain Park on the dates requested.

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

Patty Narozny, the Owner of Hotworks Fine Art and Fine Craft Shows and President of the Institute for the Arts in Education, a 501(c)(3) organization focusing on fostering art education among youth, introduced herself. She explained:

- That the flagship show is the Orchard Lake Fine Arts Show in West Bloomfield, which has been voted a top 100 art show ten years in a row.
- The advertising strategy, which is wide-reaching across many local communities.
- The Hotworks approach to getting young artists involved in the shows through a young artists' competition and classes on how to do art shows for a living.
- That since the investment is large up-front, she would want this to be a recurring event in Birmingham for many years.
- That Birmingham, MI would be getting exposure through advertising for the show across the United States.
- That any city that hosts a Hotworks show usually experiences a \$500,000 to \$1 million positive economic impact during the show.

Ms. Narozny elaborated:

- For Commissioner Sherman that Hotworks and the Institute for Arts in Education are Michigan businesses, but not specifically Birmingham-affiliated.
- For Commissioner Hoff that Ms. Narozny is an Oakland County resident.
- For Mayor Pro Tem Harris that the only Michigan show put on by Hotworks LLC is the Orchard Lake Fine Arts show, which has been running since 2003.

Commissioner Sherman expressed concern with the scheduling, since there is a Birmingham art show three weeks after the proposed date, and the Dream Cruise one week before. Commissioner Hoff agreed.

Commissioner Bordman agreed with the aforementioned concerns. She added that these events can draw people away from permanent retailers in Birmingham and take up parking spaces, thus having a negative impact on retailers. She stated she was disinclined to support another art show.

Commissioner DeWeese stated that he shared the other Commissioners' concerns, and added that 2018 would be a challenging year to add something new due to the planned S. Old Woodward construction project.

Jeff Merriam, owner of Teacups and Toys, explained that any economic value the City experiences in bringing in this show would not be shared by the principal shopping district. Mr. Mariam continued that of seventeen weekends in the summer, 35% of them are disrupted by either federal holidays or special events, and that adding another event would have a large negative impact on the permanent retailers who rely on foot traffic.

Jeff Kapuscinski, Director of Business Development at Common Ground, noted Common Ground has partnered with the City to sponsor the Birmingham Street Art Fair for the last 43 years. Mr. Kapuscinski expressed his agreement with several Commissioners' concerns. He stated that adding the Hotworks art show could have a negative financial impact on Common Ground, which in turn would affect the organization's ability to render services in the community.

Mayor Nickita summarized the Commission's concerns, and reiterated the need for events like this to integrate well with the local community. He stated that the Commission appreciates Ms. Narozny's interest in Birmingham.

Mayor Nickita then confirmed for Ms. Narozny that the Commission would be taking no action to approve her request.

The Commission took no action.

10-282-17 AMENDMENT TO CITY CODE SEC. 110-67, INTERFERENCE WITH NORMAL FLOW OF TRAFFIC

From Chief of Police Clemence's staff report to City Manager Valentine dated October 18, 2017: In July of 2017, the Michigan Legislature allowed civic and charitable organizations to seek donations in the roadway. Previously, Michigan Legislature banned these organizations from the roadway after a fire fighter was tragically killed while participating in a "boot campaign" to raise funds.

The state has changed this, to allow, with a number of conditions, civic and charitable organizations to return to the roadway when seeking donations. The statute also states that no municipality may prevent a charitable organization from soliciting donations. Therefore, it is necessary to add the ordinance to reflect the current state law.

A person who violates this section is responsible for a civil infraction. The attached proposed ordinance is consistent with current state law.

Police Commander Grewe confirmed for Commissioner Hoff that this ordinance is entirely new to the City of Birmingham, and that no police permit is required for organizations to fundraise in this way.

Commissioner DeWeese clarified that adding any restrictions would be very difficult due to the state law requiring that no municipality may prevent a charitable organization from soliciting donations.

MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Bordman: To amend Part II of the City Code, Chapter 110 Transportation Systems, Article III Michigan Vehicle Code, to add section 110-67 Interference with Normal Flow of Traffic, and to authorize the Mayor and City Clerk to sign the ordinance on behalf of the city. (*Appended to these minutes as Attachment A.*) VOTE: Yeas, 7 Nays, 0 Absent, 0

10-283-17 AMENDMENT TO CITY CODE SEC. 74-324, MINOR IN POSSESSION (MIP)

From Chief of Police Clemence's staff report to City Manager Valentine dated October 18, 2017: The Michigan Legislature has recently made changes to MCL 436.1703 (Minor in Possession) that becomes effective January 1, 2018. The primary change is decriminalizing a first offense Minor in Possession (MIP) making it a civil infraction instead of a misdemeanor. Numerous other changes to MCL 436.1703 were made, such as requiring notifying parents/guardians after a civil infraction was issued.

As a result, the City of Birmingham, Ordinance 74-324 must be updated to reflect the changes that take effect in 2018.

The proposed ordinance is to replace the current ordinance in order to be consistent with state law effective January 1, 2018.

Police Commander Grewe clarified that this ordinance entails the decriminalization of a first offense Minor in Possession (MIP).

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Bordman: To replace Part II of the City Code, Chapter 74 Offenses, Article VII Offenses Against Public Morals, Division 5 Controlled Substances, Subdivision III. Alcoholic Liquors Generally, Section 74-324 with attached ordinance effective January 1, 2018, and to authorize the Mayor and City Clerk to sign the ordinance on behalf of the city. (*Appended to these minutes as Attachment B.*)

VOTE:	Yeas,	7
	Nays,	0
	Absent,	0

VII. REMOVED FROM CONSENT AGENDA

The items removed were discussed earlier in the meeting.

VIII. COMMUNICATIONS

None.

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

None.

X. REPORTS

10-284-17COMMISSIONER REPORTS

The Commission will appoint a regular member to the Cablecasting board on December 4, 2017 at 7:30 p.m.

COMMISSIONER COMMENTS

Commissioner DeWeese congratulated the Boy Scouts on picking the shortest meeting ever. City Manager Valentine invited them to come up to the dais after and have their picture taken in the Mayor's chair.

10-285-17CITY STAFF REPORTS

The Commission received the Seaway Painting Update, submitted by DPS Director Wood.

The Commission received the September Investment Report, submitted by Finance Director Gerber.

XII ADJOURN

Mayor Nickita adjourned the meeting at 8:13 p.m.

J. Cherilynn Mynsberge, City Clerk

CITY OF BIRMINGHAM ORDINANCE NO. 2250

AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 110 TRANSPORTATION SYSTEMS, ARTICLE III – MICHIGAN VEHICLE CODE, TO ADD SECTION 110-67 INTERFERENCE WITH NORMAL FLOW OF TRAFFIC.

THE CITY OF BIRMINGHAM ORDAINS:

Part II of the City Code, Chapter 110 Transportation Systems, Article III – Michigan Vehicle Code, shall be amended to add Section 110-67 Interference with Normal Flow of Traffic, as follows:

ARTICLE III – Michigan Vehicle Code

Sec. 110-67. – Interference with Normal Flow of Traffic.

- (a) Subject to subsection (b) a person without authority shall not block, obstruct, impede, or otherwise interfere with the normal flow of vehicular or pedestrian traffic upon a public street or highway in the City of Birmingham by means of barricade, object, device or with his or her person. This section does not apply to persons maintaining, rearranging, or constructing public utility facilities in or adjacent to a street or highway.
- (b) Subsection (a) and any provision of the Michigan Administrative Code that prohibits a person from standing in a roadway, other than a limited access highway, for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle, do not apply to a person who is soliciting contributions on behalf of a charitable or civic organization during daylight hours, if all the following are satisfied:
 - (1) The charitable or civic organization complies with all City of Birmingham ordinances.
 - (2) The charitable or civic organization maintains at least five hundred thousand dollars (\$500,000) in liability insurance.
 - (3) The person is eighteen (18) years of age or older.
 - (4) The person is wearing high visibility safety apparel that meets current American standards promulgated by the Internal Safety Equipment Association.
 - (5) The portion of the roadway upon which the solicitation occurs is not a work zone.
 - (6) The portion of the roadway upon which the solicitation occurs is within an intersection where traffic control devices are present.
- (c) The City of Birmingham or the Oakland County Road Authority that has jurisdiction over a roadway upon which solicitation occurs as described in subsection (b) is not liable for

any claim for damages arising out of the use of the roadway as described in subsection (b).

- (d) A person who violates this section is responsible for a civil infraction.
- (e) As used in this section "charitable or civic organization" means a non-profit organization that is qualified under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, 26 USC 501, or a veteran's organization that has a tax exempt status under the Internal Revenue Code.

Secs. 110-68 - 110-80. Reserved.

All other Sections of Chapter 110, Transportation Systems, Article III. Michigan Vehicle Code shall remain unaffected.

Ordained this 30th day of October, 2017. Effective upon publication.

Mark Nickita, Mayor

J. Cherilynn Mynsberge, City Clerk

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held October 30, 2017 and that a summary was published in the Observer and Eccentric Newspaper on November 5, 2017.

J. Cherilynn Mynsberge, City Clerk

CITY OF BIRMINGHAM ORDINANCE NO. 2251

AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 74 OFFENSES, ARTICLE VII- OFFENSES AGAINST PUBLIC MORALS, DIVISION 5 CONTROLLED SUBSTANCES, SUBDIVISION III. ALCOHOLIC LIQUORS GENERALLY, SECTION 74-324

THE CITY OF BIRMINGHAM ORDAINS:

Part II of the City Code, Chapter 74 Offenses, Article VII – Offenses Against Public Morals, Division 5 Controlled Substances, Subdivision III Alcoholic Liquors Generally, Section 74-324, shall be amended, as follows:

Sec. 74-324. - Purchase, consumption, or possession of alcoholic liquor by minor; attempt; violation; fines; sanctions; furnishing fraudulent identification to minor; use by minor; prior violation; screening and assessment; prior judgment; chemical breath analysis; notice to parent, custodian, or guardian; exceptions; recruitment of minor for undercover operation prohibited; affirmative defense; definitions.

(1) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. A minor who violates this subsection is responsible for a civil infraction or guilty of a misdemeanor as follows:

- (a) For the first violation, the minor is responsible for a civil infraction and shall be fined not more than \$100.00. The court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, and may order the minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5). A minor may be found responsible or admit responsibility only once under this subdivision.
- (b) If a violation of this subsection occurs after 1 prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$200.00, or both. The court may order a minor under this subdivision to complete a term of probation, participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).

(c) If a violation of this subsection occurs after 2 or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 60 days, if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$500.00, or both, as applicable. The court may order a minor under this subdivision to complete a term of probation, to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).

(2) An individual who furnishes fraudulent identification to a minor or, notwithstanding subsection (1), a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(3) If an individual who pleads guilty to a misdemeanor violation of subsection (1)(b) or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of subsection (1)(b), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions set forth in subsection (1)(c), payment of the costs including minimum state cost as provided for in section 18m of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j, and the costs of probation as prescribed in section 3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3. If a court finds that an individual violated a term or condition of probation or that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinguency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. A discharge and dismissal under this section is without adjudication of guilt or without a determination in a juvenile delinguency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of disgualifications or disabilities imposed by law on conviction of a crime. An individual may obtain only 1 discharge and dismissal under this subsection. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:

- (a) To a court, prosecutor, or police agency on request for the purpose of determining if an individual has already utilized this subsection.
- (b) To the department of corrections, a prosecutor, or a law enforcement agency, on the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

- (i) At the time of the request, the individual is an employee of the department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department of corrections, the prosecutor, or the law enforcement agency.
- (ii) The record is used by the department of corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(4) A misdemeanor violation of subsection (1) successfully deferred, discharged, and dismissed under subsection (3) is considered a prior judgment for the purposes of subsection (1)(c).

(5) A court may order an individual found responsible for or convicted of violating subsection (1) to undergo screening and assessment by a person or agency as designated by the department-designated community mental health entity as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. A court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (1) to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a minor who is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6, may request a random or regular preliminary chemical breath analysis as part of the probation.

(6) The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of a second or subsequent violation of subsection (1) or of violating subsection (2) as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

(7) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(8) The Birmingham Police Department, on determining that an individual who is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, or purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (1) shall notify the parent or parents, custodian, or guardian of the individual as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the Birmingham Police Department. The Birmingham Police Department shall notify the parent, guardian or custodian not later than 48 hours after the Birmingham Police Department the individual who allegedly violated subsection (1) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The Birmingham Police Department may notify the parent, guardian, or custodian by any means reasonably calculated

to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection (1), his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(9) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this act, by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(10) The following individuals are not considered to be in violation of subsection (1):

- (a) A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.
- (b) A minor who accompanies an individual who meets both of the following criteria:
 - (i) Has consumed alcoholic liquor.
 - (ii) Voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.
- (c) A minor who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.

(11) If a minor who is less than 18 years of age and who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, voluntarily presents himself or herself to a health facility or agency for treatment or for observation as provided under subsection (10), the health facility or agency shall notify the parent or parents, guardian, or custodian of the individual as to the nature of the treatment or observation if the name of a parent, guardian, or custodian is reasonably ascertainable by the health facility or agency.

(12) This section does not limit the civil or criminal liability of a vendor or the vendor's clerk, servant, agent, or employee for a violation of this act.

(13) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.

(14) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.

(15) Subsection (1) does not apply to a minor who participates in either or both of the following:

- (a) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.
- (b) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.

(16) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (1), section 701(1), or section 801(2).

(17) In a prosecution for the violation of subsection (1) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

(18) As used in this section:

- (a) "Any bodily alcohol content" means either of the following:
 - (i) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (ii) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.
- (b) "Emergency medical services personnel" means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.
- (c) "Health facility or agency" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.
- (d) "Prior judgment" means a conviction, juvenile adjudication, finding of responsibility, or admission of responsibility for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state.
 - (i) This section or section 701 or 707.
 - (ii) Section 624a, 624b, or 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.624a, 257.624b, and 257.625.

- (iii) Section 80176, 81134, or 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, 324.81134, and 324.82127.
- (iv) Section 167a or 237 of the Michigan penal code, 1939 PA 328, MCL 750.167a and 750.237.

All other Sections of Chapter 74, Offenses, Article VII. Offenses Against Public Morals shall remain unaffected.

Ordained this 30th day of October, 2017. Effective upon publication.

Mark Nickita, Mayor

J. Cherilynn Mynsberge, City Clerk

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held October 30, 2017 and that a summary was published in the Observer and Eccentric Newspaper on December 31, 2017.

J. Cherilynn Mynsberge, City Clerk

* Ordinance to be published in December so as to become effective at the same time as the State Law.

Check Number	Early Release	Vendor #	Vendor	Amount
253839	*	000855	48TH DISTRICT COURT	100.00
253840	*	000855	48TH DISTRICT COURT	100.00
253841	*	000855	48TH DISTRICT COURT	100.00
253842	*	000855	48TH DISTRICT COURT	100.00
253843	*	000855	48TH DISTRICT COURT	100.00
253844	*	000855	48TH DISTRICT COURT	100.00
253845	*	000855	48TH DISTRICT COURT	100.00
253846	*	000855	48TH DISTRICT COURT	100.00
253847	*	000855	48TH DISTRICT COURT	100.00
253848	*	000855	48TH DISTRICT COURT	100.00
253849	*	000855	48TH DISTRICT COURT	100.00
253850	*	008226	KATHI ABELA	282.00
253851		007266	AETNA BEHAVIORAL HEALTH LLC	427.57
253852		007432	AIR COMPRESSOR ENERGY SYSTEMS, INC.	846.33
253853		002106	AMERICAN CONTROLS, INC.	4,835.00
253854		003243	AMERICAN PRINTING SERVICES INC	2,365.00
253855		000500	ARTECH PRINTING INC	106.00
253856		007479	ASB DISTRIBUTORS	85.50
253857	*	006759	AT&T	114.31
253858	*	006759	AT&T	120.77
253859		004027	AUTOMATED BENEFIT SVCS INC	31,328.90
253860		002702	B & B GREASE TRAP & DRAIN	95.00
253861		003012	BATTERIES PLUS	324.87
253862		000518	BELL EQUIPMENT COMPANY	32.22
253863		000522	BIG BEAVER PLUMBING, HEATING INC.	125.00
253864		008503	BIRDIE IMAGING SUPPLIES, INC	889.20
253865		007624	BIRMINGHAM OIL CHANGE CENTER, LLC	71.93
253866	*	001086	CITY OF BIRMINGHAM	339.34
253867		006257	C.S. MCKEE LP	3,571.57
253868		003907	CADILLAC ASPHALT, LLC	995.87
253869		007875	CANFIELD EQUIPMENT SERVICE INC.	4,717.06
253870	*	MISC	CAPITAL TITLE	49.57
253871		008609	CAREERBUILDER LLC	780.00
253872	*	000444	CDW GOVERNMENT INC	3,568.33
253874		004026	COFINITY	1,332.00
253875	*	007625	COMCAST	300.63
253876	*	007774	COMCAST BUSINESS	655.84
253877		000979	COMERICA BANK	12,256.52
253878	*	000627	CONSUMERS ENERGY	47.20
253879	*	003923	CUMMINS BRIDGEWAY LLC	202.13
253880		004386	CYNERGY PRODUCTS	250.50
253881	*	MISC	DAVID KERNER VAZQUEZ	60.49
253882		008005	DE LAGE LANDEN FINANCIAL SVCS INC	153.33

4B

Check Number	Early Release	Vendor #	Vendor	Amount
253883		MISC	DEANNA MCEACHERN	50.00
253884	*	007826	DEBRA KLEIN	348.00
253885		000956	DELTA TEMP INC	2,768.79
253886		006907	DENTEMAX, LLC	135.90
253887	*	008191	DETROIT JEWISH NEWS	158.00
253888	*	000187	JOHN DONOHUE	10.85
253889	*	000179	DTE ENERGY	16,388.45
253890		006090	DYNAMIC SYSTEMS, INC.	4,265.00
253891		007505	EAGLE LANDSCAPING & SUPPLY	22.40
253892		000196	EJ USA, INC.	152.24
253893		008495	FALCON ASPHALT REPAIR EQUIPMENT	1,550.85
253894		007807	G2 CONSULTING GROUP LLC	4,652.25
253895	*	004604	GORDON FOOD	856.43
253896		000243	GRAINGER	367.56
253897		003870	GREAT LAKES TURF, LLC	570.00
253898		005959	H20 COMPLIANCE SERVICE INC	360.20
253899		001447	HALT FIRE INC	67.25
253900		003938	HART PAVEMENT STRIPING CORP	750.00
253901		001672	HAYES GRINDING	30.50
253902	*	001956	HOME DEPOT CREDIT SERVICES	2,006.77
253903		000331	HUBBELL ROTH & CLARK INC	11,291.78
253904		000980	ICE SKATING INSTITUTE	395.00
253905		000261	J.H. HART URBAN FORESTRY	11,205.83
253906		000186	JACK DOHENY COMPANIES INC	1,352.65
253907		003458	JOE'S AUTO PARTS, INC.	742.28
253908		007423	K/E ELECTRIC SUPPLY	1,340.00
253909		007643	KCS SUPPLY	513.36
253910	*	000362	KROGER COMPANY	20.64
253911		005550	LEE & ASSOCIATES CO., INC.	782.20
253912		000287	LIGHTING SUPPLY COMPANY	51.96
253913	*	MISC	MARIKA NIKOLOVSKI	73.20
253914	*	MISC	MARK MILLER	451.64
253915		008611	MCCI	12,775.00
253916		000888	MCKENNA ASSOCIATES INC	7,227.50
253917		002418	MICHIGAN SECTION, AWWA	115.00
253918		000230	MIKE SAVOIE CHEVROLET INC	2,331.19
253919		004897	MINUTEMAN/POWERBOSS TAY	1,177.10
253920		008211	MULTI-PLAN	4.50
253921		006359	NYE UNIFORM COMPANY	46.50
253922		002853	OAKLAND COMMUNITY COLLEGE	250.00
253923		006853	PAUL C SCOTT PLUMBING INC	5,400.00
253924		006182	PERFORMANCE LINE TOOLS CENTER	69.96
253925		001277	PHYSIO-CONTROL CORP.	3,816.00

	-	Vendor #	Vendor		Amount
253926	*	001341	PIFER GOLF CARS INC		187.10
253927		000897	PRINTING SYSTEMS INC		2,373.80
253928		001062	QUALITY COACH COLLISIC	DN LLC	794.80
253929	*	008342	RAIN MASTER CONTROL SY	STEMS	59.70
253930		008508	RECORD AUTOMATIC DOORS	S, INC	345.00
253931		006497	RNA FACILITIES MANAGEM	IENT	4,420.00
253932		000478	ROAD COMM FOR OAKLAND	CO	2,785.25
253933	*	MISC	ROBERT & HEATHER MYLOD)	14,805.55
253934		000758	SCHOOLCRAFT COLLEGE		750.00
253935		002871	SIR SPEEDY PRINTING IN	IC	2,060.02
253936		000254	SOCRRA		61,960.00
253937		007907	SP+ CORPORATION		3,385.00
253938		000260	SPARTAN DISTRIBUTORS I	INC	370.24
253939		006376	SUBURBAN CHRYSLER DODG	E JEEP - TROY	2,302.11
253940	*	008507	SUPERFLEET MASTERCARD	PROGRAM	317.19
253941	*	007583	YVONNE TAYLOR		32.99
253942		002037	TOTAL ARMORED CAR SERV	VICE, INC.	714.83
253943		007226	VALLEY CITY LINEN		58.10
253944	*	000158	VERIZON WIRELESS		50.59
253946	*	MISC	WILLIAM CLOGG		819.71
253947		003925	WIZBANG PRODUCTS CO		432.62
				Sub Total Checks:	\$268,399.31
				Sub Total ACH:	\$397,260.58
				Grand Total:	\$665,659.89

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

Mark Sulu

Mark Gerber Finance Director/ Treasurer

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

11/13/2017

Vendor Name	Transfer Date	Transfer Amount
Birmingham Schools	10/27/2017	114,722.55
Oakland County Treasurer	10/27/2017	168,571.69
Automated Benefit Services, Inc.	10/30/2017	113,966.34
	TOTAL	397,260.58

heck Number	Early Release	Vendor #	Vendor	Amount
253948		MISC	2100 EAST MAPLE RD LLC	2,104.00
253949		MISC	3JS BUILDERS LLC	914.98
253950	*	000855	48TH DISTRICT COURT	200.00
253951	*	000855	48TH DISTRICT COURT	100.00
253952	*	000855	48TH DISTRICT COURT	100.00
253953	*	000855	48TH DISTRICT COURT	100.00
253954	*	000855	48TH DISTRICT COURT	100.00
253955	*	000855	48TH DISTRICT COURT	500.00
253956	*	000855	48TH DISTRICT COURT	100.00
253957		002284	ABEL ELECTRONICS INC	24.99
253958		MISC	ADAMS GROUP	2,000.00
253959		MISC	AFFORDABLE POOLS	300.00
253962		007696	AMERICAN CLEANING COMPANY LLC	1,350.00
253963		MISC	ANTO GLASS BLOCK INC	100.00
253964		000282	APOLLO FIRE EQUIPMENT	472.00
253965		001252	APWA - MICHIGAN CHAPTER	695.00
253966		MISC	ARNOLD ROOFING & CONSTRUCTION INC	100.00
253968	*	006759	AT&T	105.00
253969	*	007216	AT&T	89.82
253970		MISC	BABI CONSTRUCTION INC	5,200.00
253971		MISC	BALBES CUSTOM BUILDERS INC	200.00
253972		003012	BATTERIES PLUS	69.99
253973		MISC	BB CUSTOM REMODELING	500.00
253974		MISC	BCM HOME IMPROVEMENT	100.00
253975	*	000517	BEIER HOWLETT P.C.	37,509.00
253977		000518	BELL EOUIPMENT COMPANY	53,886.00
253978		002597	BELSON OUTDOORS INC	648.45
253979		MISC	BENCHMARK HOMES INC	100.00
253980		MISC	BENEFIEL, JOHN R	300.00
253981		MISC	BER-MEN PROPERTIES II LLC	100.00
253982		007345	BEVERLY HILLS ACE	149.30
253983		MISC	BEYOND RESTORATION	500.00
253985		MISC	BLOOMFIELD CONSTRUCTION CO	200.00
253986		MISC	BLUE CHIP BUILDERS INC	500.00
253987		000542	BLUE WATER INDUSTRIAL	300.35
253992		006966	BRIDGESTONE GOLF, INC	390.00
253993		MISC	BRITTAIN, RYAN	100.00
253994		MISC	BRODIE CO	200.00
253996	*	MISC	BROWN, BRYAN	145.55
253997		MISC	BUILDING WORKS	200.00
253997		MISC	C & M LANDSCAPING	100.00
253998		MISC 006380		300.00
			C & S ICE RESURFACING SERVICES, INC	
254000		MISC	C E GLEESON	2,000.00

Check Number	Early Release	Vendor #	Vendor	Amount
254001		MISC	C.E. GLEESON CONSTRUCTORS INC.	20,000.00
254002		003907	CADILLAC ASPHALT, LLC	522.05
254003		MISC	CAPITAL BUILDING SYSTEMS LLC	100.00
254005		MISC	CHARLES LOUGHREY DESIGN LLC	100.00
254006		000603	CHEMCO PRODUCTS INC	442.00
254007		MISC	CHRISTOPHER JOHN LANGE	500.00
254008		000605	CINTAS CORPORATION	89.69
254009		001318	CLOVERDALE EQUIPMENT CO	1,610.00
254010	*	008044	CLUB PROPHET	590.00
254011		004188	COFFEE BREAK SERVICE, INC.	233.00
254012		006204	COLORBLENDS	3,844.20
254013	*	007625	COMCAST	477.02
254014		000979	COMERICA BANK	5,057.20
254015	*	MISC	CONSUMERS ENERGY	50.00
254016		002668	CONTRACTORS CLOTHING CO	1,735.48
254017		008582	CORE & MAIN LP	702.72
254018		008496	CROSS RENOVATION INC	18,777.00
254019		MISC	DAN LYNCH	1,957.40
254020		MISC	DAVE POMAVILLE & SON INC	300.00
254022		000956	DELTA TEMP INC	787.45
254023		007359	DETROIT CHEMICAL & PAPER SUPPLY	48.30
254025	*	006077	DI PONIO CONTRACTING INC	71,427.70
254026	*	007980	CURTIS DAVID DICHO	143.00
254027		MISC	DJL1 LLC	2,000.00
254028		MISC	DMITRI BARAN	100.00
254030	*	000179	DTE ENERGY	870.07
254031		001077	DUNCAN PARKING TECH INC	6,321.15
254033		MISC	EDWARDS PLUMBING & HEATING	829.96
254034		MISC	EDWIN ANTHONY HOMES	2,500.00
254035		MISC	ESSCO DEVELOPMENT	100.00
254036		MISC	ESSCO OF BIRMINGHAM LLC	200.00
254038		001495	ETNA SUPPLY	6,741.85
254039		000207	EZELL SUPPLY CORPORATION	753.54
254040		MISC	FARAH, TROY S	200.00
254041		MISC	FOUR SEASONS GARDEN CENTER	200.00
254042		008498	FRANK'S SHOE SERVICE	15.00
254045		002510	GAMCO INVESTORS INC	24,934.00
254047		MISC	GILLETTE BROTHERS POOL & SPA	1,000.00
254048	*	004604	GORDON FOOD	141.61
254049		008293	GRAINGER	88.00
254050		008382	GREAT LAKES PORTABLE STORAGE LLC	169.00
254051		MISC	H & H OUTDOOR SERVICES	100.00
254052		007342	H2A ARCHITECTS, INC.	240.00

heck Number	Early Release	Vendor #	Vendor	Amount
254053		001377	HAGOPIAN CLEANING SERVICES	446.00
254054		001447	HALT FIRE INC	35.88
254055		MISC	HANSONS ADMINISTRATIVE GROUP LLC	1,500.00
254057		006153	HARRY'S ARMY SURPLUS	279.98
254058		001672	HAYES GRINDING	40.50
254059		MISC	HESSEN, KEVIN	500.00
254060		MISC	HEWSON HOMES LLC	500.00
254061		007339	HIGHEST HONOR, INC	338.00
254062		001846	HIGHWAY MAINTENANCE AND	248,012.97
254063		MISC	HM HOMES LLC	1,400.00
254067	*	003824	THOMAS I. HUGHES	83.53
254068		004837	IDEACORE, LLC	75.00
254070		008614	INDUSTRIAL STEAM CLEANING	400.00
254071		000261	J.H. HART URBAN FORESTRY	38,078.23
254072		MISC	JAMES RICHARD VERVISCH	50.00
254073		MISC	JANET JONNA LEKAS	2,000.00
254074	*	002576	JAX KAR WASH	96.00
254075		MISC	JEFFREY WAYNE BEAGAN	500.00
254076		MISC	JERRY LEE FULCHER	100.00
254077		003458	JOE'S AUTO PARTS, INC.	446.50
254078		MISC	JOHN MCCARTER CONSTRUCTION LLC	200.00
254079		MISC	KEARNS BROTHERS INC	100.00
254081	*	000362	KROGER COMPANY	44.94
254082		MISC	KURTIS KITCHEN & BATH CENTERS	400.00
254083		008553	L.G.K. BUILDING, INC	4,950.00
254084	*	003404	LADUKE ROOF.& SHT.METAL CORP	78,887.00
254085		MISC	LEKAS, ANNALISE	500.00
254086		MISC	LEVINE & SONS INC	1,250.00
254087		006366	LEXISNEXIS RISK SOLUTIONS INC.	109.70
254088	*	007977	KAREN LINGENFELTER	144.00
254089		MISC	LIVE WELL CUSTOM HOMES LLC	2,500.00
254092		MISC	LUXE HOMES DESIGN BUILD LLC	500.00
254093		001106	MAPERS	100.00
254094		MISC	MARY K ERMATINGER REVOC TRUST	1,000.00
254096	*	000888	MCKENNA ASSOCIATES INC	3,001.25
254097		008557	MCNULTY ELECTRIC, INC	36,180.00
254098		MISC	MG CONSTRUCTION PROS LLC	200.00
254099	*	004738	MGFOA	100.00
254100	*	004663	MGIA	476.00
254101		MISC	MICHAEL & JUNE THOMAS	100.00
254102		MISC	MICHAEL SHINDER REVOC TRUST	500.00
254104		001387	MICHIGAN MUNICIPAL LEAGUE	600.00
254105		000230	MIKE SAVOIE CHEVROLET INC	318.64

Check Number	Early Release	Vendor #	Vendor	Amount
254106		MISC	MILLCREEK CONSTRUCTION MANAGEMENT C	900.00
254107		MISC	MILLS SIDING & ROOFING	100.00
254109		001089	MUNICIPAL CODE CORP.	1,066.00
254112		008619	NO LIMIT CONSTRUCTION & RESTORATION	1,990.00
254113		001864	NOWAK & FRAUS ENGINEERS	17,978.00
254114		006359	NYE UNIFORM COMPANY	5,794.47
254115		MISC	OAKES ROOFING SIDING & WINDOWS INC	100.00
254116		000919	OAKLAND COUNTY TREASURER	3,666.16
254117		004370	OCCUPATIONAL HEALTH CENTERS	169.75
254118	*	000481	OFFICE DEPOT INC	4,670.41
254119	*	000481	OFFICE DEPOT INC	2,903.42
254120		002767	OSCAR W. LARSON CO.	257.31
254121		MISC	PAUL DOUGLAS STARR	100.00
254122		005688	PEGASUS ENTERTAINMENT	425.00
254123		MISC	PELLA WINDOWS AND DOORS	1,500.00
254125		MISC	PETER NOONAN	200.00
254127		001277	PHYSIO-CONTROL CORP.	1,738.20
254128	*	005501	POISON IVY CONTROL OF MI	3,100.00
254129		MISC	PREMIER RESTORATION INC	2,500.00
254130		MISC	RENEWAL BY ANDERSEN	200.00
254131	*	002566	REYNOLDS WATER	131.60
254132		MISC	RHI INC	200.00
254134	*	003554	RKA PETROLEUM	12,646.33
254135		000495	ROCHESTER LAWN EQUIPMENT CENTER INC	1.58
254136		MISC	ROOF ONE LLC	600.00
254137		MISC	ROYAL OAK & BIRMINGHAM	200.00
254138		MISC	ROYAL OAK AWNING	100.00
254139		MISC	RUOK COMPANY LLC	200.00
254140		007697	SAVE THE MOMENT	81.00
254141	*	005759	SCHENA ROOFING & SHEET METAL	730.00
254142		MISC	SCHWARTZ, CHRISTINE H	1,000.00
254143		003483	SHERWIN WILLIAMS COMPANY	31.35
254144		003785	SIGNS-N-DESIGNS INC	90.00
254145	*	008073	SITEONE LANDSCAPE SUPPLY, INC	100.98
254147		000260	SPARTAN DISTRIBUTORS INC	714.50
254149		MISC	SPURLOCK, DEREK K	100.00
254150		MISC	STEVE'S CONCRETE	100.00
254151		MISC	STEWART & SONS CONCRETE	100.00
254152		008381	SUPERIOR MANUFACTURING	8,618.18
254153		MISC	TECHHOME BUILDING CO., LLC	700.00
254155		MISC	THOMAS SEBOLD & ASSOCIATES, IN	200.00
254158		000941	TIME EMERGENCY EQUIPMENT	174.78
254159		000275	TIRE WHOLESALERS CO INC	444.64

Check Number	Early Release	Vendor #	Vendor	Amount
254160		MISC	TITTLE BROTHERS CONSTRUCTION LLC	100.00
254161		MISC	TOLLES, BRYAN E	5,000.00
254162		008159	TORTOISE CREDIT STRATEGIES, LLC	8,124.98
254163		MISC	TOWER CONSTRUCTION LLC	1,000.00
254164		MISC	TOWN BUILDING COMPANY	900.00
254165		008371	TREDOC TIRE SERVICES	2,032.60
254166		MISC	TRESNAK CONSTRUCTION INC	300.00
254167		MISC	TRUE NORTH ASPHALT	100.00
254168		004379	TURNER SANITATION, INC	96.90
254169		005331	UBS FIN SERVICES, INC	16,414.66
254172	*	007226	VALLEY CITY LINEN	69.10
254173	*	000158	VERIZON WIRELESS	839.51
254174	*	000158	VERIZON WIRELESS	152.07
254175	*	000158	VERIZON WIRELESS	601.83
254176		000969	VIGILANTE SECURITY INC	85.00
254178		MISC	WALKER S CUKROWSKI	957.40
254179		MISC	WALLSIDE INC	500.00
254180		MISC	WECHSLER CONSTRUCTION LLC	400.00
254182	*	008568	ALYSON WELLMAN	127.50
254183	*	007894	BRENDA WILLHITE	365.00
254185		000306	WOLVERINE CONTRACTORS INC	398.65
254186		004512	WOLVERINE POWER SYSTEMS	780.00
254188	*	008493	X-TIER DESIGN	2,481.60
254189		007083	XEROX CORPORATION	310.00
254192	*	008422	AXIOM CONSTRUCTION SVCS GROUP LLC	512,058.20
			Sub Tota	1 Checks: \$1,348,015.60
			Sub Tota	l ACH: \$98,510.52
			Grand To	tal: \$1,446,526.12

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

Mark Gurtu.

Mark Gerber Finance Director/ Treasurer

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

11/13/2017

City of Birmingham 11/9/2017

Vendor Name	Transfer Date	Transfer Amount
Automated Benefit Services, Inc.	11/9/2017	98,510.52
	TOTAL	98,510.52



Cherilynn Mynsberge <cmynsberge@bhamgov.org>

Reappointment to the Planning Board

3 messages

Cherilynn Mynsberge <cmynsberge@bhamgov.org> To: lprasad@fullcircleadvisory.com Wed, Oct 18, 2017 at 2:41 PM

Ms. Prasad:

Thank you for your service as an alternate on the *Planning Board*. Your term will expire on November 2, 2017, although, by ordinance, you will continue to hold office until reappointed or until your successor is appointed.

If you would like to continue serving on the Board, please complete the attached application and return the form to the Clerk's Office, no later than noon on Wednesday, November 15, 2017.

The City Commission meeting and interview for this appointment will be held on Monday, November 20, 2017 at 7:30 p.m. in room 205 of the Municipal Building.

Please confirm your availability for the commission meeting by calling the clerk's office at 248.530.1802 or by email cmynsberge@bhamgov.org.

J. Cherilynn Mynsberge City Clerk City of Birmingham 248-530-1802

Lisa Prasad <lprasad@fullcircleadvisory.com> To: Cherilynn Mynsberge <cmynsberge@bhamgov.org> Dear Cherilynn, Tue, Oct 31, 2017 at 11:14 AM

I wanted to let you know that I will not be seeking reappointment to the board. Thank you,

Lisa Prasad, CEO Full Circle Advisory Inc. Iprasad@fullcircleadvisory.com (313) 241-6092

SUGGESTED RESOLUTION:

To accept the resignation of Lisa Prasad from the Planning Board, to thank her for her service, and to direct the City Clerk to begin the process of filling the vacancy.

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		A Walkable Community

MEMORANDUM

Finance Department

DATE:	November 3, 2017
то:	Joseph A. Valentine, City Manager
FROM:	Mark Gerber, Director of Finance/Treasurer Kathryn Burrick, Senior Accountant
SUBJECT:	2017 Community Development Block Grant Program Year Subrecipient Agreement.

The purpose of the 2017 Program Year Subrecipient Agreement between the County of Oakland and the City of Birmingham is for the Subrecipient (City) to receive 100% federally funded Community Development Block Grant (CDBG) monies from the Grantee (County).

The CDBG program is a U.S. Department of Housing and Urban Development (HUD) program that provides funds annually to entitlement jurisdictions. CDBG funds housing, public facility and public service activities that benefit low-income households and persons with special needs. Oakland County receives CDBG funds as an "urban county". Participating communities must join with the County to receive CDBG funding. The City of Birmingham has been a participant of the CDBG program for over 26 years.

Oakland County has obligated **\$46,585** of CDBG funding to the City of Birmingham for the 2017 Program Year. This is \$14,565 higher than what the commission originally approved on December 5, 2016, and is the result of additional funding that was made available to the County. The additional funds of \$14,565 were allocated to Minor Home Repair allocation by the County. In addition, the maximum amount allowed for Public Service Activity changed from 30% to 20%. As a result, Public Service Activity was reduced \$289 and added to Minor Home Repair.

	Original	Revised	Change
Public Service Activity:	-		_
Yard Services	\$ 6,306	\$ 6,017	\$ (289)
Senior Services	3,300	3,300	-0-
Minor Home Repair:			
Rehab of privately owned homes	22,414	37,268	<u>14,854</u>
TOTAL	<u>\$32,020</u>	<u>\$46,585</u>	<u>\$14,565</u>

Federal regulations require Oakland County as an urban county grantee to execute a Subrecipient Agreement with each participating community, which must be signed by the highest elected official in order to receive funds. The completed agreement is required to be submitted to Oakland County no later than November 22, 2017.

SUGGESTED ACTION: To authorize the mayor to sign the 2017 Program Year Community Development Block Grant (CDBG) Subrecipient Agreement on behalf of the City.

Catalog of Federal Domestic Assistance (CFDA) #:14.218 Program: Community Development Block Grant/Entitlement Federal Awarding Agency: U.S. Department of Housing & Urban Development (HUD) Federal Award Identification Number (FAIN): B-17-UC-26-0002 Federal Award Date: 10/19/2017

Program Year 2017 Subrecipient Agreement between the County of Oakland and the City of Birmingham Data Universal Numbering System (DUNS) #:074239450

INTRODUCTION

This agreement is entered into by and between the County of Oakland, a Michigan constitutional corporation (herein called the "Grantee"), and the City of Birmingham (herein called the "Subrecipient") in accordance with Community Development Block Grant (CDBG) regulations at 24 CFR 570.501 and 570.503 and the terms of the Cooperative Agreement previously executed by the Grantee and Subrecipient effective for Program Years (PY) 2015 through 2017. The objective of CDBG is to develop viable urban communities by providing decent housing, a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income The Grantee is designated as an Urban County entitlement community and has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383. As an entitlement community the Grantee has received CDBG funds totaling \$4,999,086 for the program year (PY) 2017 period beginning July 1, 2017 and ending June 30, 2018. Attachment 1 is a copy of the U.S. Department of Housing and Urban Development (HUD) Funding Approval/Agreement, which is part of this Agreement through reference. The Grantee has the right and authority under said CDBG Program to allocate a portion of its funds to the Subrecipient for purposes of administering eligible activities. It is the purpose and intent of this Subrecipient Agreement to enable the Grantee to pass the responsibility to the Subrecipient to carry out the project(s) described in the CDBG application which was approved and funded by the Grantee as the grant. CDBG funding will not be used for Research and Development. The following statements and provisions are acknowledged and agreed upon by and between the parties.

I. <u>TIME PERIOD</u>

This agreement shall go into effect on the day that CDBG funds are accepted by the Oakland County Board of Commissioners and released by letter to the Subrecipient for expenditure and will remain in effect for a period of four years from the date Oakland County releases the final monthly Financial Report verifying all expenditures are complete, or (B) the community terminates participation in the CDBG program at the end of a given three-year cooperative agreement period and the four-year record retention period has expired as specified in Section IV of this agreement, or (C) at the expiration of any additional period specified in the body of this agreement, whichever is longer.

II. SUBRECIPIENT AWARD AND STATEMENT OF WORK

The total amount of CDBG funds obligated to the Subrecipient is \$46,585. The total amount obligated is 100% federal funding. The Subrecipient Project Summary as contained in the Grantee approved CDBG application to the U.S. Department of Housing and Urban Development (HUD) and any changes to the project summary through Grantee approved reprogramming shall constitute the CDBG statement of work which is part of this Agreement through reference. The specific activities, scope of work, national objective identifications, eligibility determinations, levels of accomplishment, project schedule and goals and performance measures are specified in the Subrecipient Project Summary as Attachment 2. The Subrecipient shall assign and maintain personnel to administer CDBG activities and expend funds. The Grantee shall monitor the performance of the Subrecipient against CDBG goals and performance standards and federal CDBG regulations.

III. GENERAL CONDITIONS

A. <u>General Compliance</u>

The Subrecipient agrees to comply with the following:

- 24 CFR Part 570, U.S. Housing and Urban Development Regulations for CDBG, including Subpart K of these regulations, except that (a) the Subrecipient does not assume the Grantee's environmental responsibilities described at 24 CFR 570.604, and (b) the Subrecipient does not assume the Grantee's responsibility for initiating the review process under the provisions of 24 CFR Part 52;
- 2. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal

Awards;

3. all other applicable federal, state, and local laws, regulations, and policies governing the funds provided under this Agreement.

B. System of Award Management Registration

The Subrecipient agrees to register and maintain active status in the System of Award Management (SAM) or with a successor government-wide system officially designated by the Office of Management and Budget until the closeout of this CDBG award in accordance with 2 CFR Part 25, Appendix A. The Subrecipient agrees to authorize their entity's information to be displayed in SAM's (or successor system's) Public Search.

C. Relationship of Grantee and Subrecipient

For purposes of this agreement, the relationship of the Subrecipient to the Grantee shall be that of two independent governmental entities. No partnership, association, or joint enterprise shall arise between the parties hereto as a result of any provision of this agreement except as specified in the most current three-year Cooperative Agreement, as renewed, already executed between the Subrecipient and the Grantee, nor shall any provision herein be construed as making an employee of the Subrecipient an agent or employee of the Grantee. The Subrecipient Agreement is subject to the terms and conditions of the Grant Agreements as approved by the Oakland County Board of Commissioners by resolution on file with the Oakland County Clerk. If the Grantee's original Grant Agreement from HUD is amended, copies of the amendment(s) will be provided to the Subrecipient.

D. Hold Harmless

The Subrecipient shall indemnify, defend, and hold harmless the Grantee, its officials, volunteers, boards, commissions, and agents against any and all expense and liability arising from any act, omission, or negligence of the Subrecipient. In the event the Subrecipient becomes involved in, or is threatened with, litigation relative to the CDBG program, the Subrecipient shall immediately notify the Grantee through the Manager of Community & Home Improvement and the Grantee may enter into such litigation to protect the interests of the Grantee as they may appear.

E. <u>Workers' Compensation</u>

The Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

F. Insurance & Bonding

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage.

G. Notification of Legal Action

The Subrecipient shall notify the Grantee, through the Manager of Community & Home Improvement, in writing, of its intent to pursue a claim against the Grantee for breach of any of the terms of this Agreement. No suit may be commenced by the Subrecipient for breach of this contract prior to the expiration of ninety days from the date of such notification. Within this ninety-day period, the Subrecipient, at the request of the Grantee, must meet with an appointed representative of the Grantee for purposes of attempting to resolve the dispute.

H. <u>Amendments</u>

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and are approved by the Grantee. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement. The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as a part of this Agreement, such modifications will be incorporated only by written amendment through the Grantee's Reprogramming Process.

I. <u>Suspension or Termination</u>

1. Remedies for Noncompliance

If the Subrecipient fails to comply with federal statutes, regulations or the terms and conditions of this Agreement, the Grantee may impose additional conditions, as described in 2 CFR §200.207 Specific Conditions. If the Grantee determines that noncompliance cannot be remedied by imposing additional conditions, the Grantee may take one or more of the following actions, as appropriate in the circumstances:

- (a) temporarily withhold cash payments pending correction of the deficiency by the Subrecipient or more severe enforcement action by the Grantee;
- (b) disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;

- (c) wholly or partly suspend or terminate the Agreement;
- (d) recommend that the Federal awarding agency initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and Federal awarding agency regulations;
- (e) withhold further funds for the project or program;
- (f) take other remedies that may be legally available.

2. Termination

This Agreement may be terminated in whole or in part as follows:

- (a) by the Grantee, if the Subrecipient fails to comply with the terms and conditions of this Agreement;
- (b) by the Grantee for cause;
- (c) by the Grantee with the consent of the Subrecipient, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- (d) by the Subrecipient upon sending to the Grantee written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Grantee determines in the case of partial termination that the reduced or modified portion of the sub award will not accomplish the purpose for which this Agreement was made, the Grantee may terminate the Agreement in its entirety.

The Grantee must provide to the Subrecipient a notice of termination. Written suspension or notice of termination will be sent to the Subrecipient's business address. If this Agreement or the three-year Cooperative Agreement is terminated or partially terminated, both the Grantee and the Subrecipient remain responsible for compliance with the requirements at 2 CFR 200.343 Closeout and 2 CFR 200.344 Post-closeout Adjustments and Continuing Responsibilities.

IV. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls and maintain necessary source documentation for all costs incurred.

2. Audit Requirements

The Subrecipient agrees to comply with 2 CFR Part 200.501 Audit Requirements. Any deficiencies noted in audit reports shall be fully cleared by the Subrecipient within 60 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with any audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Any disallowed CDBG costs identified in an audit that requires a pay back to the federal government or the Grantee shall be the sole responsibility of the Subrecipient and be repaid by the Subrecipient using funds other than federal CDBG funds or any other Grantee resources.

3. Cost Principles

The Subrecipient shall administer its program in conformance with 2 CFR Part 200. These principles will be applied for all costs incurred.

B. <u>Record Retention and Access</u>

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- (a) records providing a full description of each activity undertaken;
- (b) records demonstrating each activity undertaken meets a national objective of the CDBG program;
- (c) records required to determine the eligibility of activities;
- (d) records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- (e) records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- (f) financial records as required by 24 CFR 570.502 and 2 CFR 200.333;
- (g) other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. <u>Retention Requirements for Records</u>

Financial records, supporting documents, statistical records, and all other Subrecipient records pertinent to

this Agreement must be retained for a period of four years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Grantee, except that:

- (a) The retention period for individual CDBG activities shall be the longer of 4 years after the expiration or termination of this Agreement, or 4 years after the submission of the annual performance and evaluation report, as prescribed in 24 CFR 91.520, in which the specific activity is reported on for the final time;
- (b) Records for individual activities subject to the reversion of assets provisions at 24 CFR 570.503(b)(7) or change of use provisions at 24 CFR 570.505 must be maintained for as long as those provisions continue to apply to the activity;
- (c) Records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained until such receivables or liabilities have been satisfied.

If any litigation, claim, or audit is started before the expiration of the 4-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. Records for real property and equipment acquired with Federal funds must be retained for 4 years after final disposition.

3. Methods for collection, transmission and storage of information

The Subrecipient should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper in accordance with 2 CFR 200.335 - Methods for collection, transmission and storage of information.

4. Access to Records

The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the Grantee, or any of their authorized representatives, shall have the right of access to any documents, papers, or other records of the Subrecipient which are pertinent to the Agreement, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the Subrecipient's personnel for the purpose of interview and discussion related to such documents. The right of access to the Subrecipient's records is not limited to the required retention period but last as long as the records are retained. The Subrecipient shall permit the Grantee and auditors to have access to the Subrecipient's records and financial statements as necessary for the Grantee to complete program monitoring and to meet the requirements in 2 CFR 200.331, 200.300 - 200.309, and Subpart F of 2 CFR Part 200.

5. <u>Restriction on Public Access to Records</u>

CDBG records are public to the extent allowed by State and Federal Freedom of Information Act laws. Client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities for services provided under this Agreement, is prohibited unless written consent is obtained from such client or guardian.

C. <u>Reporting and Payment Procedures</u>

1. Program Income

The Subrecipient will report annual program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements sets forth at 24 CFR 570.504. At the end of the program year, the Subrecipient will remit to the Grantee any and all CDBG program income generated during the program year. The Grantee shall re-issue these funds to the Subrecipient as an addition to its next formula allocation or under a separate release of funds process as mutually agreed by the Subrecipient and the Grantee, unless the Grantee, for good cause, shall in writing inform the Subrecipient that it shall not have the program income returned and the reasons why it shall not be returned.

2. Payment

This Agreement is reimbursement only. The Grantee shall pay to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments. Payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed the total grant amount delineated in the Subrecipient's Project Summary.

Drawdowns for the payments of eligible expenses shall be reimbursed to the Subrecipient against line item budgets specified in the Project Summary and in compliance with supporting financial and performance documentation required by the Grantee. Costs must be reasonable and necessary. The Grantee shall not assume any responsibility or liability to pay or ineligible or disallowed obligations, commitments or costs incurred by the Subrecipient during the duration of this Agreement or prior to the full execution of this Agreement. Any ineligible CDBG obligations or disallowed costs incurred by the Subrecipient shall be the sole responsibility of the Subrecipient. Any disallowed or ineligible CDBG costs, contractual obligations or expenditures under this Agreement identified by the Grantee, Auditor, HUD or other responsible entity shall be paid by the Subrecipient to the contractor directly or repaid to the Grantee using Subrecipient cash resources other than CDBG or any other federal funds.

3. Progress and Performance Reports and Monitoring

The Subrecipient shall report on its progress or performance to the Grantee in the form, content and frequency as required by the Grantee. The Grantee shall monitor the performance of the Subrecipient by tracking project progress, reviewing payment requests for applicable costs, managing the timely pass-through of CDBG funds, overseeing compliance with CDBG requirements, and ensuring recordkeeping and audit requirements are met. Substandard performance as determined by the Grantee shall constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures shall be initiated.

D. <u>Procurement</u>

The Subrecipient shall comply with 2 CFR 200 and 24 CFR Part 85.36 or more restrictive local procurement policies concerning the purchase of goods and services with CDBG funds to facilitate fair and open competition. The Subrecipient shall maintain inventory records for equipment purchases (\$5,000 or more) and real property acquisition (\$25,000 or more). All persons, agencies, suppliers, organizations, etc. hired by the Subrecipient to carry out activities funded in whole or in part with CDBG funds are contractors, not subrecipients or subgrantees. All procurement and other requirements as they relate to contractors apply. The Subrecipient must have written agreements with all contractors. The Subrecipient may not subgrant CDBG funds to any person or non-profit or private for-profit organization or agency.

E. <u>Use and Reversion of Assets</u>

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR 200.311, 200.313, 24 CFR 570.502, 570.503, 570.504, as applicable, which include but are not limited to the following:

- 1. The Subrecipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination;
- 2. Real property under the Subrecipient's control that was acquired or improved in whole or in part with funds under this Agreement in excess of \$25,000.00 will be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five years after this Agreement is closed. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for this five year period of time, the Subrecipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period;
- 3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that CDBG funds were used to acquire the equipment). Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the Grantee or (b) shall be retained after compensating the Grantee (an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment).

F. <u>Closeout</u>

1. Closeout

The Grantee shall close-out this Agreement when it determines that all applicable administrative actions and all required work under this Agreement have been completed by the Subrecipient. The Subrecipient must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of this Agreement. The Grantee may approve extensions when requested by the Subrecipient.

Unless the Grantee authorizes an extension, the Subrecipient must liquidate all obligations incurred under this Agreement not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of this Agreement.

The Grantee must make prompt payments to the Subrecipient for allowable reimbursable costs under this

Agreement being closed out. The Subrecipient must promptly refund any balances of unobligated cash that the Grantee paid in advance or paid and that are not authorized to be retained by the Subrecipient for use in other projects. See OMB Circular A-129 and see §200.345 Collection of amounts due, for requirements regarding unreturned amounts that become delinquent debts. Consistent with the terms and conditions of the Federal award, the Grantee must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received. The Subrecipient must account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §200.310 Insurance coverage through §200.316 Property trust relationship and §200.329 Reporting on real property. The Grantee should complete all closeout actions for Federal awards no later than one year after receipt and acceptance of all required final reports.

2. <u>Post-closeout Adjustments and Continuing Responsibilities</u>

The closeout of this Agreement does not affect any of the following:

- (a) The right of the Grantee to disallow costs and recover funds on the basis of a later audit or other review. The Grantee must make any cost disallowance determination and notify the Subrecipient within the record retention period;
- (b) The obligation of the Subrecipient to return any funds due as a result of later refunds, corrections, or 222other transactions;
- (c) Audit requirements in Subpart F-Audit Requirements of this part;
- (d) Property management and disposition requirements in Subpart D—Post Federal Award Requirements of this part, §200.310 Insurance Coverage through §200.316 Property trust relationship;
- (e) Records retention as required in Subpart D—Post Federal Award Requirements of this part, §200.333 Retention requirements for records through §200.337 Restrictions on public access to records.

V. OTHER PROGRAM REQUIREMENTS

The Subrecipient shall carry out its CDBG activities in a manner consistent with the requirements contained in the three-year Cooperation Agreement between the Grantee and the Subrecipient, as renewed, with the applicable statutes and regulations governing the Consolidated and Annual Action Plans as authorized by the Oakland County Board of Commissioners, and under Subpart K of the CDBG regulations at 24 CFR Part 570, with the exception of the CDBG environmental review responsibilities, which shall be borne by the Grantee using information and/or reports provided by the Subrecipient in accordance with the CDBG environmental review process. CDBG compliance requirements address: affirmatively furthering fair housing, excessive force, drug free workplace, civil rights laws; non-discrimination in providing services, employment and contracting opportunities; affirmative action; prohibited political, religious and lobbying activities; and conflict of interest, copyright and labor standards.

VI. <u>CONFLICTS OF INTEREST</u>

A. Procurement of Supplies, Equipment, Construction, and Services

In the procurement of supplies, equipment, construction, and services by the Subrecipient, the Subrecipient must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by this Agreement if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the Subrecipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, the Subrecipient may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Subrecipient.

B. Acquisition and Disposition of Real Property

1. Applicability

In all cases not governed by paragraph A of this section, including the acquisition and disposition of real property and the provision of assistance by the Subrecipient to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other

improvements of private properties or facilities pursuant to 24 CFR 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to 24 CFR 570.203, 570.204, 570.455, or 570.703(i)).

2. Persons Covered

The conflict of interest provisions of paragraph 3 of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Subrecipient that are receiving funds under this Agreement.

3. Conflicts Prohibited

The general rule is that no persons described in paragraph 2 of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this Agreement, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

VII. <u>SEVERABILITY</u>

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

VIII. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

IN WITNESS WHEREOF, the authorized representatives of the Grantee and the Subrecipient have signed this agreement below, and agree to abide by all terms as set forth herein.

County of Oakland by	City of Birmingham by
County Executive Signature	Highest Elected Official or Authorized Designee Signature
L. Brooks Patterson Printed Name	Printed Name
Date	Date
Witnessed by	Witnessed by
Printed Name	Printed Name
Date	Date
Contact Information	
Karry L. Rieth, Manager OCCHI	
250 Elizabeth Lake Road #1900	
Pontiac, MI 48341-0414	
(248) 858-5403	
riethk@oakgov.com	

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MEMORANDUM

Finance Department

DATE: November 3, 2017

TO: Joseph A. Valentine, City Manager

FROM: Mark Gerber, Finance Director/Treasurer

SUBJECT: Public Hearing for 2018 Community Development Block Grant Application

Every year the City receives a grant for the Community Development Block Grant program. This is a federal grant program which is administered by Oakland County. The purpose of the grant is to:

- Primarily benefit low- or moderate-income persons or households
- Aid in the elimination of slum or blight conditions
- Meet an urgent community need

Previously the City has used these funds to assist low income seniors and to make ADA compliant renovations to City property.

Oakland County has notified the City that our planning allocation for this grant is \$32,020 for the 2018 program year (July 2018 – June 2019). This is the same level that was originally allocated to the City for the 2017-2018 program year and is subject to change.

In order to be eligible to receive these funds, the City must conduct a public hearing to receive citizen input, make a determination of eligible projects to be pursued and submit a completed application to Oakland County by December 15, 2017.

It is recommended that the City Commission set December 4, 2017 as the date to conduct the required public hearing. If the public hearing is set for December 4, 2017, a list of recommended projects and funding allocation will be presented to the public and commission for consideration at that time.

SUGGESTED RESOLUTION: To set December 4, 2017 as the public hearing date for the 2018 Community Development Block Grant Program.

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MEMORANDUM

Planning Division

DATE:	November 3, 2017
TO:	Joseph A. Valentine, City Manager
FROM:	Nicholas Dupuis, Planning Intern
APPROVED:	Jana L. Ecker, Planning Director
SUBJECT:	Set Public Hearing for 33353 Woodward Ave – Tide Dry Cleaners Special Land Use Permit and Final Site Plan

The subject business is proposed to be located at 33353 Woodward Avenue in a new building that is replacing the former Tuffy Automotive building on the west side of Woodward between Davis and Smith. Currently under construction, the one-story 7,227 sq. ft. commercial/retail building and parking lot will be home to Tide Dry Cleaners. Tide Dry Cleaners is designed for a busy lifestyle and will be all about convenience. Therefore, the applicant is seeking a Special Land Use Permit ("SLUP") for a valet service for customers to pick up and/or drop off their garments while remaining in their vehicle.

The service of patrons while in their vehicles is considered a drive-in facility and requires a Special Land Use Permit under Article 2, Section 2.31 (B2B – General Business). The parking area for service to patrons in vehicles will be located on the west elevation along the alley under an awning just outside of the west entrance. The final site plan for the new development at 33353 Woodward was approved on January 25th, 2017 by the Planning Board.

Article 9, Section 9.02 (Definitions) defines a drive-in as a commercial establishment developed to serve patrons while in the motor vehicle in addition to within a building or structure. Accordingly, the applicant is required to obtain a recommendation from the Planning Board on the Final Site Plan and Special Land Use Permit, and then obtain approval from the City Commission for the Final Site Plan and Special Land Use Permit.

The Planning Board met on September 27th, 2017 and conducted a public hearing to discuss the Final Site Plan and Special Land Use Permit Review for 33353 Woodward. The Planning Board voted unanimously to continue the Final Site Plan and Special Land Use Permit review to the meeting of October 25th, 2017 due to unclear information regarding the service of patrons in their vehicles.

On October 25th, 2017, the Planning Board continued the public hearing to discuss the SLUP request by the applicant. The Planning Board voted unanimously to recommend approval to the City Commission of the Special Land Use Permit and Final Site Plan for 33353 Woodward Avenue, with the following conditions:

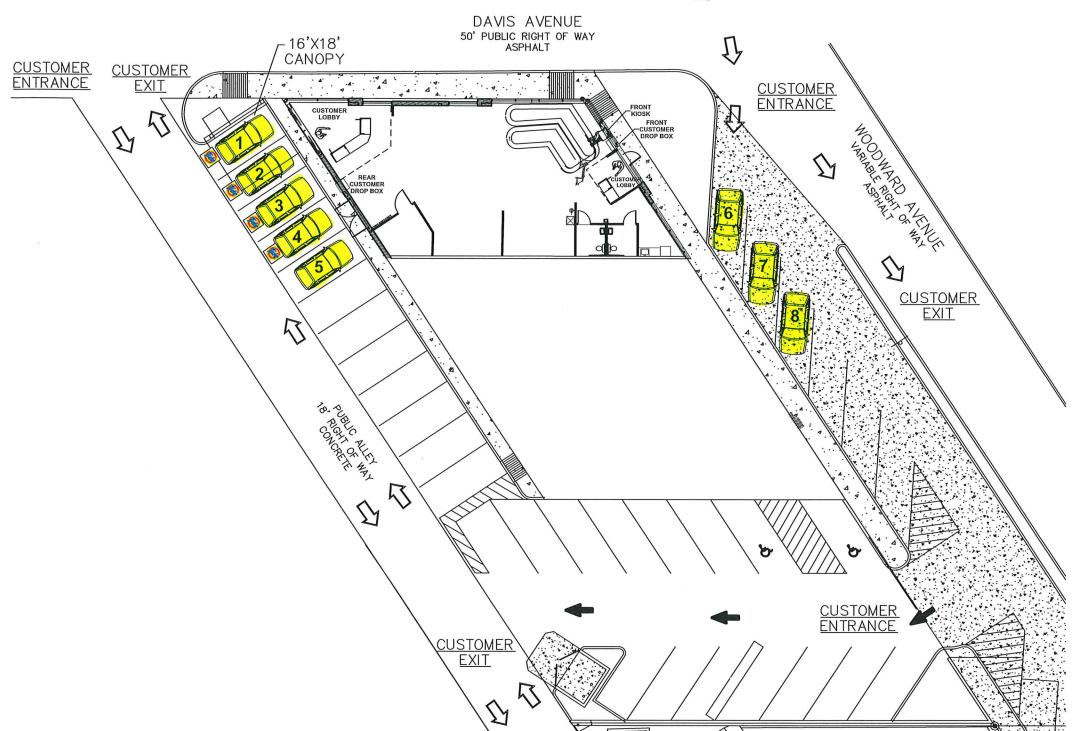
- 1. The total square footage of signage must be reduced to 108 sq. ft. or less;
- 2. The canopy must be attached to the building.

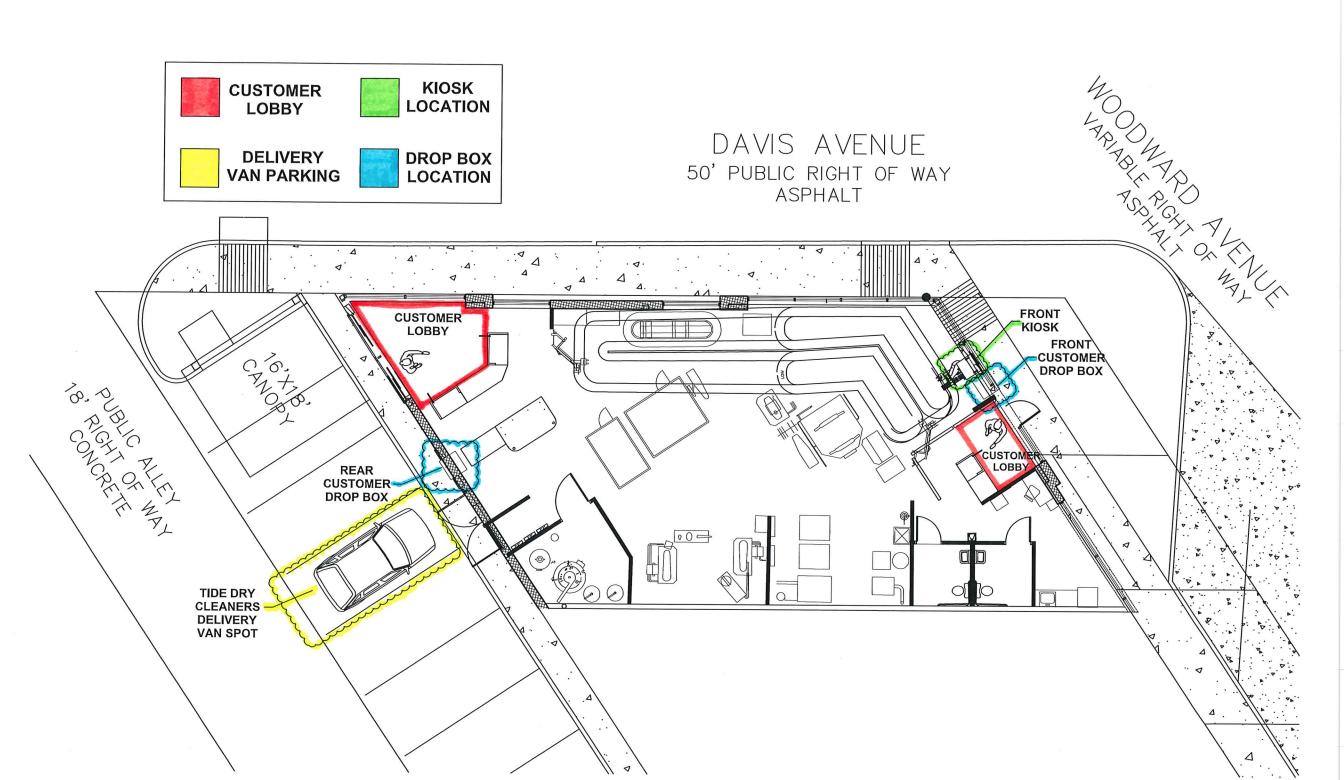
Thus, the Planning Division requests that the City Commission set a public hearing date for **December 4th, 2017** to consider approval of the Final Site Plan and Special Land Use Permit to allow service to patrons in their vehicle at 33353 Woodward Avenue – Tide Dry Cleaners. Please find attached the staff report presented to the Planning Board, along with the relevant meeting minutes for your review.

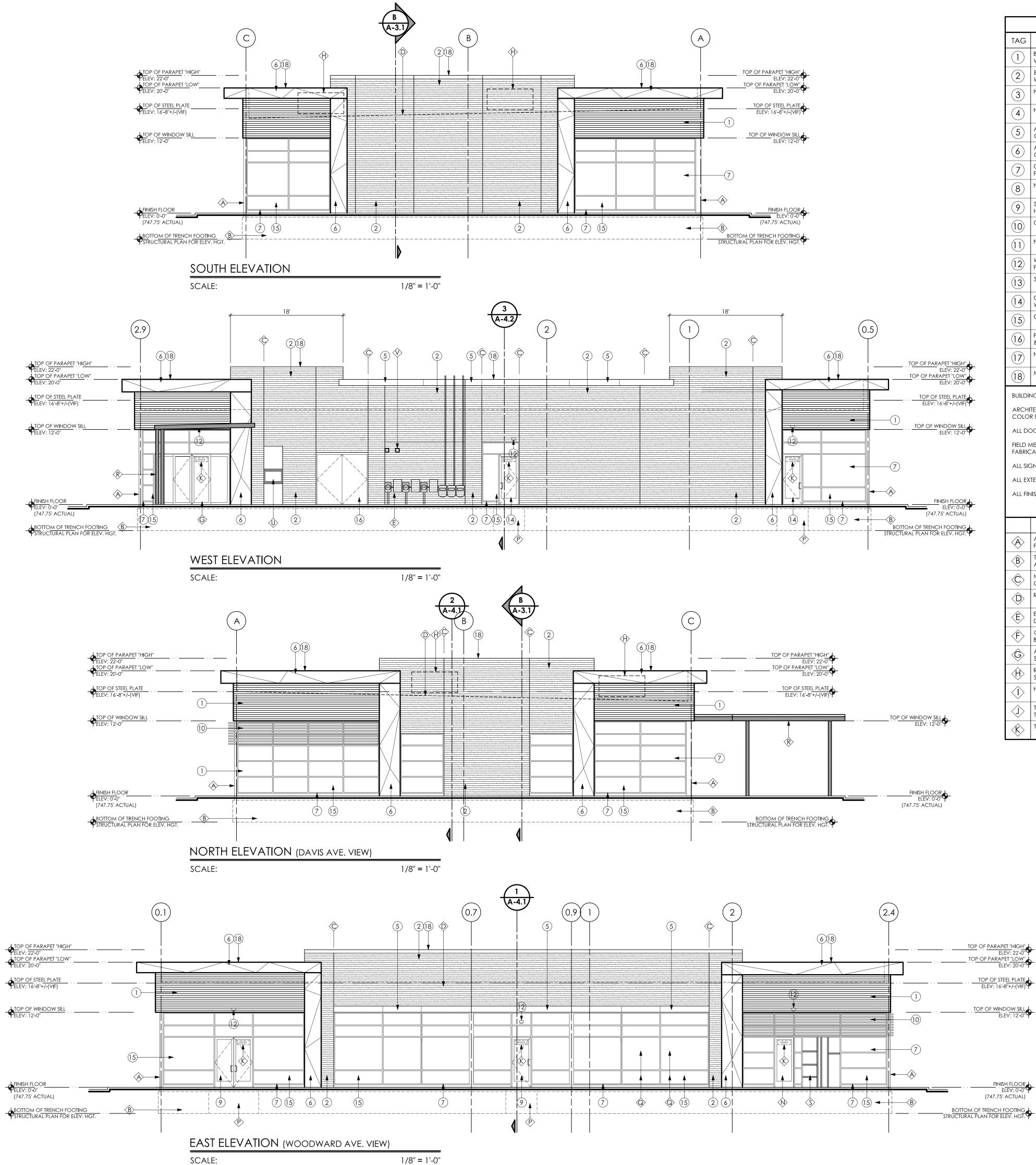
SUGGESTED ACTION:

To set a public hearing date of December 4th, 2017 to consider the Final Site Plan and Special Land Use Permit to allow service to patrons in their vehicles at 33353 Woodward Avenue – Tide Dry Cleaners.

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	EXTERIOR MAT	ERIAL FINI	SH S		LL AND N	OTES
TAG	MATERIAL	MANUFACTURE	COLC	DR/ MODEL	SIZE	REMARKS/ NOTES
1	BOHEMIAN BRICK - EXTERIOR STRUCTURAL WALL W/ ACME SHIELD IWR (WATER REPELLANT)	NATIONAL BLOCK CEMENT PRODUCTS	BRIGHTHI STANDAR	LL; RD GROUT	12"D X 4"H X 16"W	
2	BOHEMIAN BRICK - EXTERIOR STRUCTURAL WALL W/ ACME SHIELD IWR (WATER REPELLANT)	NATIONAL BLOCK CEMENT PRODUCTS	WHITE; WHITE GI	ROUT	12"D X 4"H X 16"W	
(3)	NOT USED					
(4)	NOT USED					
(5)	ALUMINUM COMPOSITE PANEL SYSTEM	OMEGA PANEL PROD.	BONE WH	HITE		CONTACT: TOM OLSON
$\overline{}$	CLIP & CAULK INSTALLATION ALUMINUM COMPOSITE PANEL SYSTEM	LAMINATORS INC.	REGAL BI			(734) 777-6788 CONTACT: TOM OLSON
(6)	CLIP & CAULK INSTALLATION	LAMINATORS INC.				(734) 777-6788
(7)	CLEAR INSULATED GLASS IN ANODIZED ALUMINUM FRAME STOREFRONT SYSTEM	TUBELITE	dark br Anodize	ONZE ED ALUMINUM	SEE SHEET A-8.1 FOR DETAILS	SEE MFG. SPECIFICATIONS FOR DETAILS
8	NOT USED					
9	STOREFRONT TENANT DOOR ENTRY W/ 10" HIGH BOTTOM RAIL	TUBELITE	DARK BR	onze Ed aluminum	SEE SHEET A-8.1 FOR DETAILS	SEE MFG. SPECIFICATIONS FOR DETAILS
(10)	GEOLAM ARCHITECTURAL ECO-TECHNOLOGY	GEOLAM	ROSEWO	OD	4" H. CONT. PLANKS	
(11)	NOT USED					
	WALL MOUNTED COMPACT LED LIGHT SCONCE	LITHONIA LIGHTING	WST SERI	ES		SEE MANUFACTURE
(12)	FIXTURE SEALANT; AS REQUIRED PER MBC	SYSTEMS TREMPCO		О МАТСН		SPECIFICATIONS FOR DETAILS SEE MFG. SPECIFICATIONS FOR
(13)			MASONR	Y/ STOREFRONT		DETAILS
(14)	GLASS REAR ENTRY/ SERVICE TENANT DOOR W/ 10" HIGH KICK PLATE	TUBELITE	DARK BR	onze Ed aluminum	SEE SHEET A-8.1 FOR DETAILS	SEE MFG. SPECIFICATIONS FOR DETAILS
(15)	GLASS	VIRACON OR EQUAL	1" CLEAR GLAZING	INSULATED ;		GLASS TO BE TEMPERED PER MBC WHERE NEEDED.
(16)	PTD. GALVANIZED HOLLOW INSULATED DOOR & FRAME	STEELCRAFT	PAINTED SPLITFAC	TO MATCH E		
(17)	NOT USED					SEE MFG. SPECIFICATIONS FOR
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ARCHITECTURE INTERIORS PLANNING

ABRO DESIGN GROUP, INC. 30600 NORTHWESTERN HWY. SUITE 310 FARMINGTON HILLS, MI. 48334 P. 248-254-3834 F. 248-671-2772

www.abrodesigngroup.com

PROJECT:

WOODWARD COMMONS

- FOUNDATION AND BUILDING SHELL -

33353 WOODWARD AVE., BIRMINGHAM, MI 48009

SHEET TITLE:

EXTERIOR BUILDING ELEVATIONS

do not scale drawings use figured dimensions only

DATE:	ISSUE:
01.25.17	SITE PLAN APPROVAL
04.03.17	BID'S & PERMIT
05.15.17	REVISION #1
07.17.17	OWNER'S REVISION

TO BE ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN PERMISSION CONSENT OF ABRO DESIGN GROUP, INC.

PROJECT NO:

052516

SHEET NO:



Sign Ordinance Requirements – Name Letter/Wall Signs Planning Division

Property Address: <u>33353 Woodward</u> Current Zoning: <u>B-2B, General Business</u> Sign Copy: <u>Tide Dry Cleaners</u>

	Required	Proposed	Review
Maximum Area	 Woodward – 1.5 square feet per linear foot. Other – 1 square foot per linear foot 72' 2" Total Linear Street Frontage 	108.25 Sq. Ft. permitted Total of all three signs: 111.6 sq. ft.	Does not meet requirements
Maximum Height	 Name Letter Sign Moodward – 3' Other – 2' Wall Sign Moodward – 4' Other – 3' 	2 signs @ 3' 3' 10"	Meets requirements
Other Sign measurements	 Logos/design elements may be greater than 3' in height subject to approval Thickness = 9" maximum Height from grade = 8' sidewalk if over 3" thick Height from grade – 15' alley, etc. 	Logo height: N/A Sign Thickness: 5" Sign Height above grade: greater then 8'	Meets requirements
Illumination	 Non-historic District Steady light only No exposed neon B1 Zone – 10:00pm or ½ Hour after close of Business Adj. residential – no side or rear lights Historic District As listed above Halo backlighting Exterior light fixtures No internal illumination 	Internally Illuminated	Meets requirements on façade facing the street Does not meet requirement on rear elevation adjacent to residential
# Allowed	 Principal Wall Sign 1 street = 1 sign 2 streets = 2 identical sgn 3 + streets = each frontage 	Two Streets = Two identical signs	Meets requirements

 All above can not exceed maximum sign area for building Wall / Name Letter Sign 	
 Limited by area per frontage 	

Reviewed by: <u>Matthew Baka</u> Date: <u>September 21, 2017</u>

CITY OF BIRMINGHAM REGULAR MEETING OF THE PLANNING BOARD WEDNESDAY, SEPTEMBER 27, 2017 City Commission Room 151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on September 27, 2017. Chairman Scott Clein convened the meeting at 7:30 p.m.

- **Present:** Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Janelle Whipple-Boyce; Alternate Board Members Lisa Prasad, Daniel Share; Student Representatives Ariana Afrakhteh (arrived at 7:31 p.m.), Isabella Niskar (left at 9:25 p.m.)
- **Absent:** Board Members Vice-Chairperson Gillian Lazar; Bryan Williams

Administration: Matthew Baka, Sr. Planner

Nicholas Dupuis, Planning Intern

Carole Salutes, Recording Secretary

09-183-17

SPECIAL LAND USE PERMIT ("SLUP") FINALSITE PLAN REVIEW

1. 33353 Woodward Ave., Tide Dry Cleaners - Request for approval of a SLUP and Revised Final Site Plan and Design Review to allow a new business that provides services to patrons in their vehicles

Mr. Baka explained the subject site is replacing the former Tuffy Automotive building on the west side of Woodward Ave. between Davis and Smith. The Final Site Plan for the new development at 33353 Woodward Ave. was approved by the Planning Board on January 25, 2017. Currently under construction, the one-story 7,227 sq. ft. commercial/retail building and parking lot will be home to Tide Dry Cleaners. Tide Dry Cleaners is designed for a busy lifestyle and will be all about convenience. Therefore, the applicant is seeking a SLUP under Article 2, Section 2.31 (B2B – General Business) for a valet service for customers to pick up and/or drop off their garments. The valet service is considered a drive-in facility and requires a SLUP. The area will be located just outside of the west entrance along the alley and under an awning.

Design Review

The applicant is proposing the addition of one steel canopy covered parking space to the west elevation of the new building (back of building fronted on the alley). This area will be used by customers to pick up or drop off their garments. A customer service representative ("CSR") will

come out to the parked vehicle and collect the form of payment and the garments to be cleaned, or deliver the cleaned clothes. The canopy will cover roughly the two parking spaces closest to the west entrance. Material samples were passed around to board members.

Signage

The linear principal building frontage on the north elevation is 72 ft., permitting 108 sq. ft. of sign area. The proposed name letter signs will measure 33.1 sq. ft. each. The wall sign proposed on the north elevation will measure 45.5 sq. ft. The total proposed signage for the site is 111.7 sq. ft. In accordance with Article 1.0, section 1.04 (B) of the Birmingham Sign Ordinance, Combined Sign Area - For all buildings, including multitenant office or retail buildings, the combined area of all types of signs shall not exceed 1 sq. ft. (1.5 sq. ft. for addresses on Woodward Ave,) for each linear foot of principal building frontage. **The proposal does not meet this requirement.**

The wall sign is proposed to be mounted 11.2 ft. above grade in accordance with Article 1.0, Table B of the Birmingham Sign Ordinance that states wall signs shall not be attached to the outer wall at a height of less than 8 ft. above a public sidewalk and at a height of less than 15 ft. above public alley.

The proposed name letter signs on the east and west elevations will feature the Tide® logo, a yellow and orange "bullseye" with blue letters spelling out "Tide". The words "Dry Cleaners" will be located next to the logo in the same color blue. The wall sign proposed on the north elevation is proposed to be identical to the name letter signs except that it will be mounted to a white background.

The applicant must reduce the amount of signage by 3.6 sq. ft. In addition, the sign on the rear of the building facing the single-family residential to the west is not permitted to be illuminated.

Mr. John Abro of the design firm was present for the tenant applicant. The applicant explained how the operation would work. A customer service desk will be located at each end of the store. As soon as a car parks, the CSR will come out of the building and serve the customer. 24/7 drop-off is available as well as 24/7 pick-up from the kiosk located on the Woodward Ave. side of the building. Rather than blocking the alley when there is a queue for the canopy covered space, customers will be told to pull into a parking space and wait to be served. They are not expecting anyone to block the alley or driveway. It is thought that maybe four cars could show up at any one time.

Ms. Whipple-Boyce pointed out that the kiosk was not shown on the elevation drawings and she did not know how it would comply with glazing requirements. Mr. Abro said they can provide the actual percentage of glazing.

At 7:55 p.m. members of the public were invited to come forward with comments.

Ms. Jana Plata, 1308 Davis, said she knows there would be a back-up on Davis trying to get in and the residents do not want it.

Ms. Jackie Gatz, 1347 Smith, noted there would be a parking issue and that the alley will be much busier. The alley should be kept clear in case of a fire or police emergency.

Mr. Bob Kernen, 1387 Smith, received clarification that no signage is proposed for the south side of the building. The only condition of Final Site Plan Approval was to prevent a left turn onto Davis coming out of the alley.

Mr. Boyle inquired whether it would be possible to have this addition to service on Woodward Ave. rather than on the alley. The applicant said he understands that Tide wants all of their locations to be consistent. If there is no drive-through then they want to have curbside parking with a covered canopy. This location plans delivery service for their customers, and that will cut down on how many people will come to the store. The delivery vehicles will be parked on their property.

Chairman Clein observed that a lot of unanswered questions and new things have come up:

- Eating into the required parking;
- Adding new vehicles for delivery;
- Adding this service where it is further away from residential;
- Explaining the impacts;
- Discussing the number of vehicles and transportation issues.

He needs a full package that clearly delineates all of these matters in a manner that doesn't look like it will impinge upon the single-family residential neighborhood.

Mr. Share received clarification that the Zoning Ordinance classifies the canopy as a structure.

Mr. Scott Barbat, the landlord, responded for Mr. Koseck that this is a three-tenant building. Basically they are asking for a decorative canopy over the parking spot.

Ms. Whipple-Boyce stated the board will need a drawing of what the canopy will look like. Ms. Prasad asked if the kiosk would require special approval. Also she indicated that she likes this concept, as it is different and unique.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Jeffares to postpone the Final Site Plan and SLUP for 33353 Woodward Ave., Tide Dry Cleaners, to October 25, 2017.

Comments on the motion were taken from members of the audience.

Ms. Jackie Gatz spoke again and received clarification from the Chairman that the hearing on October 25 will be specifically about the Tide submittal related to the canopy, the exterior services and their impacts. A dry cleaner is allowed by right in that space but the applicant is asking for things that trigger special reviews.

Motion carried, 7-0.

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

City of	\mathcal{R}		
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MEMORANDUM

Planning Department

DATE:	October 20, 2017
то:	Planning Board
FROM:	Matthew Baka, Senior Planner
APPROVED BY:	Jana Ecker, Planning Director
SUBJECT:	33353 Woodward Avenue – Tide Dry Cleaners

Executive Summary

The subject site is located at 33353 Woodward Avenue and is replacing the former Tuffy Automotive building on the west side of Woodward between Davis and Smith. Currently under construction, the one-story 7,227 sq. ft. commercial/retail building and parking lot will be home to Tide Dry Cleaners. Tide Dry Cleaners is designed for a busy lifestyle and will be all about convenience. Therefore, the applicant is seeking a Special Land Use Permit for a valet service for customers to pick up and/or drop off their garments. The valet service is considered a drive-in facility and requires a Special Land Use Permit under Article 2, Section 2.31 (B2B – General Business). The area will be located on the west elevation along the alley under an awning just outside of the west entrance.

Article 9, Section 9.02 (Definitions) defines a drive-in as a commercial establishment developed to serve patrons while in the motor vehicle in addition to within a building or structure.

The final site plan for the new development at 33353 Woodward was approved on January 25th, 2017. The relevant minutes are attached for your review. On September 27, 2017 the Planning Board reviewed the SLUP application for the proposed drive-thru facility. At that time the Board postponed the review and requested that the applicant provide additional information on the proposal including reserved curbside pickup spaces that will eat into the required parking, adding new vehicles for delivery that have signage on them and occupy parking spaces, the impacts and intensity of the curbside service, specifically the number of vehicles and circulation issues. The Planning Board also requested revised elevations that depict the 24hr kiosk at the front of the building with calculations indicating the new window glazing calculations, the drop off box and more detailed drawing of the proposed canopies.

The applicant has since provided additional information in an attempt to address the concerns of the Planning Board which include revised elevations, renderings of the canopy

1.0 Land Use and Zoning

- 1.1 <u>Existing Land Use</u> The existing site is currently under construction. Land uses surrounding the site are retail/commercial and residential.
- 1.2 <u>Existing Zoning</u> The property is currently zoned B2-B, General Business. The existing use and surrounding uses appear to conform to the permitted uses of each Zoning District.
- 1.3 <u>Summary of Land Use and Zoning</u> The following chart summarizes existing land use and zoning adjacent to and/or in the vicinity of the subject site.

	North	South	East	West
Existing Land Use	Commercial	Commercial	Commercial	Two-Family Residential
Existing Zoning District	B2-B, General Business	B2-B, General Business	B2-B, General Business	R4, Two-Family Residential
Downtown Overlay Zoning District	N/A	N/A	N/A	N/A

2.0 Screening and Landscaping

- 2.1 <u>Screening</u> No changes are proposed.
- 2.2 <u>Landscaping</u> No changes are proposed.

3.0 Parking, Loading, Access, and Circulation

- 3.1 <u>Parking</u> No changes are proposed.
- 3.2 <u>Loading</u> No changes are proposed.
- 3.3 <u>Vehicular Access & Circulation</u> Vehicular access to the building will not be altered.
- 3.4 <u>Pedestrian Access & Circulation</u> No changes are proposed.
- 3.5 <u>Streetscape</u> The applicant is not proposing to alter the existing sidewalk, street trees, or light poles.

4.0 Lighting

No new lighting is proposed at this time.

5.0 Departmental Reports

- 5.1 <u>Engineering Division</u> The Engineering Division has no concerns.
- 5.2 <u>Department of Public Services</u> No concerns were reported from the DPS.
- 5.3 <u>Fire Department</u> No comments were received from the Fire Department.
- 5.4 <u>Police Department</u> The Police Department has no concerns.
- 5.5 <u>Building Division</u> No comments were received from the Building Division.

6.0 Design Review

The applicant is proposing the addition of one covered curbside parking space to the west elevation of the new building (back of building fronted on the alley). As described above, this area will be used by customers to pick up or drop off their garments. A representative will come out to the vehicle and collect the form of payment and the garments to be cleaned, or deliver the cleaned clothes. The canopy will measure 288 sq. ft. in area and will be 12 feet tall. The canopy will cover roughly the 2 parking spaces closest to the west entrance. The canopy will be constructed from a slate grey metal paneling by Laminators Incorporated. The canopy will have a drop ceiling with a white capped aluminum grid by Chicago Metallic[®], and white Performa[™] Aquarock[™] ceiling tiles from CertainTeed Ceilings. Samples of these materials have been submitted by the applicant.

Signage

The linear principle building frontage on the north elevation is 72', permitting 108 square feet of sign area. The proposed name letter signs will each measure 3' h x 11' 0.375" w or 33.1 square feet each. The Wall sign proposed on the north elevation will measure 3' 10" h x 11' .375" w or 45.5 sq. ft. The total proposed signage for the site 111.6 square feet for both signs. *In accordance with Article 1.0, section 1.04 (B) of the Birmingham Sign Ordinance, Combined Sign Area - For all buildings, including multi-tenant office or retail buildings, the combined area of all types of signs shall not exceed 1 square foot (1.5 square feet for addresses on Woodward Avenue) for each linear foot of principal building frontage.* **The proposal does not meet this requirement.** The wall sign is proposed to be mounted 11.2' above grade. *In accordance with Article 1.0, Table B of the Birmingham Sign Ordinance - Wall signs shall not be attached to the outer wall at a height of less than 8 feet above a public sidewalk and at a height of less than 15 feet above public alley. The proposal meets this requirement.*

The proposed name letter signs on the east and west elevations will feature the Tide[®] logo, a yellow and orange "bullseye" with blue letters spelling out "Tide". The words

"Dry Cleaners" will be located next to the logo in the same color blue. The wall sign proposed on the north elevation measures is proposed to be identical to the name letter signs except that it will be mounted to a white background.

As indicated by the attached signage requirement checklist, **the applicant must** reduce the amount of signage by 3.6 sq. ft. In addition, the sign on the rear of the building facing the single family residential to the west is not permitted to be illuminated.

7.0 Downtown Birmingham 2016 Overlay District

Not Applicable.

8.0 Approval Criteria

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

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

9.0 Approval Criteria for Special Land Use Permits

Article 07, section 7.34 of the Zoning Ordinance specifies the procedures and approval criteria for Special Land Use Permits. Use approval, site plan approval, and design review are the responsibilities of the City Commission. This section reads, in part:

Prior to its consideration of a special land use application (SLUP) for an initial permit or an amendment to a permit, the City Commission shall refer the site plan and the design to the Planning Board for its review and recommendation. After receiving the recommendation, the City Commission shall review the site plan and design of the buildings and uses proposed for the site described in the application of amendment.

The City Commission's approval of any special land use application or amendment pursuant to this section shall constitute approval of the site plan and design.

10.0 Suggested Action

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board recommend APPROVAL to the City Commission of the applicant's request for Final Site Plan and a SLUP for 33353 Woodward Avenue, Tide Dry Cleaners.

11.0 Sample Motion Language

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board recommend APPROVAL to the City Commission of the applicant's request for Final Site Plan and a SLUP for 33353 Woodward Avenue, Tide Dry Cleaners with the following conditions;

- 1. The total square footage of signage must be reduced to 108 sq. ft. or less;
- 2. The sign on the rear of the building facing west is not permitted to be illuminated.

OR

Motion to recommend DENIAL of the Final Site Plan and SLUP to the City Commission for 33353 Woodward Avenue, Tide Dry Cleaners for the following reasons:

1. _____ 2. _____

OR

Motion to recommend POSTPONEMENT of the Final Site Plan and SLUP for 33353 Woodward Avenue, Tide Dry Cleaners, pending receipt of the following:

- 1.
- 2.

CITY OF BIRMINGHAM REGULAR MEETING OF THE PLANNING BOARD WEDNESDAY, OCTOBER 25, 2017 City Commission Room 151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on October 25, 2017. Chairman Scott Clein convened the meeting at 7:30 p.m.

- **Present:** Chairman Scott Clein; Board Members Stuart Jeffares, Bert Koseck, Vice-Chairperson Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Daniel Share; Student Representative Ariana Afrakhteh (left at 8:45 p.m.)
- Absent: Board Member Robin Boyle; Alternate Board Member Lisa Prasad; Student Representative Isabella Niskar
- Administration: Matthew Baka, Sr. Planner

Jana Ecker, Planning Director

Carole Salutes, Recording Secretary

10-194-17

UNFINISHED BUSINESS

SPECIAL LAND USE PERMIT ("SLUP") FINALSITE PLAN REVIEW

1. 33353 Woodward Ave., Tide Dry Cleaners - Request for approval of a SLUP and Revised Final Site Plan and Design Review to allow a new business that provides services to patrons in

their vehicles

Motion by Mr. Williams

Seconded by Mr. Share to receive and file the letter dated October 18, 2017 from Mr. Ken Platt that expresses doubt and disapproval of the proposed drive-thru/exterior use at the Tide Drycleaners.

Motion carried, 7-0.

VOICE VOTE Yeas: Williams, Share, Clein, Jeffares, Koseck, Lazar, Whipple-Boyce Nays: None Absent: Boyle Mr. Baka explained a new building is replacing the former Tuffy Automotive building on the west side of Woodward Ave. between Davis and Smith. The Final Site Plan for the new development at 33353 Woodward Ave. was approved by the Planning Board on January 25, 2017. Currently under construction, the one-story, 7,227 sq. ft. commercial/retail building and parking lot will be home to Tide Dry Cleaners. Tide Dry Cleaners is designed for a busy lifestyle and will be all about convenience. Therefore, the applicant is seeking a SLUP under Article 2, Section 2.31 (B2B – General Business) for a valet service for customers to pick up and/or drop off their garments. The valet service is considered a drive-in facility and requires a SLUP. The area will be located just outside of the west entrance along the alley and under a canopy.

On September 27, 2017 the Planning Board reviewed the SLUP application for the proposed drivethru facility portion. There was a lot of discussion at that meeting, specifically about the effects the drive-thru would have traffic-wise on the neighboring streets and the alley. The board postponed the review and requested that the applicant provide additional information on the proposal.

In an attempt to address the concerns of the Planning Board, the applicant has since presented additional information which includes revised elevations and site plan renderings of the canopy, the 24-hour kiosk at the front of the building, glazing calculations, and detailed information regarding the proposed operation of the curbside pick-up and the delivery service.

Design Review

The applicant is proposing the addition of one steel canopy covered parking space to the west elevation of the new building (back of building fronting the alley). This area will be used by customers to pick up or drop off their garments. A representative will come out to the parked vehicle and collect the form of payment and the garments to be cleaned, or deliver the cleaned clothes. The canopy will cover roughly the two parking spaces closest to the west entrance. Material samples have been submitted by the applicant.

Signage

The linear principal building frontage on the north elevation is 72 ft., permitting 108 sq. ft. of sign area. The proposed name letter signs will measure 33.1 sq. ft. each. The wall sign proposed on the north elevation will measure 45.5 sq. ft. The total proposed signage for the site is 111.7 sq. ft. In accordance with Article 1.0, section 1.04 (B) of the Birmingham Sign Ordinance, Combined Sign Area - For all buildings, including multitenant office or retail buildings, the combined area of all types of signs shall not exceed 1 sq. ft. (1.5 sq. ft. for addresses on Woodward Ave,) for each linear foot of principal building frontage. **The proposal does not meet this requirement.**

The applicant has reduced the total amount of signage to 109.5 sq. ft. by reducing the height of the rear facing sign to 2 ft. 10 13/16 in. **They must reduce the total amount of signage to 108 sq. ft.**

The wall sign is proposed to be mounted 11.2 ft. above grade in accordance with Article 1.0, Table B of the Birmingham Sign Ordinance that states wall signs shall not be attached to the outer wall at a height of less than 8 ft. above a public sidewalk and at a height of less than 15 ft. above a public alley. **The proposal meets this requirement.**

The proposed name letter signs on the east and west elevations will feature the Tide® logo, a yellow and orange "bullseye" with blue letters spelling out "Tide". The words "Dry Cleaners" will be

located next to the logo in the same color blue. The wall sign proposed on the north elevation is proposed to be identical to the name letter signs except that it will be mounted to a white background.

The applicant must reduce the amount of signage by 3.6 sq. ft. The rear facing sign is no longer proposed to be illuminated.

It was discussed that the canopy poles are located in what was previously landscaped area.

Mr. Koseck noticed that canopy is not attached to the building. Mr. Baka explained it is considered an accessory structure.

Responding to Mr. Share, Mr. Baka explained the parking is in excess of what is required.

Ms. Shannon Marklin, one of the real estate managers for Tide Drycleaners, came forward to explain about their operations. She was accompanied by Mr. Encore Patel, the franchisee owner and operator of this site. Ms. Marklin said pole mounted signs that read "Tide" will mark four parking spaces. She explained returning customers will use the same bag each time and it will contain a barcode inside attached to that customer's' account. Any instructions on how the customer wants their clothing finished will be included. Each article of clothing will also have a barcode to ensure that garments are not lost. The process is quick and easy because everything is on file.

Mr. Duane Barbat, the property owner, explained the canopy was not attached to the building because its purpose is to provide coverage over the parked cars. They can extend it to the building if the board prefers. He went on to say that adding the extra convenience of a drive-thru will help the company succeed, but by no means does he think it will make the site crazy with cars waiting to be served. In answer to Mr. Koseck, he stated the vacant space is leased to Complete Nutrition, a vitamin shop, and to Massage Luxe, a massage spa. They tried hard to choose tenants that would not disturb the residential neighborhood,

Ms. Marklin responded to Mr. Jeffares that the company van will be parked at Mr. Patel's house overnight. Mr. Jeffares also thought the canopy should extend 4 ft. and attach to the building.

Mr. Share said putting the van near the alley all day will take away a parking spot. The primary concern from the neighbors last time was traffic being created in the alley. Putting the van in the bigger lot might make more sense and alleviate some neighborhood concerns. Mr. Barbat thought that is a good point and they can definitely do that.

Chairman Clein asked about the turnover in a store like this. He wanted to know how this operation will not impact the neighbors immediately to the west. Ms. Marklin replied that the average car count that they have at one time is two. The most they have seen at peak hours is three to four. Even if there are three or four, there are two different store entrances so they are hoping that will reduce the queuing.

It was discussed that going forward the developer must always come back to the board for a use change if they will be servicing patrons in their vehicles.

Mr. Barbat explained this is a small 1,000 sq. ft. storefront. The additional 2,000 sq. ft. is used as a plant and will service other locations.

There are no comments from the public at this time.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Williams that the Planning Board recommends approval to the City Commission of the applicant's request for Final Site Plan and a SLUP for 33353 Woodward Ave., Tide Dry Cleaners with the following conditions:

1. The total square footage of signage must be reduced to 108 sq. ft. or less;

2. The canopy must be attached to the building.

Motion carried, 7-0.

No one from the audience commented on the motion at 8:14 p.m.

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

TIDE DRY CLEANERS 33353 WOODWARD SPECIAL LAND USE PERMIT - SERVICE TO PATRONS IN VEHICLES 2017

- WHEREAS, Tide Dry Cleaners applied for a Special Land Use Permit to allow the construction of a garment service facility that provides service to patrons in their vehicles at 33353 Woodward Avenue on October 25th, 2017 such application having been filed pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code;
- WHEREAS, The land is zoned B2B, General Business, which permits a drive-in facility with a Special Land Use Permit;
- WHEREAS, Article 7, section 7.37(D) of Chapter 126, Zoning, of the City Code provides that once a permit for a special land use has been granted as to any parcel of land, no change in that use may be made nor may any addition to or change in the building or improvements on the parcel of land take place until a new request for approval has been filed with the commission and the commission has approved the request for change;
- WHEREAS, The Planning Board on October 25th, 2017 reviewed the application for the Special Land Use Permit and recommended approval with the following conditions:
 - 1. The total square footage of signage must be reduced to 108 sq. ft. or less;
 - 2. The canopy must be attached to the building.
- WHEREAS, The applicant has complied with all of the conditions for approval recommended by the Planning Board on October 25th, 2017;
- NOW, THEREFORE, BE IT RESOLVED, That the Birmingham City Commission finds the standards set forth in the City Code have been met and the Tide Dry Cleaners application for a Special Land Use Permit authorizing the addition of a service to patrons in their vehicle is hereby approved with the following conditions:
 - (1) The total square footage of signage must be reduced to 108 sq. ft. or less; and
 - (2) The canopy must be attached to the building.

BE IT FURTHER RESOLVED, Except as herein specifically provided, Tide Dry Cleaners and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of Tide Dry Cleaners to comply with all of the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

I, Cherilynn Brown, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on December 4th, 2017.

Cherilynn Mynsberge, City Clerk











Tide Dry Cleaners

Curbside Service

Shannon Marklin 314-813-9571 Shannon.Marklin@agiledevelopment.pro

Outline



- Curbside Points of Difference
- CSR Procedure
 - Video of Curbside Service
 - Photos of Covered Canopy
- Location and operation of after-hours kiosk
- Data for Existing Tide Dry Cleaner locations
 - Number of CSRs on shift
 - Location of after-hour kiosk
 - Traffic count on frontage road

Curbside Service Points of Difference



••• The curbside service operation has four reserved parking spaces.

- Instead of a drive thru service like a restaurant, this is a curbside service (there will be a single glass sliding door and a Tide Dry Cleaners associate will come out to greet and service every car). As soon as a customer pulls into one of the reserved parking spaces, they are greeted by a Tide representative and either (1) The Tide associate takes the dirty garments from the customer or (2) the Tide associate delivers the clean garments to the customer & takes payment.
- The canopy that will project 16' which will cover two of the parking spaces for an added convenience for the • customer. However, if the two spaces are occupied, the customer will find the next available parking spot.
- Through the data we have at this point, we are anticipating 60% curbside service and \rightarrow 40% in store service.
 - However, during the initial start up of the store, the majority will be in store services, so customers can get • signed up into the TDC system.
 - Peak hours are in the mornings before work and in the afternoons after work. •
 - 7-8 AM
 - 5-6 PM

** Anticipated curbside service transaction times:

- Customers drop off less than 1 minute
- Customers pick up between 1 3 minutes •
- Birmingham, MI location will have two (2) lobbies, and three (3) Customer Service Reps (CSRs) to help service the customers. All employees are multi-trained to be able to help the CSRs at peak hours ٠



Store Hours are Mon-Fri – 7am - 7pm; Sat 8am - 5pm; Sun 10am - 3pm

CSR Procedure when servicing curbside customers



For "drop off" customers only:

- The CSR greets the guest and is handed the express bag containing the garments. The CSR thanks the guest by name and lets them know when the order will be ready for pick up. The CSR then takes the bag into the store to be detailed. This is the quickest of the valet transactions.
 - Number of trips: One
 - Average transaction time: 30 seconds to 1 minute

For "pick up" customers or "drop off w/ pick up" customers

- Guest is greeted by the CSR and they get the name of the guest. The CSR goes back in and accesses the customer in the POS and delivers the clothes to the rail on the conveyor. For guests who are not signed up for express checkout the CSR goes back out while the conveyor is spinning to let the guest know the total and to collect payment. When the payment is processed and the clothes are delivered to rail the CSR takes the garments to the car and gives the change/receipt to the guest.
 - Number of trips for customers with credit card on file: Two
 - Number of trips for customers without credit card on file: Three
 - Average transaction time: 60-90 seconds

The proposed Birmingham location will have two lobbies, therefore will have 3 CSRs on staff at one-time to service the customers. In addition, the rest of the staff are cross-trained to be able to help service customers during peak hours.

CSR Procedure when servicing curbside customers



CSR receiving customer's ticket order & processing payment



CSR delivering order directly to customer's car



Click on images to start video



CSR delivering clothes to customer's car







CSR processing payment

Location & Operation of After-Hours kiosk

For "drop off" customers:

- There is a drop box that is separate from the kiosk, that existing customers can use to drop their clothes in after business hours.
- Only existing customers are able to use the drop box because they will need to use the TDC plastic bag with their barcode printed inside in order for the employees to be able to recognize the customer in the system.

For "pick-up" customers:

- The customer will enter a passcode that has been emailed to them to allow the system to recognize the account. A list of all the garments associated with the account will then pop-up on the screen for the customer to review and confirm.
- Once the customer confirms the order, the conveyor will start to rotate and send the garments to the kiosk door.
- The customer completes the payment, and once the garments have arrived at the kiosk, the security door will open for the customer to take their clothes.

Location of after-hours kiosk:

The kiosk can be located at the front or side of the building, depending on the floor plan and location of the conveyor *The kiosk and drop box are not used during business hours





Sample Store #1

- Plant location
- End-cap in a multi-use development (apts above)
- 4 reserved parking spaces

2 CSRs on shift all-day

• A 3rd production employee is available to assist during peak hours

Monday (Busiest Day)

- 7a 5p (50 pick ups, 30 drop offs)
- 5p 7p (34 pick ups, 14 drop offs)
 - After work (heavy period) translates to about 1 customer served every 2 min.

After-hours kiosk

Traffic count: 36,524 cars

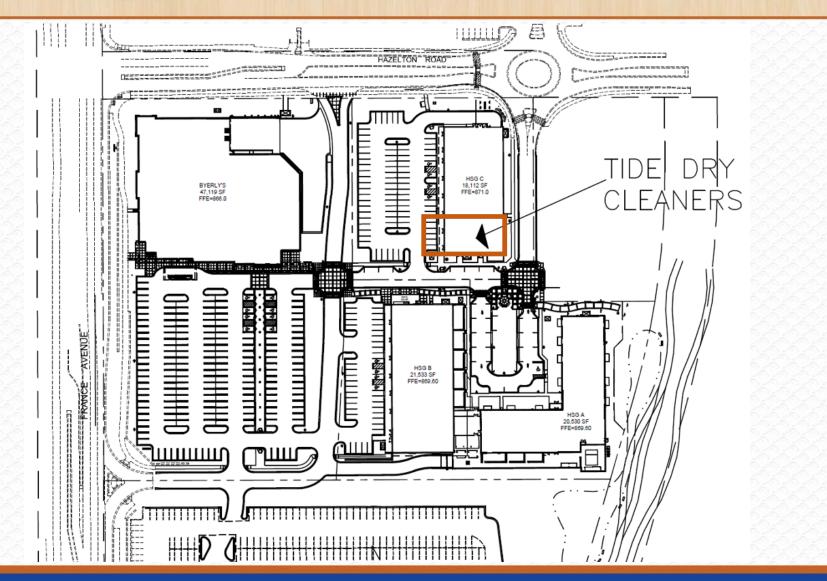
After-hours kiosk





Sample Store #1 – Site plan





Sample Store #2



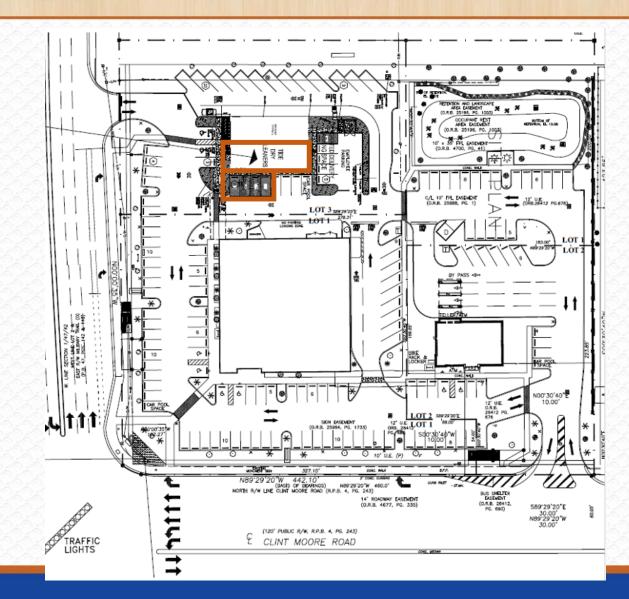
- Drop-plus location (wet laundry on site)
- End-cap of multi-tenant development
- 4 reserved covered parking spaces
- 2 CSRs on shift all-day
- After-hours kiosk under canopy
- Traffic count:
 22,302 cars



After-hours kiosk

Sample Store #2 – Site Plan





Sample Store #3



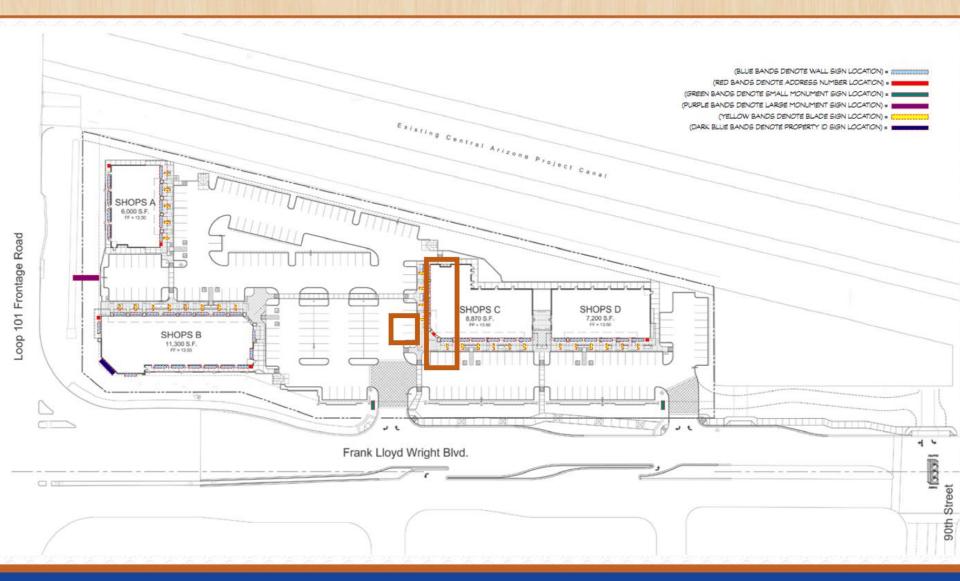
- Plant location
- End-cap multi-tenant building
- 6 reserved parking spaces
- 3 CSRs on shift all-day
 - A 4th production employee is available to assist during peak hours
- 24/7 Kiosk
- **Traffic count: 47,287 cars**



After-hours kiosk

Sample Store #3– Site plan





Sample Store #4



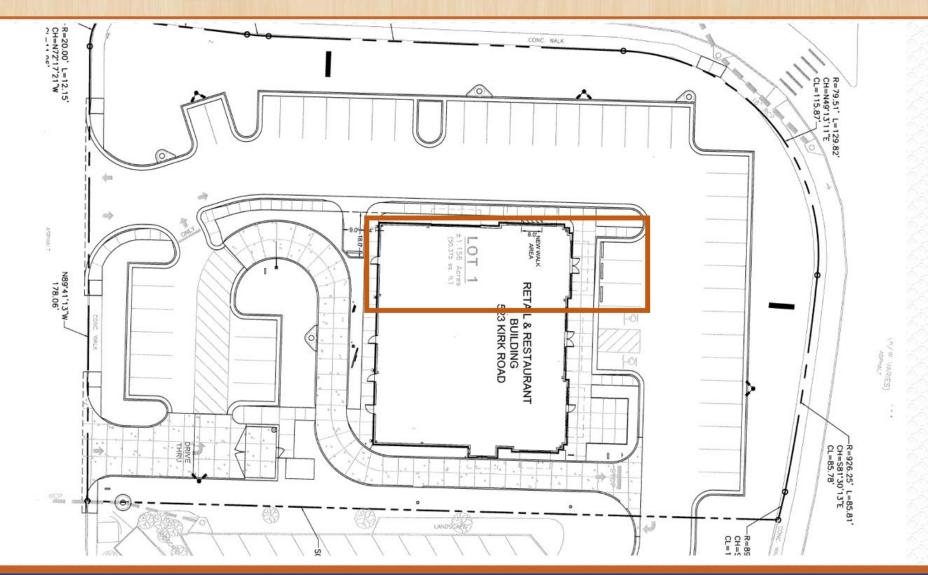
- Drop location
- Two Tenant Building
- 2 reserved parking spaces
- 2 CSRs on shift all-day
 - A 3rd production employee is available to assist during peak hours
- After-hours kiosk located in front of store
- Traffic count: 30,779 cars



After-hours kiosk

Sample Store #4 – Site plan

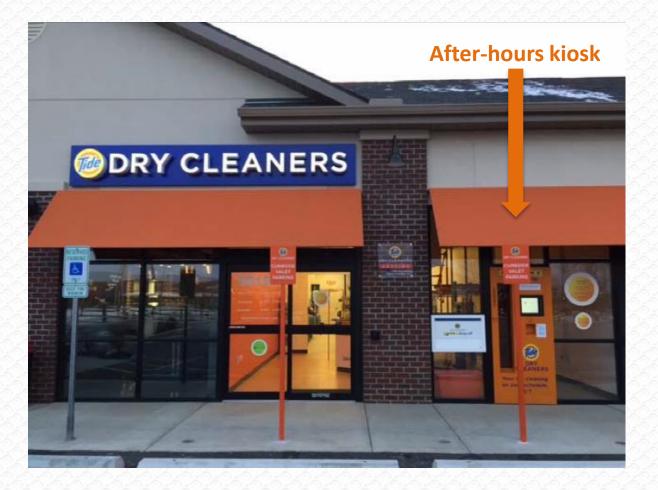




Sample Store #5

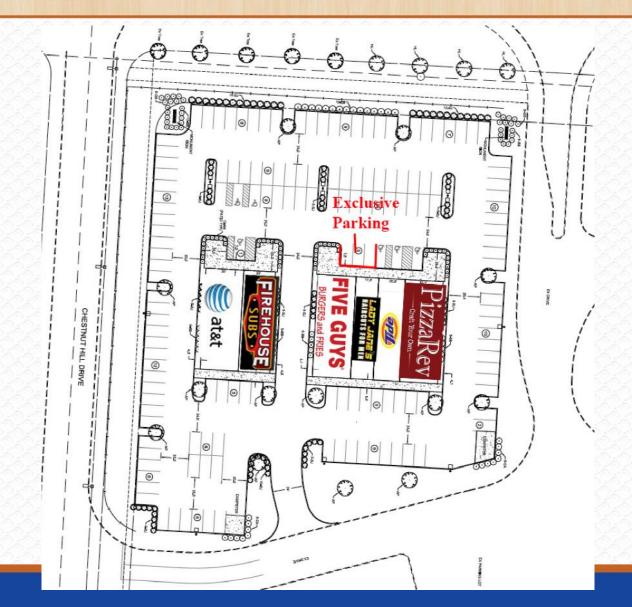


- Drop location
- Inline store of multitenant building
- 3 reserved parking spaces
- 2 CSRs on shift all-day
- After-hours kiosk located in front of store
- Traffic count: 22,302 cars



Sample Store #5 – Site Plan







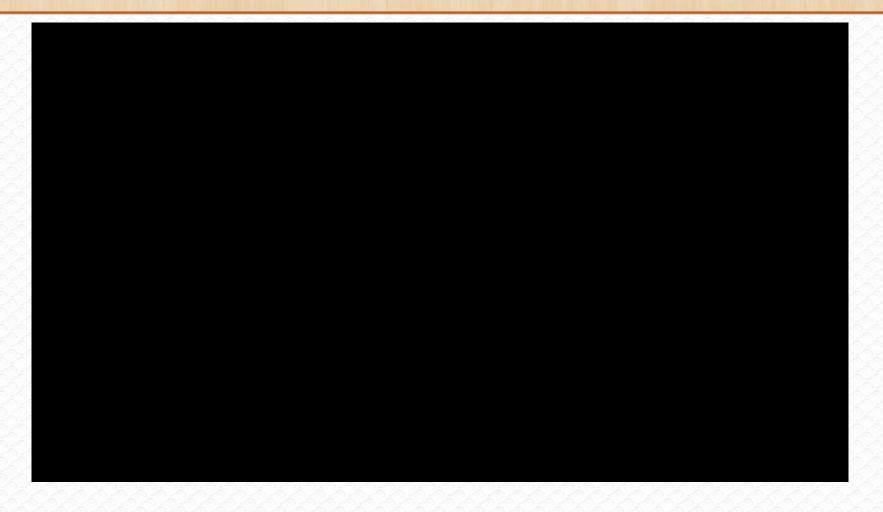
Tide Dry Cleaners

Delivery Service

Shannon Marklin 314-813-9571 Shannon.Marklin@agiledevelopment.pro

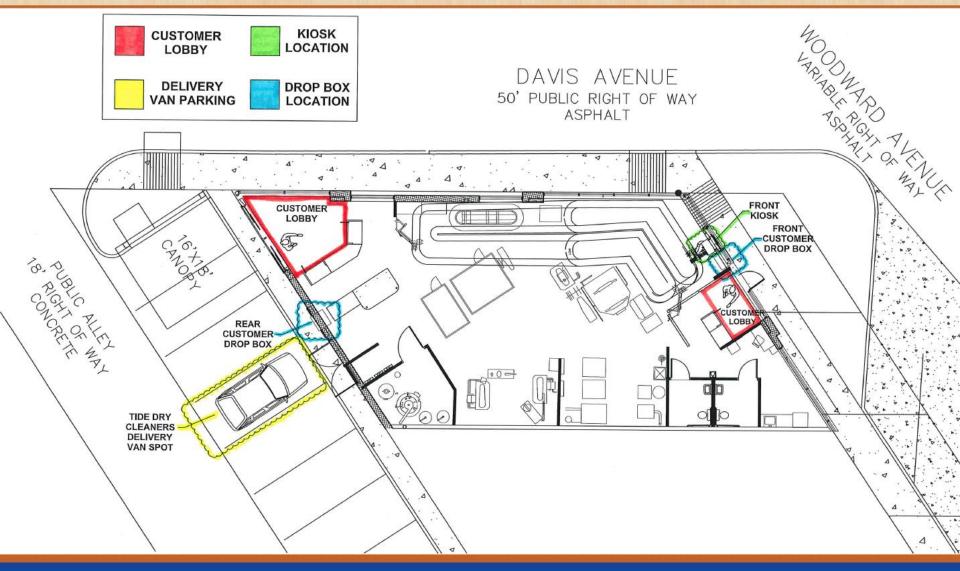
TDC Delivery Service Video





Delivery Van location during business hours





City of Birmingham A Walkable Community

MEMORANDUM

Planning Division

DATE: November 3, 2017

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: Set Public Hearing for Final Site Plan & Special Land Use Permit Amendment for Rojo Restaurant & Sidecar – 250 & 280 E. Merrill

Under Article 6, section 6.02 (5) of the Zoning Ordinance, all existing establishments with alcoholic beverage sales (on-premises consumption) require the approval of a Special Land Use Permit Amendment upon a change in ownership.

On October 26, 2017, the owners of Rojo and Sidecar restaurants, Rojo Five, LLC, submitted an application for a Final Site Plan and Special Land Use Permit Amendment to allow for an ownership change to sell the existing Rojo and Sidecar restaurants to Sidecar Birmingham, LLC, which is owned solely by Stephen Simon. Please see attached letter outlining the details of the transfer from Ms. Allen dated October 26, 2017. No changes are proposed to the layout, design, name or operation of the existing Rojo or Sidecar restaurants. As there are no changes to the layout or operation of the establishments, the City Attorney has directed that this request for the transfer of ownership proceed directly to the City Commission for review.

Please see attached report from the Police Department outlining the results of their investigation into the new ownership entity. The Chief of Police recommends to the City Commission the approval of the sale of Rojo and Sidecar restaurants from Rojo Five, LLC to Sidecar Birmingham, LLC.

Thus, the City Commission may wish to set a public hearing for December 4, 2017 to consider approval of the Final Site Plan and Special Land Use Permit Amendment for Rojo and Sidecar restaurants to allow the transfer of ownership from Rojo Five, LLC to Sidecar Birmingham, LLC.

SUGGESTED ACTION:

To set a public hearing date of December 4, 2017 to consider the approval of the Final Site Plan and Special Land Use Permit Amendment to allow the sale of Rojo and Sidecar restaurants at 250 & 280 E. Merrill from Rojo Five, LLC to Sidecar Birmingham, LLC., subject to execution of a Special Land Use Permit contract between Sidecar Birmingham, LLC and the City of Birmingham.

City of B	irmingham A Walkable Community	MEMORANDUM
DATE:	October 26, 2017	Police Department
то:	Joseph A. Valentine, City Manager Jana Ecker, Planning Director	
FROM:	Mark H. Clemence, Chief of Police	
SUBJECT:	The Sidecar Birmingham, LLC at 250 is requesting to transfer ownership with Sunday Sales (AM and PM) P Permit and Additional Bar Permit fr Id. No. 234063 to Sidecar Birming 280 E. Merrill, Birmingham, Oaklan pursuant to MCL 436.1521(A)(1)(B) Sidecar Birmingham, LLC.	p of a Class C liquor license ermit, Outdoor Service Area rom Rojo Five, LLC, Business ham, LLC be located at 250- nd County, Michigan, issued

1

The police department has received a request from the law firm of Adkison, Need, Allen, and Rentrop regarding the transfer of ownership of a Class C liquor license from Rojo Five, LLC, located at 250-280 E. Merrill, Birmingham, Oakland County, MI 48009, which will continue to do business as Rojo Mexican Bistro and Sidecar Slider Bar to Sidecar Birmingham, LLC. The Sidecar Birmingham LLC has paid the initial fee of \$1,500.00 for a business that serves alcoholic beverages for consumption on the premises per section 7.33 of the Birmingham City Code.

The Sidecar Birmingham, LLC will be seeking to continue a Class C liquor license issued under Chapter 10, Alcoholic Liquors, of the Birmingham City Code contingent on the Birmingham City Commission approval to amend the SLUP to be in the name of Sidecar, LLC, rather than Rojo Five, LLC to operate an establishment with a Class C liquor license for 250-280 E. Merrill.

Rojo Five, LLC, is in bankruptcy. The purchase price of \$120,000 for Rojo Mexican Bistro and Sidecar Slider Bar represents rents past due to American Blue Ribbon Holdings, which is Max & Ermas. American Blue Ribbon Holdings is the sub-landlord, under Esshaki's company, Essco of Birmingham, LLC.

There will be one stockholder for the transfer of Rojo Five, LLC to Sidecar Birmingham, LLC. The new sole member is Stephen Simon. Mr. Simon has been employed as the operations manager of the existing Rojo Mexican Bistro since 2009. Mr. Simon is purchasing the business for \$120,000 and will be assuming both of the existing leases. Mr. Simon borrowed the necessary funds from his friend Scott Pelc. Mr. Pelc removed the \$120,000 from his Fidelity Mutual Funds account. Mr. Simon and Mr. Pelc have entered into a civil agreement to repay the funds over 155 months.

Sidecar Birmingham, LLC will continue to operate Rojo Mexican Bistro and Sidecar Slider Bar at 250-280 E. Merrill, Birmingham, MI. Rojo is an upscale traditional Mexican restaurant. Rojo will serve lunch and dinner. The menu will offer appetizers, soup, salads, burritos, fajitas, and

entrees. The Sidecar Slider Bar serves lunch and dinner. The menu offers shared plates, soups, salads, traditional and specialty sliders, and specialty hot dogs. Rojo has interior seating for 166 patrons and the Sidecar Slider Bar has interior seating for 73 patrons. Rojo hours of operation are 7 days a week from 11:00 am to 11:00pm and Sidecar Slider Bar is open 7 days a weeks from 11:00am to 2:00am.

This is a transfer of ownership for the restaurants and Class C liquor license only. There will be no changes to Rojo or Sidecar or their operations.

A current background check was conducted on Stephen Simon and his lender Scott Pelc. The Law Enforcement Information Network (LEIN), the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network (MAGLOCLEN) and the Court's Law Enforcement Management Information System (CLEMIS) were used to gather possible criminal contacts.

As a result of this investigation, no information was developed or uncovered that would give cause to deny the applicant's request. Mr. Simon has never held a liquor license in the past.

A representative from the law firm of Adkison, Need, Allen, and Rentrop PLLC will be present to answer any questions.

SUGGESTED RESOLUTION:

To authorize the Chief of Police to sign the MLCC <u>Police Investigation Report</u> (LC-1800) and to approve the liquor license transfer for The Sidecar Birmingham, LLC, that requests a transfer of Class C License issued under MCL 436.1521(A)(1)(B) located at 250-280 E. Merrill, Birmingham, Oakland County, MI 48009.

Furthermore, pursuant to Birmingham City Ordinance, to authorize the City Clerk to complete the <u>Local Approval Notice</u> at the request of The Sidecar Birmingham, LLC approving the liquor license transfer request of The Sidecar Birmingham, LLC for the transfer of a Class C License to be issued under MCL 436.1521 (A)(1)(B) located at 250-280 E.Merrill, Birmingham, Oakland County, MI 48009.



LAW OFFICES

ADKISON, NEED, ALLEN, & RENTROP

PROFESSIONAL LIMITED LIABILITY COMPANY

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

KEVIN M. CHUDLER Sarah J. Gabis Linda S. Mayer

October 26, 2017

Via Electronic Mail

PHILLIP G. ADKISON

GREGORY K. NEED

G. HANS RENTROP

JESSICA A. HALLMARK

KELLY A. ALLEN

Jana Ecker, Planning Director Joseph Valentine, City Manager City of Birmingham 151 Martin St. Birmingham, MI 48012

> Re: Rojo and Sidecar 250 and 280 Merrill Street Request to Amend SLUP

Dear Ms. Ecker and Mr. Valentine:

We represent Sidecar, LLC, the purchaser of the business which now operates as Rojo and Sidecar (the "business") at the above addresses. The liquor license is currently in the name of Rojo Five, LLC.

The purchaser of the business is Sidecar, LLC, which is solely owned by Stephen Simon.

We have filed the required application with the Police Department and have paid the application fee.

There will be no changes whatsoever to the layout, concept, name, or menu for the business. Rojo and Sidecar will continue to operate the business as they have since being approved by the Planning Board and the City Commission.

Please let me know if you require any fee for our request to amend the Special Land Use Permit to be in the name of Sidecar, LLC, rather than Rojo Five, LLC.

As always, thank you for your consideration.

Very truly yours,

ADKISON, NEED, ALLEN, & RENTROP, PLLC

HA. Allen Jalle

/kjf

Cc: Stephen Simon Chief Mark Clemence



Special Land Use Permit Application

Planning Division

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

1. Applicant

Name: Sidecar Birmingham, LLC	
Address: 250-280 Merrill Street	
Phone Number: (248) 220-4167	

Fax Number: _______ Email Address: stevesimon1114@gmail.com

2. Applicant's Attorney/Contact Person

_			
_			
Phone Number: (248) 540-7400			
Fax Number: (248) 540-7401			

3. Required Attachments

• Warranty Deed with legal description of property

• Required fee (see Fee Schedule for applicable amount)

• Fifteen (15) folded copies of plans including a certified land survey, color elevations showing all materials, site plan, landscape plan, photometric plan, and interior plan

• Photographs of existing site and buildings

• Samples of all materials to be used

4. Project Information

Address/Location of Property: 250-280 Merrill Street

Name of Development:
Sidwell #:
Current Use: Restaurant
Proposed Use: Restaurant
Area in Acres:
Current Zoning: B-4/D-4
Zoning of Adjacent Properties:
Is there a current SLUP in effect for this site?: Yes
Is property located in the floodplain? No

Property Owner

Name: Essco of Birmingham, LLC				
Address: 210 South Old Woodward				
Birmingham, MI 48009				
Phone Number: (248) 645-5900				
Fax Number:				
Email Address: jesshaki@esscodevelopment.com				

Project Designer/Developer

Phone Number:	
Fax Number:	
Email Address:	

•Catalog sheets for all proposed lighting, mechanical equipment & outdoor furniture

• An itemized list of all changes for which approval is requested

Completed Checklist

• Digital copy of plans

• One (1) additional set of plans mounted on a foam board, including a color rendering of each elevation

Name of Historic District site is in, if any:				
Date of HDC Approval, if any:				
Date of Application for Preliminary Site Plan:				
Date of Preliminary Site Plan Approval:				
Date of Application for Final Site Plan:				
Date of Final Site Plan Approval:				
Date of Revised Final Site Plan Approval:				
Date of Final Site Plan Approval:				
Date of DRB approval, if any:				
Date of Last SLUP Amendment: 12/7/15				
Will proposed project require the division of platted lots? No				

5. Details of the Nature of Work Proposed (Site plan & design elements)

No changes to establishments.

6. Buildings and Structures No changes

Number of Buildings on site:	
Height of Building & # of stories:	

7. Floor Use and Area (in square feet) No changes

C	01	mr	ne	rci	al	Sti	ru	cti	ur	es	•	
-												

l otal basement floor area:	Office space:
Number of square feet per upper floor:	Retail space:
Total floor area:	Industrial space:
Floor area ratio (total floor area divided by total land area):	Assembly space:
Open space:	Seating Capacity:
Percent of open space:	Maximum Occupancy Load

~ ~~

Residential Structures:

Total number of units:	Rental units or condominiums?:
Number of one bedroom units:	Size of one bedroom units:
Number of two bedroom units:	Size of two bedroom units:
Number of three bedroom units:	Size of three bedroom units:
Open space:	Scating Capacity:
Percent of open space:	Maximum Occupancy Load:

8. Required and Proposed Setbacks No changes

Required front setback:	Proposed front setback:
Required rear setback:	Proposed rear setback:
Required total side setback:	Proposed total side setback:
Side setback:	Second side setback:

9. Required and Proposed Parking No changes

Proposed number of parking spaces:
Typical size of parking spaces:
Number of spaces < 180 sq. ft.:
Number of handicap spaces:
Shared Parking Agreement?:
Height of light standards in parking area:
Height of screenwall:

10. Landscaping No changes

11. Streetscape No changes

Sidewalk width:	Description of benches or planters:
Number of benches:	
Number of planters:	
Number of existing street trees:	Species of existing street trees:
Number of proposed street trees:	Species of proposed street trees:
Streetscape Plan submitted?:	
12. Loading No changes	
Required number of loading spaces:	Proposed number of loading spaces:
Typical angle of loading spaces:	Typical size of loading spaces:
Screenwall material:	Height of screenwall:
Screenwall material:	
13. Exterior Trash Receptacles No changes	
Required number of trash receptacles:	Proposed number of trash receptacles:
Location of trash receptacles:	Size of trash receptacles:
Screenwall material:	Height of screenwall:
14. Mechanical Equipment None	
Utilities & Transformers:	
Number of ground mounted transformers:	Location of all utilities & easements:
Size of transformers (LxWxH):	
Number of utility easements:	
Screenwall material:	Height of screenwall:
Ground Mounted Mechanical Equipment: None	
Number of ground mounted units:	Location of all gournd mounted units:
Size of ground mounted units (LxWxH):	
Screenwall material:	Height of screenwall:
Rooftop Mechanical Equipment: No changes	
Number of rooftop units:	Location of all ground mounted units:
Type of rooftop units:	Size of rooftop units (LxWxH):
Screenwall material:	Height of screenwall:
Location of screenwalls:	Percentage of rooftop covered by mechanical units:
- <u>7</u>	Distance from units to rooftop units to screenwall:

15. Accessory Buildings None

Number of accessory buildings: Location of accessory buildings:	Size of accessory buildings: Height of accessory buildings:
16. Building Lighting No changes	
Number of light standards on building: Size of light fixtures (LxWxH):	Type of light standards on building: Height from grade:
Maximum wattage per fixture:	Proposed wattage per fixture:
	Number & location of holiday tree lighting receptacles:

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

Signature of Owner:	aki	Date: _	11/6/17
Signature of Applicant:		Date: _	11/6/17
Print Name:			
Signature of Architect:		Date: _	
Print Name: <u>N/A</u>			
	Office Use Only		
	Office Use Only		
Application #:	Date Received:	Fee:	
Date of Approval:	Date of Denial:	_ Accep	ted by:
Date of Approval:	Date of Denial:	Ассер	ted by:

15. Accessory Buildings None

Number of accessory buildings: Location of accessory buildings:	Size of accessory buildings: Height of accessory buildings:
16. Building Lighting No changes	
Number of light standards on building:	Type of light standards on building:
Size of light fixtures (LxWxH):	Height from grade:
Maximum wattage per fixture:	Proposed wattage per fixture:
Light level at each property line:	Number & location of holiday tree lighting receptacles:

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

Signature of Owner:		Date: <u>11/6/17</u>	
Print Name:Iames Essbaki			
Signature of Applicant:		Date: <u>11/6/17</u>	
Signature of Architect:		Date:	
Print Name: <u>N/A</u>			
	Office Use Only		
Application # Date of Approval:	Date Received: Date of Denial:	Accepted by:	
and the second			

ROJO AND SIDECAR RESTAURANTS 250 & 280 E. MERRILL SPECIAL LAND USE PERMIT AMENDMENT 2017

- WHEREAS, Rojo Five, LLC has filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to sell Rojo and Sidecar restaurants to Sidecar Birmingham, LLC and continue to operate the said restaurants with alcoholic beverage sales for on-premises consumption under Chapter 126, Zoning, of the City Code;
- WHEREAS, The land for which the Special Land Use Permit is sought is located on the south side of E. Merrill between Pierce and S. Old Woodward;
- WHEREAS, The land is zoned B-4 and D-4, and is located within the Downtown Birmingham Overlay District, which permits restaurants with alcoholic beverage sales for onpremises consumption with a Special Land Use Permit;
- WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission;
- WHEREAS, No site plan or design changes are proposed to the existing Rojo restaurant at 250 E. Merrill or Sidecar restaurant at 280 E. Merrill;
- WHEREAS, The owner owner of Rojo and Sidecar restaurants, Rojo Five, LLC is now requesting approval of the Birmingham City Commission to allow a transfer in ownership of the existing restaurants to Sidecar Birmingham, LLC;
- WHEREAS, The Birmingham City Commission has reviewed Rojo and Sidecar's Special Land Use Permit Amendment application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;
- NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that Rojo and Sidecar restaurants' application for a Special Land Use Permit Amendment authorizing a transfer of ownership of an existing establishment with alcoholic beverage sales (on-premises consumption) at 250 & 280 E. Merrill in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;
- BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit is granted subject to the following conditions:
 - 1. Rojo and Sidecar restaurants shall abide by all provisions of the Birmingham City Code;
 - 2. The Special Land Use Permit may be cancelled by the City Commission upon finding that the continued use is not in the public interest; and

3. Rojo and Sidecar restaurants enter into a contract with the City outlining the details of the operation of the restaurants.

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

BE IT FURTHER RESOLVED, Except as herein specifically provided, Rojo and Sidecar restaurants and their heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of Rojo and Sidecar restaurants to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

I, Cherilynn Mynsberge, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on December 4, 2017.

Cherilynn Mynsberge, City Clerk

City of	Birmingham	MEMORANDUM
		City Clerk's Office
DATE:	November 2, 2017	
TO:	Joseph A. Valentine, City Manager	
FROM:	Cherilynn Mynsberge, City Clerk	
SUBJECT:	Special Event Request Farmers Market	

Attached is a special event application submitted by the Birmingham Shopping District requesting permission to hold Birmingham Farmer's Market in Municipal Parking Lot #6 (North Old Woodward) on Sundays, May through October, 2018 from 9:00 AM to 2:00 PM.

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

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

Event Name	Date	Location
Art Birmingham	May 11-12	Shain Park
Celebrate Birmingham Hometown Parade	May 20	Downtown & Shain Park
Village Fair	May 30-June 3	Shain Park
Birmingham Street Art Fair	Sept 14-16	Shain Park
Halloween Parade & Pumpkin Patch	Oct 28	Downtown & Shain Park

SUGGESTED RESOLUTION:

To approve a request from the Birmingham Shopping District to hold Birmingham Farmers' Market on Sundays from May through October, 2018 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.

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

I. <u>EVENT DETAILS</u>

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

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

(Please print clearly or type)

Date of Application October 20, 2017

Name of Event Birmingham Farmers Market

Location Munici	pal Parking Lot #6 on North Old Woodward	
Date(s) of Event	Sundays, May 6, 2018 - October 28, 2018 Hours of Event 9 a.m 2 p.m.	

Date(s) of Set-up day of event Hours of Set-up 7 - 9 a.m.

Date(s) of Tear-down day of event Hours of Tear-down 2 - 3:30 p.m.

Organization	Sponsoring	j Event	Event	Bi	rm	ing	ha	am	Sh	lok	pin	g District		
						-							10000	

Organization Address 151 Martin Street, Birmingham 48009

Organization Phone 248-530-1200

Contact Person Jaimi Brook

Contact Phone 248-530-1254

Contact Email jbrook@bhamgov.org

II. EVENT INFORMATION

1.	Organization Type <u>city</u> (Birmingham Shopping District)
	(city, non-profit, community group, etc.)
2.	Additional Sponsors or Participants (Provide name, address, contact person, status, etc. for all additional organizations sponsoring your event.) TBD
3.	Is the event a fundraiser? YES NO List beneficiary List expected income
4.	Attach information about the beneficiary. First time event in Birmingham? YES NO If no, describe This will be the 16th annual farmers market season in Birmingham.
5.	Total number of people expected to attend per day <u>3,200</u>
6.	The event will be held on the following City property: (Please list) Image: Street(s) Municipal Parking Lot #6
	Sidewalk(s) Park(s)
7.	Will street closures be required? YES NO
8.	What parking arrangements will be necessary to accommodate attendance?

9.	Will staff be provided to assist with safety, security and maintenance? YES NO Describe BSD staff will be on site during the event as well as community volunteers.
10.	Will the event require safety personnel (police, fire, paramedics)? YES NO
11.	Will alcoholic beverages be served? YES NO If yes, additional approval by the City Commission is required, as well as the Michigan Liquor Control Commission.
12.	Will music be provided? YES NO X Live X Amplification X Recorded Loudspeakers Time music will begin after 9:30 a.m. Image: Complexity of the second seco
13.	Will there be signage in the area of the event? YES NO Number of signs/banners two Size of signs/banners 14' x 4' banner on N. Old Woodward parking deck; 10' x 4' sign on south end of parking lot. Submit a photo/drawing of the sign(s). A sign permit is required.
14.	 Will food/beverages/merchandise be sold? YES NO Peddler/vendor permits must be submitted to the Clerk's Office, at least two weeks prior to the event. All food/beverage vendors must have Oakland County Health Department approval. Attach copy of Health Dept approval. There is a \$50.00 application fee for all vendors and peddlers, in addition to the \$10.00 daily fee, per location. A background check must be submitted for each employee participating at the event.

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

VENDOR NAME	GOODS TO BE SOLD	WATER HOOK- UP REQUIRED?	ELECTRIC REQUIRED?
TBD			
		14	

III. EVENT LAYOUT

- Include a map showing the park set up, street closures, and location of each item listed in this section.
- Include a map and written description of run/walk route and the start/finish area
- 1. Will the event require the use of any of the following municipal equipment? *(show location of each on map)*

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

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

ТҮРЕ	QUANTITY	SIZE
Tents/Canopies/Awnings (A permit is required for tents over 120 sq ft)	1-60	10' x 10'
Portable Toilets	2	1 regular/1 special
Rides	0	
Displays	0	
Vendors	1-70	
Temporary Structure (must attach a photo)		
Other (describe)		

SIGNATURE OF APPLICANT REQUIRED

EVENT NAME Birmingham Farmers Market EVENT DATE May 6, 2018 - October 28, 2018

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

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

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

- Organizer must notify all potentially affected residential property and business owners of the date and time this application will be considered by the City Commission. (Sample letter attached to this application.)
- Attach a copy of the proposed letter to this application. The letter will be reviewed and approved by the Clerk's Office. The letter must be distributed at least two weeks prior to the Commission meeting.
- A copy of the letter and the distribution list must be submitted to the Clerk's Office at least two weeks prior to the Commission meeting.
- If street closures are necessary, a map must be included with the letter to the affected property/business owners.

TO: Birmingham Property Owner

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

LOCATION	Deskien Let #6 en N. Old Westernel		
LOCATION:	Parking Lot #6 on N. Old Woodward		
DATES/TIMES:	Sundays only, May 6 – October 28, 2018, 9:00 am – 2:00 pm		
The market offers a music, a children's o diverse array of Mic	I OF EVENT/ACTIVITY: hometown experience that's fun for all ages, with fresh prepared foods, live craft area and more. Throughout the season more than 70 booths feature a higan grown produce including vegetables, fruits, flowers and garden plants, plus crafted items, soaps and decorative items.		
HOURS OF SET-UP	7:00 am to 9:00 am HOURS OF TEAR-DOWN 2:00 pm to 3:30 pm		
DATE OF CITY COMM	MISSION MEETING: Monday, November 13, 2017		
copy of the applicati	a meets in room 205 of the Municipal Building at 151 Martin at 7:30 p.m. A complete ion to hold this special event is available for your review at the city clerk's office on to www.bhamgov.org/events for a complete list of special events.		
copy of the applicati (248/530-1880). Log	ion to hold this special event is available for your review at the city clerk's office on to www.bhamgov.org/events for a complete list of special events.		
copy of the applicati	ion to hold this special event is available for your review at the city clerk's office on to www.bhamgov.org/events for a complete list of special events.		

October 20, 2017

TO: Birmingham Property Owner

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

NAME OF EVENT:	Birmingham Farmers Market	
LOCATION:	Parking Lot #6 on N. Old Woodward	

DATES/TIMES:	Sundays only, May 6 - October 28, 2018, 9:00 am - 2:00 pm
--------------	---

BRIEF DESCRIPTION OF EVENT/ACTIVITY:

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

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

DATE OF CITY COMMISSION MEETING: Monday, November 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 Shopping District	
ADDRESS:	151 Martin Street, Birmingham, MI 48009	
PHONE:	248/530-1254	

October 20, 2017

TO: Birmingham Property Owner

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

NAME OF EVENT:	Birmingham Farmers Market
LOCATION:	Parking Lot #6 on N. Old Woodward
DATES/TIMES:	Sundays only, May 6 – October 28, 2018, 9:00 am – 2:00 pm

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HOURS OF SET-UP	7:00 am to 9:00 am	HOURS OF TEAR-DOWN	2:00 pm to 3:30 pm
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October 20, 2017

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LOCATION:	Parking Lot #6 on N. Old Woodward
DATES/TIMES:	Sundays only, May 6 - October 28, 2018, 9:00 am - 2:00 pm

BRIEF DESCRIPTION OF EVENT/ACTIVITY:

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

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

Monday, November 13, 2017

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EVENT ORGANIZER:	Birmingham Shopping District	
ADDRESS:	151 Martin Street, Birmingham, MI 48009	
PHONE:	248/530-1254	

VII. <u>CHECKLIST</u>

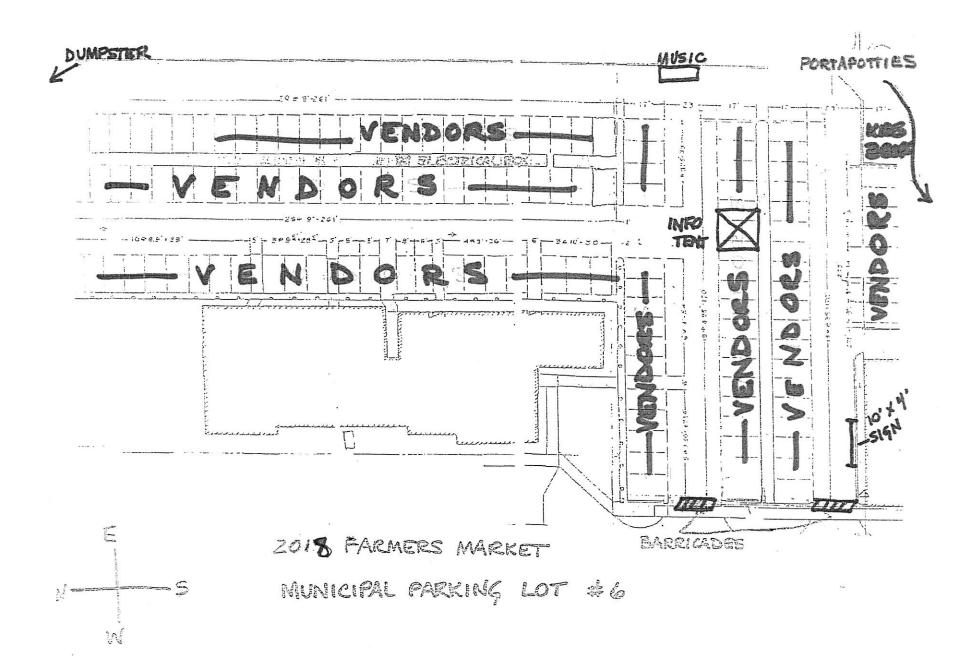
ATTACHMENTS TO INCLUDE WITH SPECIAL EVENT APPLICATION

- > Completed special event application
- > Application fee (payable to "City of Birmingham")
- > Map of event area detailing
 - o street closures
 - o tents / canopies
 - tables
 - o **signs**
 - trash receptacles / dumpsters
 - o barricades
 - o audio equipment / band
 - o rides / inflatables
 - o vendor booths
 - o displays
 - o portable toilets
 - layout of start/finish area (if on public property)
 - temporary structures or displays of any kind (picture required)
- Map of the route(s)
- Written route(s)
- > Photo of display or temporary structure
- Sample of signs/banners including size
- > Hold Harmless Agreement (signed, on event sponsor's letterhead)
- > Insurance Certificate
- > Letter to affected property owners (must include map of event area or route)*
- List of addresses the letter was distributed (includes all residential and businesses in the event area, along the route, and affected by street closures)*
- List of vendors
- > If fundraiser: Information about the beneficiary

*Letter to affected property owners and list of addresses must be submitted to the Clerk's Office at least two weeks prior to the Commission meeting.

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OFFICE USE ONLY	
Received by	
Date	
License Number	
The above highlighted items must be submitted by $_{14}$	
Date of Commission meeting	



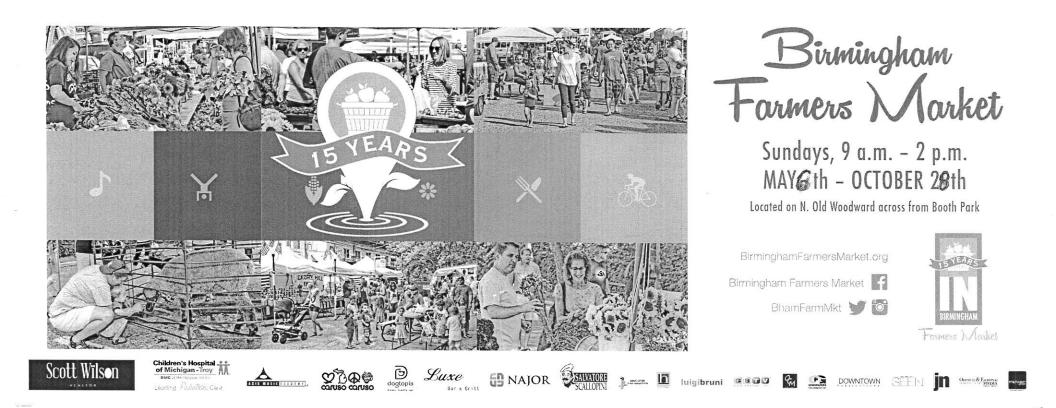




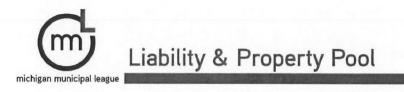
Sundays, 9 a.m. – 2 p.m. MAYGth THROUGH OCTOBER 28th

Located on N. Old Woodward across from Booth Park

14' × 4' banner on North Old Woodward Parking deck



10' × 4' sign on south end of Municipal Parking Lot #6



LIABILITY DECLARATIONS

IN RETURN FOR THE PAYMENT TO THE POOL AND SUBJECT TO ALL THE TERMS OF THIS COVERAGE DOCUMENT, THE POOL AGREES WITH YOU TO PROVIDE COVERAGE AS STATED IN THIS CONTRACT. THESE COVERAGES ARE ALSO PROVIDED IN ACCORDANCE WITH THE INTERGOVERNMENTAL CONTRACT WHICH FORMS THE LEGAL BASIS FOR THE OPERATION OF THE POOL.

Contract Number:	MML001444016	Renewal of Nu	mber: <u>MML001444015</u>	
Pool Member:	City of Birmingham			
Coverage Period From:	7/1/2017	To: 7/ 12:01 A.M. Standar	1/2018 d Time	
(This polic	y applies to only those C	Coverage Parts ma	arked with an "X")	
	LIMITS OF I	NSURANCE		
		AGE PART		
EA	CH OCCURRENCE LIMIT	\$10,000,000		
FIR	E DAMAGE LIMIT	\$100,000	Any One Fire	
ME	DICAL EXPENSE LIMIT	\$10,000	Any One Person	
DEDUCTIBLE:		\$125,000	Each Occurrence	
	NT LIABILITY COVERA	GE PART		
EACH WR	ONGFUL ACT LIMIT	\$10,000,000		
	DEDUCTIBLE:	\$125,000	Each Wrongful Act	
I PUBLIC OFFICIALS LIABILITY COVERAGE PART				
EACH WR	ONGFUL ACT LIMIT	\$10,000,000		
	DEDUCTIBLE:	\$125,000	Each Wrongful Act	

THESE DECLARATIONS ARE A PART OF THE COMMON POLICY DECLARATIONS.

 (This policy applies to only those Coverage Parts marked with an "X")

 LIMITS OF INSURANCE

 Image: Semployee Benefit Liability Coverage Parts

 EACH CLAIM LIMIT \$1,000,000

 DEDUCTIBLE:
 \$125,000

 Each Claim

 EACH OCCURRENCE LIMIT
 \$10,000,000

 DEDUCTIBLE:
 \$10,000,000

 DEDUCTIBLE:
 \$10,000,000

 DEDUCTIBLE:
 \$10,000,000

 DEDUCTIBLE:
 \$10,000,000

 DEDUCTIBLE:
 \$125,000
 Each Occurrence

THE COMBINED POLICY LIMIT \$10,000,000

Regardless of the number of **Insureds**, **Claims** made or **Suits** brought, persons or organizations making **Claims** or bringing **Suits** or coverages or coverage parts which may be applicable, the Combined Policy Limit shown above is the most we will pay for the sum of all **Damages** arising out of an **Occurrence**, **Wrongful Act**, act or omission and any series of related **Occurrences**, **Wrongful Acts**, acts or omissions.

The Combined Policy Limit is the most we will pay regardless of the number of Coverage Parts under which coverage may be sought.

FORMS AND ENDORSEMENTS applying to these Coverage Parts and made part of this policy at time of issue: MML200 (01/14), MML202 (11/99), MML233 (07/13), MML203 [11/99], MML208 [11/99], MML215 [02/00]

TOTAL LIABILITY PREMIUM

\$ INCLUDED

BY ____

sith a. Thomas

Authorized Representative

Date:

6/19/2017

0/19/201

A SERVICE OF THE MICHIGAN MUNICIPAL LEAGUE

MMLB (02/10)

THESE DECLARATIONS ARE A PART OF THE COMMON POLICY DECLARATIONS.

- Page 2 of 2 -

DEPARTMENT APPROVALS

EVENT NAME FARMERS MARKET

LICENSE NUMBER 18-00011079

COMMISSION HEARING DATE: November 13, 2017

NOTE TO STAFF: Please submit approval by Wednesday, November 1, 2017

DATE OF EVENT: May thru October 2018

DEPARTMENT	APPROVED	COMMENTS	PERMITS REQUIRED (Must be obtained directly from individual departments)	ESTIMATED COSTS (Must be paid two weeks prior to the event. License will not be issued if unpaid.)	ACTUAL COSTS (Event will be invoiced by the Clerk's office after the event)
PLANNING 101-000.000-634.0005 248.530.1855		No comments	None	\$0	\$0
BUILDING 101-000.000.634.0005 248.530.1850	MM	Periodic safety inspections. All tents and canopies must be weighted down.	Any tents 400 sq ft or larger require permits	\$332.22	
FIRE 101-000.000-634.0004 248.530.1900	JMC	 Special Event Tents or Canopies 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 		\$0	

		 obstructions in the access aisle unless approved by the Fire Marshal. 6. Pre-event site inspection required. 7. All food vendors are required to have an approved 5lbs. multi- purpose (ABC) fire extinguisher on site and accessible. 8. Provide protective barriers between hot surfaces and the public. 9. Cords, hoses, etc. shall be matted to prevent trip hazards. 10. Paramedics will respond from the fire station as needed. Dial 911 for fire/rescue/medical emergencies. 11. Do Not obstruct fire hydrants or fire sprinkler connections on buildings. 			
POLICE 101-000.000.634.0003 248.530.1870	SG	Barricades, on duty officers to give extra patrol.		\$520	
PUBLIC SERVICES 101-000.000-634.0002 248.530.1642	Carrie Laird			\$3,500 Equipment, Labor, Trash	
ENGINEERING 101-000.000.634.0002 248.530.1839	A.F.	No pavement damage to anchor tents or other fixtures. Maintain 5' clear pedestrian walkway on sidewalks.	None	\$0	\$0
SP+ PARKING	A.F.	Emailed information to SP+ 0n 10/30/17	None	\$0	\$0
INSURANCE 248.530.1807	СА		None	\$0	\$0

CLERK 101-000.000-614.0000 248.530.1803	Notification mailed by applicant 10/30/17. Notification addresses on file in the Clerk's Office. Evidence of required insurance must be on file with the Clerk's Office no later than 4/20/18.	Applications for vendors license must be submitted no later than 2 weeks prior to market date.	\$165	
			TOTAL DEPOSIT REQUIRED \$4,517.22	ACTUAL COST

FOR CLERK'S OFFICE USE

Deposit paid _____

Actual Cost _____

Due/Refund_____

Rev. 11/2/17 h:\shared\special events\- general information\approval page.doc

City of B	Sirmingham A Walkable Community	MEMORANDUM
		City Clerk's Office
DATE:	November 4, 2017	
TO:	Joseph A. Valentine, City Manager	
FROM:	Cherilynn Mynsberge, City Clerk	
SUBJECT:	Special Event Request Movie Night	

Attached is a special event application submitted by the Birmingham Shopping District requesting permission to hold the Family Movie Night on June 22, July 20, and August 24 in Booth Park.

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

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

Event Name	Date	Location
Farmers Market	May – October (Sundays)	Lot 6
In the Park Concerts	June – August (Wednesdays)	Shain Park
Breathe Deep Michigan 5K	June	Booth Park & surrounding neighborhood
Battle of the Bands	June 15	Shain Park
Day on the Town	July 14	Downtown & Shain Park
Bates Street Block Party	August 11	Shain Park
Birmingham Cruise Event	August 18	South Old Woodward

SUGGESTED RESOLUTION:

To approve a request from the Birmingham Shopping District to hold the Family Movie Night on June 22, July 20, and August 24 in Booth Park, contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

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

I. <u>EVENT DETAILS</u>

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

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

(Please print clearly or type)

Date of Application October 17, 2017

Name of Event Birmingham Movie Nights

Detailed Description of Event (attach additional sheet if necessary) ______ Three outdoor movies and entertainment.

ocation Booth Park				
Date(s) of Event	Friday, June 22; Friday, July 20; Friday, August 24	Hours of Event	7:30 p.m. (movie begins at dusk)	
Date(s) of Set-up	day of event	_Hours of Set-up_	12:00 p.m.	
Date(s) of Tear-de	_{own} day of event	Hours of Tear-do	_{wn} 11:30 p.m.	

Organization Sponsoring Event Birmingham Shopping District	
Organization Address 151 Martin Street, Birmingham 48009	
Organization Phone 248-530-1200	
Contact Person Jaimi Brook	
Contact Phone 248-530-1254	
Contact Email jbrook@bhamgov.org	

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II. EVENT INFORMATION

- Organization Type<u>city (BSD)</u> (city, non-profit, community group, etc.)
 Additional Connects on Darticipants (Dravida name of Connects)
- 2. Additional Sponsors or Participants (Provide name, address, contact person, status, etc. for all additional organizations sponsoring your event.) TBD

Is the event a fundraiser? YES NO
List expected income
Attach information about the beneficiary.
First time event in Birmingham? YES NO If no, describe 13th annual event
Total number of people expected to attend per day 500-1000 The event will be held on the following City property: (Please list)
Street(s)
Sidewalk(s)
Park(s) Booth Park
Will street closures be required? YES NO
What parking arrangements will be necessary to accommoda attendance? Nearby parking deck and street meters are sufficient.

9.	Will staff be provided to assist with safety, security and maintenance? YES NO Describe_BSD staff will be on site during the event.
10.	Will the event require safety personnel (police, fire, paramedics)? YES NO Describeon call status
11.	Will alcoholic beverages be served? YES NO If yes, additional approval by the City Commission is required, as well as the Michigan Liquor Control Commission.
12.	Will music be provided? YES NO X Live X Amplification X Recorded Loudspeakers Time music will begin 7:30 p.m. Time music will end 10:30 p.m. Loudspeakers Location of live band, DJ, loudspeakers, equipment must be shown on the layout map.
13.	Will there be signage in the area of the event? YES NO Number of signs/banners
14.	 Will food/beverages/merchandise be sold? YES NO Peddler/vendor permits must be submitted to the Clerk's Office, at least two weeks prior to the event. All food/beverage vendors must have Oakland County Health Department approval. Attach copy of Health Dept approval. There is a \$50.00 application fee for all vendors and peddlers, in addition to the \$10.00 daily fee, per location. A background check must be submitted for each employee participating at the event.

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

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

III. <u>EVENT LAYOUT</u>

- Include a map showing the park set up, street closures, and location of each item listed in this section.
- Include a map and written description of run/walk route and the start/finish area
- 1. Will the event require the use of any of the following municipal equipment? *(show location of each on map)*

EQUIPMENT	QUANTITY	COST	NOTES
Picnic Tables		6 for \$200.00	A request for more than six tables will be evaluated based on availability.
Trash Receptacles		\$4.00 each	Trash box placement and removal of trash is the responsibility of the event. Additional cost could occur if DPS is to perform this work.
Dumpsters		\$200.00 per day	Includes emptying the dumpster one time per day. The City may determine the need for additional dumpsters based on event requirements.
Utilities (electric)	<u>2</u> # of vendors requiring utilities	Varies	Charges according to final requirements of event.
Water/Fire Hydrant		Contact the Fire Department.	Applicant must supply their own means of disposal for all sanitary waste water. Waste water is NOT allowed to be poured into the street or on the grass.
Audio System	U.	\$200.00 per day	Must meet with City representative.
Meter Bags / Traffic Cones / Barricades	# to be determined by the Police Department.		

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

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

SIGNATURE OF APPLICANT REQUIRED

EVENT NAME Birmingham Movie Nights EVENT DATE June 22, July 20 and August 24

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.

Date

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

- Organizer must notify all potentially affected residential property and business owners of the date and time this application will be considered by the City Commission. *(Sample letter attached to this application.)*
- Attach a copy of the proposed letter to this application. The letter will be reviewed and approved by the Clerk's Office. The letter must be distributed at least two weeks prior to the Commission meeting.
- A copy of the letter and the distribution list must be submitted to the Clerk's Office at least two weeks prior to the Commission meeting.
- If street closures are necessary, a map must be included with the letter to the affected property/business owners.

NOTIFICATION

DATE: October 20, 2017

TO: Downtown Birmingham Business/Property Owner

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

NAME OF EVENT:	Movie Nights
LOCATION:	Booth Park
DATES/TIMES:	Fridays, June 22, 2018 July 20, 2018 August 24, 2018 7:30 p.m. with movies beginning at dusk

DATE/TIME OF CITY COMMISSION MEETING: Monday, November 13, 2017 at 7:30 p.m.

The city commission meets in room 205 of the Municipal Building at 151 Martin. A complete copy of the application to hold this special event is available for your review at the city clerk's office (248/530-1880). To receive updates on special events held in the city log on to www.bhamgov.org/enotify.

Birmingham Shopping District	EVENT ORGANIZER:	Biri
151 Martin	ADDRESS:	151
248/530-1254	PHONE:	248
	151 Martin	151 Martin ADDRESS:

NOTIFICATION

DATE: October 20, 2017

Downtown Birmingham Business/Property Owner TO:

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

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EVENT ORGANIZER:	Birmingham Shopping District
ADDRESS:	151 Martin
PHONE:	248/530-1254

NOTIFICATION

DATE: October 20, 2017

TO: Downtown Birmingham Business/Property Owner

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

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irmingham Shopping District 51 Martin

48/530-1254

NOTIFICATION

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TO: Downtown Birmingham Business/Property Owner

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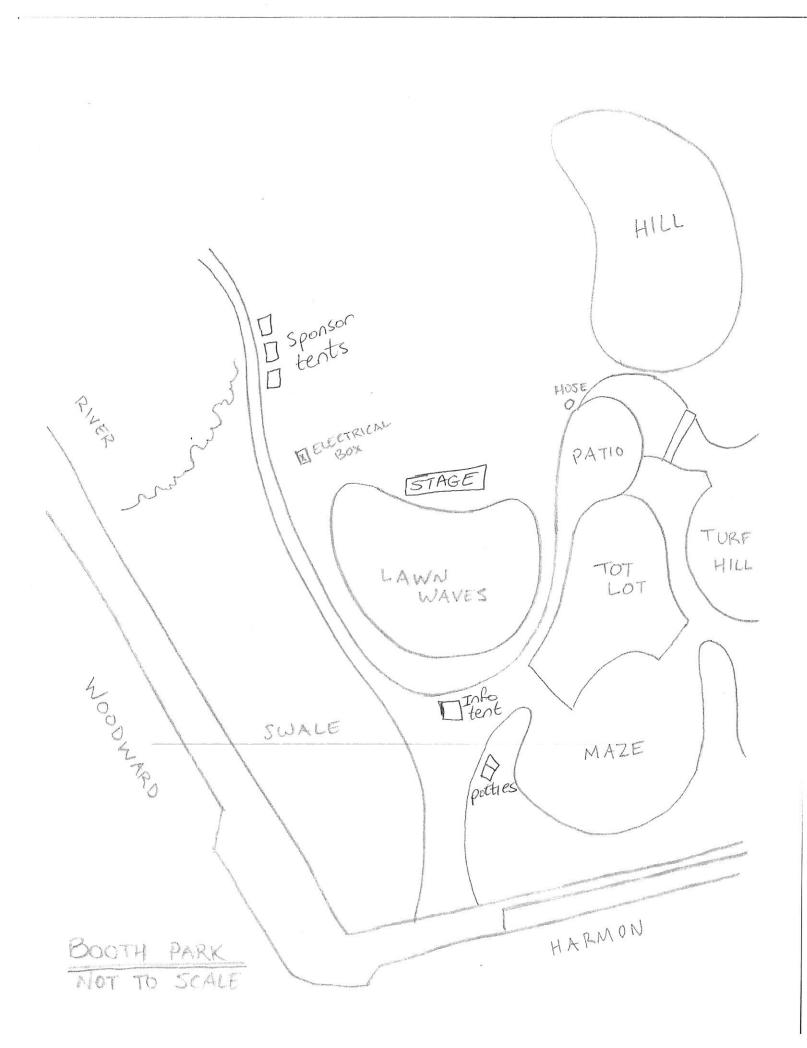
NAME OF EVENT:	Movie Nights
LOCATION:	Booth Park
DATES/TIMES:	Fridays, June 22, 2018 July 20, 2018 August 24, 2018 7:30 p.m. with movies beginning at dusk

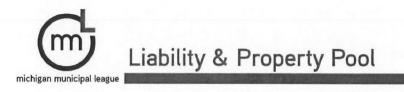
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EVENT ORGANIZER: Birmingham Shopping District

ADDRESS:	151 Martin
PHONE:	248/530-1254





LIABILITY DECLARATIONS

IN RETURN FOR THE PAYMENT TO THE POOL AND SUBJECT TO ALL THE TERMS OF THIS COVERAGE DOCUMENT, THE POOL AGREES WITH YOU TO PROVIDE COVERAGE AS STATED IN THIS CONTRACT. THESE COVERAGES ARE ALSO PROVIDED IN ACCORDANCE WITH THE INTERGOVERNMENTAL CONTRACT WHICH FORMS THE LEGAL BASIS FOR THE OPERATION OF THE POOL.

Contract Number:	MML001444016	Renewal of Nu	mber: <u>MML001444015</u>		
Pool Member:	City of Birmingham				
Coverage Period From:	7/1/2017 To: 7/1/2018 12:01 A.M. Standard Time				
(This polic	y applies to only those C	Coverage Parts ma	arked with an "X")		
	LIMITS OF I	NSURANCE			
		AGE PART			
EA	CH OCCURRENCE LIMIT	\$10,000,000			
FIR	E DAMAGE LIMIT	\$100,000	Any One Fire		
ME	DICAL EXPENSE LIMIT	\$10,000	Any One Person		
DEDUCTIBLE:		\$125,000	Each Occurrence		
	NT LIABILITY COVERA	GE PART			
EACH WR	ONGFUL ACT LIMIT	\$10,000,000			
	DEDUCTIBLE:	\$125,000	Each Wrongful Act		
X PUBLIC OFFICIALS LIABILITY COVERAGE PART					
EACH WR	ONGFUL ACT LIMIT	\$10,000,000			
	DEDUCTIBLE:	\$125,000	Each Wrongful Act		

THESE DECLARATIONS ARE A PART OF THE COMMON POLICY DECLARATIONS.

 (This policy applies to only those Coverage Parts marked with an "X")

 LIMITS OF INSURANCE

 Image: Semployee Benefit Liability Coverage Parts

 EACH CLAIM LIMIT \$1,000,000

 DEDUCTIBLE:
 \$125,000

 Each Claim

 EACH OCCURRENCE LIMIT
 \$10,000,000

 DEDUCTIBLE:
 \$10,000,000

 DEDUCTIBLE:
 \$10,000,000

 DEDUCTIBLE:
 \$10,000,000

 DEDUCTIBLE:
 \$10,000,000

 DEDUCTIBLE:
 \$125,000
 Each Occurrence

THE COMBINED POLICY LIMIT \$10,000,000

Regardless of the number of **Insureds**, **Claims** made or **Suits** brought, persons or organizations making **Claims** or bringing **Suits** or coverages or coverage parts which may be applicable, the Combined Policy Limit shown above is the most we will pay for the sum of all **Damages** arising out of an **Occurrence**, **Wrongful Act**, act or omission and any series of related **Occurrences**, **Wrongful Acts**, acts or omissions.

The Combined Policy Limit is the most we will pay regardless of the number of Coverage Parts under which coverage may be sought.

FORMS AND ENDORSEMENTS applying to these Coverage Parts and made part of this policy at time of issue: MML200 (01/14), MML202 (11/99), MML233 (07/13), MML203 [11/99], MML208 [11/99], MML215 [02/00]

TOTAL LIABILITY PREMIUM

\$ INCLUDED

BY ____

sith a. Thomas

Authorized Representative

Date:

6/19/2017

0/19/201

A SERVICE OF THE MICHIGAN MUNICIPAL LEAGUE

MMLB (02/10)

THESE DECLARATIONS ARE A PART OF THE COMMON POLICY DECLARATIONS.

- Page 2 of 2 -

DEPARTMENT APPROVALS

EVENT NAME MOVIE NIGHTS

LICENSE NUMBER #18-00011079

COMMISSION HEARING DATE: 11/13/2017

NOTE TO STAFF: Please submit approval by WED., NOV. 1, 2017

DATE OF EVENT: 6/22, 7/20, 8/24/2018

DEPARTMENT	APPROVED	COMMENTS	PERMITS REQUIRED (Must be obtained directly from individual departments)	ESTIMATED COSTS (Must be paid two weeks prior to the event. License will not be issued if unpaid.)	ACTUAL COSTS (Event will be invoiced by the Clerk's office after the event)
PLANNING 101-000.000-634.0005 248.530.1855	SC	No comments.	N/A	\$0	
BUILDING 101-000.000.634.0005 248.530.1850	mm	All tents should be weighted down.		\$55.37	
FIRE 101-000.000-634.0004 248.530.1900	JMC	 Special Event Tents or Canopies 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 		\$0	

		 obstructions in the access aisle unless approved by the Fire Marshal. 6. Pre-event site inspection required. 7. All food vendors are required to have an approved 5lbs. multi- purpose (ABC) fire extinguisher on site and accessible. 8. Provide protective barriers between hot surfaces and the public. 9. Cords, hoses, etc. shall be matted to prevent trip hazards. 10. Paramedics will respond from the fire station as needed. Dial 911 for fire/rescue/medical emergencies. 11. Do Not obstruct fire hydrants or fire sprinkler connections on buildings. 			
POLICE 101-000.000.634.0003 248.530.1870	SG	Personnel and barricades		\$300	
PUBLIC SERVICES 101-000.000-634.0002 248.530.1642	Carrie Laird	NO STAKES DRIVEN IN THE GROUND. ESTIMATED COSTS INCLUDE BANNER PLACEMENT AND REMOVAL, BARRICADE PLACEMENT AND REMOVAL EACH EVENT, SET UP AND CLEAN UP EACH EVENT		\$1,900	
ENGINEERING 101-000.000.634.0002 248.530.1839	A.F.	Approved	None	\$0	\$0
SP+ PARKING	A.F.	Emailed information to SP+ on 10/30/17	None	\$0	\$0

INSURANCE 248.530.1807				
CLERK 101-000.000-614.0000 248.530.1803	Notification letters mailed by applicant on than 10/30. Notification addresses on file in the Clerk's Office. Evidence of required insurance must be on file with the Clerk's Office no later than 6/6/18.	Applications for vendors license must be submitted no later than 6/6/18.	\$165	
			TOTAL DEPOSIT REQUIRED \$2,365.55	ACTUAL COST

FOR CLERK'S OFFICE USE	

Deposit paid _____

Actual Cost _____

Due/Refund_____

Rev. 11/4/17 h:\shared\special events\- general information\approval page.doc

Beier Howlett

TIMOTHY J. CURRIER tcurrier@bhlaw.us.com Telephone (248) 645-9400 Fax (248) 645-9344

November 9, 2017

Mr. Joseph A. Valentine, City Manager *City of Birmingham* 151 Martin Street, P.O. Box 3001 Birmingham, MI 48012-3001

Re: Settlement of Claims of Michael and Barbara Horowitz With Respect to 539 S. Bates

Dear Mr. Valentine:

Attached you will find the proposed Settlement Agreement and Mutual Release with respect to the above referenced matter. As you are aware, on April 24, 2017 the City of Birmingham issued a Building Permit for the above referenced address. This Building Permit was issued in error because the DTE clearance letter which is required in order to comply with the National Electric Code had not been secured at that time. Later, DTE objected to the construction being that it was in violation of the National Electric Code. A Stop Work Order was placed on the property on June 30, 2017.

The Horowitzes asserted claims as they purchased property with several conditions including that their transaction would not close until such time as all permits and authorizations were secured from the City for them to make an addition to a historic home. The historic home addition was approved by the HDC. The plans were reviewed by the Building Department and the Building Permit was issued in error because the DTE clearance letters had not been received. Because of this, Mr. and Mrs. Horowitz claimed substantial delay and an expenditure of funds which would not have been necessary had the Building Permit not been issued.

The City engaged, in good faith, to try and resolve this matter, which resulted in the attached Settlement Agreement that the Horowitzes and their counsel have signed together with a letter indicating that they will be issued a Foundation Permit. However, there will be no other construction allowed on this site until the remainder of all the construction plans have been received, reviewed and approved by the Building Department. You will also find attached a copy of the DTE clearance letter which is dated November 8, 2017.

It is our recommendation the City enter into this Settlement Agreement and Mutual Release in order to avoid litigation and potential liability with respect to this matter.

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 Enclosures

A Professional Corporation Established in 1903



Mr. Joseph A. Valentine, City Manager November 9, 2017 Page 2

SUGGESTED RESOLUTION TO APPROVE

A RESOLUTION TO APPROVE THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE AND AUTHORIZE THE MAYOR AND CLERK TO SIGN THE SAME ON BEHALF OF THE CITY.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS ("Agreement") is made and entered into as of this _____ day of November, 2017, by and between MICHAEL and BARBARA HOROWITZ (the "Horowitzes") and THE CITY OF BIRMINGHAM, a Michigan Municipal Corporation ("Birmingham"). The Horowitzes and Birmingham are sometimes referred to collectively in this Agreement as the "Parties."

WHEREAS, the Horowitzes own a residence located at 539 S. Bates Street in Birmingham, Michigan (the "Property"). The Horowitzes applied for, and the City issued, Building Permit No. PB17-0044, issued on or about April 24, 2017 (the "Permit"), approving construction of an addition to the Property. On or about June 30, 2017, Birmingham issued a stopwork order for the Property, based on the proximity of utility lines located along the northerly side of the Property.

WHEREAS, the Horowitzes then re-designed the proposed addition to the Property to address concerns relating to the proximity of utility lines along the Property's northerly side, and incurred costs and fees to do so. The Horowitzes asserted a claim that Birmingham should reimburse them for the costs and fees that they incurred in connection with re-designing the addition ("Claim").

WHEREAS, the Parties, desiring to resolve the Claim without litigation and without admitting or denying liability, have reached an understanding as to resolving the Claim.

NOW, THEREFORE, in consideration of the mutual covenants herein provided and other good and valuable consideration herein acknowledged,

IT IS AGREED by and between the Parties as follows:

1. Within 7 days from the date hereof, Birmingham shall pay to the Horowitzes the amount of Seventy-five Thousand Dollars (\$75,000.00) to settle and resolve forever their Claim in accordance with the terms and conditions set forth herein.

2. In consideration of the covenants undertaken herein and for other good and valuable consideration, the receipt and adequacy which is hereby acknowledged, the Horowitzes hereby release and forever discharge Birmingham, including its employees, representatives, agents, architects, engineers, planners, attorneys, and all persons or entities acting through, under, or in concert with Birmingham, from any and all claims, judgments, demands, causes of actions, and liabilities of any nature whatsoever, known or unknown, relating to the Claim that were, or could have been, asserted as of the date of this Agreement.

3. In consideration of the covenants undertaken herein and for other good and valuable consideration, the receipt and adequacy which is hereby acknowledged, Birmingham hereby releases and forever discharges the Horowitzes, including their employees, representatives, agents, architects, engineers, planners, attorneys, and all persons or entities acting through, under, or in concert with the Horowitzes, from any and all claims, judgments, demands, causes of actions, and

liabilities of any nature whatsoever, known or unknown, relating to the Claim that were, or could have been, asserted as of the date of this Agreement.

4. The Horowitzes have delivered to Birmingham a letter which is dated November 9, 2017, which is attached hereto and its terms and conditions are incorporated herein by reference.

5. Should the Horowitzes file a claim or cause of action against a person or entity not a party to this Agreement ("Third Party") relating to the Claim, and should that Third Party then assert a claim for contribution or indemnity against Birmingham, then the Horowitzes agree to defend and indemnify Birmingham to the extent of the Third Party's claim against Birmingham.

GENERAL PROVISIONS

A. <u>Amendment and Waiver</u>. This Agreement may be amended only by written instrument signed by the Parties.

B. <u>Successors and Assigns</u>. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, beneficiaries, legal representatives, successors and assigns.

C. <u>Counterparts</u>. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an individual instrument.

D. <u>Severability</u>. If any provision of this Agreement is deemed invalid by any court of competent jurisdiction, such provision shall be deemed to not be a part of this Agreement and shall not affect the validity or enforceability of the remaining provisions.

E. <u>Entire Agreement</u>. This Agreement represents the entire agreement between the Parties with respect to the subject matter set forth above and supersedes all previous oral and written agreements, communications, representations or commitments.

F. <u>Authority</u>. The Parties acknowledge that they have taken all steps and actions necessary to provide them with the requisite power and authority and that they are, in fact, authorized and empowered to enter into this Agreement on their own behalf and that this Agreement is valid and legally binding upon each of them and said authority is obtained in accordance with its terms and the laws of the State of Michigan and the United States of America.

G. <u>Rights of Parties</u>. This Agreement does not confer upon any person or entity, not a party to this Agreement, any rights, remedies, obligations, or benefits of any kind, and this Agreement does not grant, restrict, or otherwise affect the rights of the Parties as they pertain to any Third Parties, except as provided in paragraph 4.

H. <u>Further Assurances</u>. The Parties hereto, and each of them, covenant and agree that they will execute such other and further instruments and documents and take such other and further actions as may become necessary or appropriate to effectuate and carry out the intention of this Agreement.

(HAC/1092/1/062415,DOCX)

EACH PARTY ACKNOWLEDGES THAT, PRIOR TO EXECUTING THIS AGREEMENT, IT HAS READ THIS AGREEMENT, HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE, AND UNDERSTANDS THE RAMIFICATIONS OF THIS AGREEMENT, AND THAT THIS AGREEMENT HAS BEEN FREELY AND VOLUNTARILY EXECUTED AND DELIVERED BY THAT PARTY.

BEIER HOWLETT, P.C.

CITY OF BIRMINGHAM

By: _

Timothy J. Currier (P28939) Attorney for City of Birmingham 3001 W. Big Beaver Rd., Ste. #200 Troy, MI 48084 (248) 645-9400 Date:_____ Ву: ____

Andrew Harris, Mayor

Date:

By:_

STEINHARDT PESI OHEN By:

H. Adam Cohert (P47202) Attorneys for the Horowitzes 380 North Old Woodward Avenue Suite #120 Birmingham, MI 48009

Date:

Cherilynn Mynsberge, City Clerk Date:_____

Michael Horowitz,

Date:

Barbara Horowitz, Date: <u>///9//</u>7 EACH PARTY ACKNOWLEDGES THAT, PRIOR TO EXECUTING THIS AGREEMENT, IT HAS READ THIS AGREEMENT, HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE, AND UNDERSTANDS THE RAMIFICATIONS OF THIS AGREEMENT, AND THAT THIS AGREEMENT HAS BEEN FREELY AND VOLUNTARILY EXECUTED AND DELIVERED BY THAT PARTY.

BEIER HOWLETT, P.C.

CITY OF BIRMINGHAM

By:

Timothy J. Currier (P28939) Attorney for City of Birmingham 3001 W. Big Beaver Rd., Ste. #200 Troy, MI 48084 (248) 645-9400 Date:

26 - 25

Date:_____

By: _

STEINHARDT PESICK & COHEN

By:

H. Adam Cohen (P47202) Attorneys for the Horowitzes 380 North Old Woodward Avenue Suite #120 Birmingham, MI 48009

Date:

By:

Andrew Harris, Mayor

Cherilynn Mynsberge, City Clerk Date: Michael Horowitz Date: 11-9-17

Barbara Horowitz,

Date:_____

{HAC/1092/1/052415.DOCX}

3

November 9, 2017

City of Birmingham Mr. Bruce Johnson, Building Official c/o Timothy Currier, Esq. 3001 W. Big Beaver Road Suite 200 Troy, MI 48084-3103

RE: <u>539 S. Bates Street Foundation Permit</u>

Dear Mr. Johnson:

Based upon the meeting of October 30, 2017, attended by the parties and their counsel, it is our understanding that, upon receipt of this letter, your office will immediately issue the above-referenced foundation permit prior to receiving a full set of construction documents to enable us to construct the foundation/basement for both the proposed addition to the existing home and detached garage on our Bates St. property. This confirms that, upon receipt of that permit, we will immediately begin installing the foundations and basement on the property at our own risk, having not yet provided the completed final set of construction drawings for the building addition and detached garage that we intend to construct on top of the foundations.

We acknowledge that we must complete the construction drawings, submit them for review, and obtain approval, prior to commencing construction of the addition and detached garage above the foundations. That is a risk that we accept. This confirms that, as a condition to our submission of this letter, the City has agreed to process our drawings/plans on a top priority basis.

Finally, we fully understand that by installing the basement and foundations for both the proposed addition and detached garage described above that we are proceeding at our own risk, and that approval for construction above the foundations may not be permitted if we fail to submit plans that comply with City zoning and code requirements.

If any portion of this letter is inconsistent with your understanding of our arrangement, please contact me in writing immediately.

Very truly yours

Michael Horowitz Barbara Horowitz

{HAC/1092/1/062416.DOCX}

November 9, 2017

City of Birmingham Mr. Bruce Johnson, Building Official c/o Timothy Currier, Esq. 3001 W. Big Beaver Road Suite 200 Troy, MI 48084-3103

RE: 539 S. Bates Street Foundation Permit

Dear Mr. Johnson:

Based upon the meeting of October 30, 2017, attended by the parties and their counsel, it is our understanding that, upon receipt of this letter, your office will immediately issue the above-referenced foundation permit prior to receiving a full set of construction documents to enable us to construct the foundation/basement for both the proposed addition to the existing home and detached garage on our Bates St. property. This confirms that, upon receipt of that permit, we will immediately begin installing the foundations and basement on the property at our own risk, having not yet provided the completed final set of construction drawings for the building addition and detached garage that we intend to construct on top of the foundations.

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If any portion of this letter is inconsistent with your understanding of our arrangement, please contact me in writing immediately.

Very truly yours,

Burbara Howinh

Michael Horowitz Barbara Horowitz

(HAC/1092/1/062416.DOCX)

Detroit Edison



DTE Electric Company NWP&D 37849 Interchange Dr. Farmington Hills, MI 48335

Date:11/8/17

Regarding: Comments on site Plan for Address: 539 S. Bates

Overhead wires must be relocated prior to construction.

Relocation of pole(s) or guy wires will be necessary prior to construction.

Relocation of underground utility equipment or cables will be necessary prior to construction

No conflict with DTE Electric Company equipment

Other Other

Plans for addition of the residence shows it will be 14' from the north property which meets clearance requirements.

Plans for the garage shows 3' from the rear property line. Taller poles shall be installed to meet clearance requirements in accordance with the Rate Book and upon such installation there will be no conflict with DTE Electric Company equipment.

Any changes to submitted plan must be addressed prior to construction begins.

• Call 800.477.4747 when ready for service.

Signed by – Nurah Dababneh Service Planner 248-427-2946

NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION

SPECIAL LAND USE PERMIT AMENDMENT & FINAL SITE PLAN

Meeting Date, Time, Location:	Monday, November 13, 2017 at 7:30 PM		
	Municipal Building, 151 Martin		
	Birmingham, MI		
Location of Request:	Salvatore Scallopini, 505 N. Old Woodward		
Nature of Hearing:	To consider the Final Site Plan and Special		
_	Land Use Permit Amendment to allow		
	interior and exterior changes to the		
	existing Salvatore Scallopini bistro.		
City Staff Contact:	Jana Ecker 248.530.1841		
	jecker@bhamgov.org		
Notice Requirements:	Mailed to all property owners and		
	occupants within 300 feet of subject		
	address.		
	Publish October 22, 2017		
Approved minutes may be reviewed at:	City Clerk's Office		

Persons wishing to express their views may do so in person at the hearing or in writing addressed to City Clerk, City of Birmingham, 151 Martin, Birmingham, MI 48009. Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at 248.530.1880 (voice) or 248.644.5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.

City of		angham Walkable Community =
	A	Walkable Community

MEMORANDUM

Planning Division

DATE:	November 7, 2017
TO:	Joseph A. Valentine, City Manager
FROM:	Matthew Baka, Senior Planner
APPROVED:	Jana L. Ecker, Planning Director
SUBJECT:	Public Hearing for 505 N. Old Woodward – Salvatore Scallopini Special Land Use Permit Amendment and Final Site Plan

The subject site, Salvatore Scallopini, is located at 505 N. Old Woodward, on the northwest corner of N. Old Woodward and Harmon Street. The parcel is zoned O2, Office Commercial and D-2 in the Downtown Birmingham Overlay District. The applicant is applying for a Special Land Use Permit Amendment ("SLUP") to allow interior and exterior changes to the existing bistro.

Article 2, section 2.23, O2 (Office/Commercial) District allows a bistro as a permitted use with a valid Special Land Use Permit. Salvatore Scallopini currently operates a bistro under a SLUP. The changes proposed require a SLUP Amendment, and thus the applicant is required to obtain a recommendation from the Planning Board on the Final Site Plan and Special Land Use Permit Amendment, and then obtain approval from the City Commission for the Final Site Plan and Special Land Special Land Use Permit Amendment.

On September 27, 2017, the Planning Board conducted a public hearing to discuss the applicant's request for the proposed changes to the existing bistro. The Planning Board voted to recommend approval to the City Commission of the SLUP Amendment and Final Site Plan for 505 N. Old Woodward, Salvatore Scallopini, with the following conditions:

- 1. The non-operating door be filled in and turned into a window; and
- 2. The sill of the window is to match all other windows across the facade of the building.

On October 16, 2017 the City Commission set a public hearing date for November 13, 2017 to consider approval of the Final Site Plan and Special Land Use Permit Amendment to allow interior and exterior changes to the existing bistro at 505 N. Old Woodward. Please find attached the staff report presented to the Planning Board, along with the relevant meeting minutes for your review.

SUGGESTED ACTION:

To APPROVE the Final Site Plan and Special Land Use Permit Amendment for 505 N. Old Woodward to allow interior and exterior changes to the existing Salvatore Scallopini bistro at 505 N. Old Woodward.

PLANNING BOARD MINUTES WEDNESDAY, JUNE 27, 2007

SPECIAL LAND USE PERMIT ("SLUP") 505 N. Old Woodward Ave., Salvatore Scallopini Request for Bistro License

FINAL SITE PLAN REVIEW 505 N. Old Woodward Ave., Salvatore Scallopini Request for Bistro License

Ms. Ecker explained that all of the same standards apply to this proposal as applied to the last application. The subject site is located on the west side of N. Old Woodward Ave. across from Booth Park. The parcel is zoned B-4 Business Residential and D-4 in the Downtown Overlay District. The applicant is seeking approval of a Bistro License under Chapter 10, Alcoholic Liquors, of the City Code. Chapter 10 requires that the applicant obtain a SLUP and approval from the City Commission to operate an establishment with a Bistro License within the City of Birmingham. Accordingly, the applicant will be required to obtain a recommendation from the Planning Board on the SLUP and Final Site Plan and then obtain approval from the City Commission for the Final Site Plan, SLUP, and for the operation of a Bistro License.

As the applicant is proposing changes to the exterior of the building, approval of the Design Review Board ("DRB") is also required. The plans also show the addition of a projecting sign which would require DRB approval. However, the applicant submitted a letter on June 21, 2007 that they would like to remove the proposed signage from their application.

Salvatore Scallopini's bistro proposes to provide 49 percent glazing along both Harmon and N. Old Woodward Ave. They propose to install a new seasonal glass service entry door on the Harmon St. elevation. *The applicant will be required to obtain a variance from the BZA as they do not meet the minimum 70 percent glazing requirement. They have applied to the BZA to be heard on July 10, 2007.*

Salvatore Scallopini's bistro is proposed to include 62 interior seats, including four in the new 50 sq. ft. bar area. Salvatore Scallopini's currently has a full-service kitchen which will continue to operate. Salvatore Scallopini's bistro is proposing an additional 30 seats for outdoor dining, with 16 on an elevated platform along Harmon, and 10 in the sidewalk along N. Old Woodward Ave. However, the 5 ft. clear pedestrian walkway along N. Old Woodward Ave. is not immediately adjacent to the storefront. If they wish to serve alcohol along N. Old Woodward Ave. they will have to enclose it according to Liquor Control Commission rules. Along Harmon, the applicant is proposing to construct a temporary 16.5 ft. by 14.5 ft. platform of composite, non-slip decking fastened with clips to provide a level outdoor dining surface on the sidewalk and into the street. The fencing system will match the existing railing at Booth Park across the street. The dining along Harmon does provide a 5 ft. clear pedestrian path adjacent to the storefront.

They are also proposing a park concession stand near the corner of N. Old Woodward Ave. and Harmon which includes an umbrella, a small cart for concessions, and a trash receptacle.

Mr. Roman Bonaslowski from Ron and Roman said they are remiss in not showing the curb ramps at the corner of Harmon and N. Old Woodward Ave. It is their proposal not to have any alcohol service on the N. Old Woodward Ave. side, only on the platform that is along Harmon. Since the application was submitted they have mirrored the location of the ramp on the platform to be further away from the intersection. He passed out new copies of the plans which added a trash receptacle along N. Old Woodward Ave. and mirrored the deck.

Mr. Nickita noted there is 5 - 6 ft. space between the end of the platform and the next parking space to the west. He wondered if the applicant had considered expanding the platform and adding two more tables. Mr. Bonaslowski thought that is a very sensible suggestion. Mr. Rea said at this point they will not consider the potential of running another row of seating near the curb along the edge of the sidewalk.

Mr. Bonaslowski said they are requesting approval this evening for the plan as shown with the following changes:

- > The platform on Harmon to extend an additional 5 ft. to the west with a shift of the ramp;
- Removal of four potted topiaries;
- > Add a trash receptacle on N. Old Woodward Ave.; and
- Relocation of the service door.

Ms. Lisa Hamameh, Attorney, speaking to represent Salvatore Scallopini Bistro, announced they are scheduled on the BZA July agenda for the glazing item. Aside from that issue, their plan comports with the Zoning Ordinance. They are also on the July DRB agenda for the door. The tables will be plywood with vinyl black and white checkered tablecloths and black metal bases. They are caught up on payment of taxes to the City.

The chairman called for audience comment at 10:42 p.m.

Mr. Chuck Matthews, 521 Brookside, recommended that the board approve granting the Bistro License.

Ms. Ecker read two e-mails into the record that were in support of the Bistro Liquor License request.

Mr. Dave Cowan Cowens, 280 Harmon, had no problem with the licensing. However, he did have an issue with noise from delivery trucks in the early morning and after 11 p.m. from people that have been drinking.

Chairman Boyle indicated the board is looking at the owners and managers of this establishment to make sure that the neighbors are satisfied.

Mr. Blaesing said the idea of a concession stand on the corner could be a real asset to the park and to the whole neighborhood. The bar area has been defined and measured, so he will vote in favor of the proposal.

Motion by Mr. Williams

Seconded by Mr. Haberman to recommend approval of the Final Site Plan and SLUP for 505 N. Old Woodward Ave, Salvatore Scallopini, to the City Commission with the following conditions:

- 1. Extend the elevated platform along Harmon 5 ft. to the west to accommodate two additional four-top tables. That would bring the length of the platform to 17.5 ft. plus 4 ft. for the ramp;
- 2. Shift the entrance ramp to the west side of the platform;
- 3. Removal of four potted topiaries along Harmon;
- 4. Add a trash receptacle along N. Old Woodward Ave.;
- 5. The applicant would enter into a contract with the City;
- 6. No direct connect bar permit would be allowed;
- 7. Resin and wicker is deemed to be of comparable quality to the metal and wood;
- 8. The applicant would enter into the amended License Agreement and provide the required Commercial General Liability Insurance and Liquor Liability Insurance; and
- 9. DRB approval is required, as well as a variance from the BZA.

Motion carried, 7-0.

ROLLCALL VOTE Yeas: Williams, Haberman, Blaesing, Boyle, Dilgard, Lazar, Nickita Nays: None Absent: None

City of	Birmingham MEMORANDUM
	Planning Department
DATE:	September 5 th , 2017
TO:	Planning Board
FROM:	Nicholas Dupuis, Planning Intern
APPROVED BY:	Jana Ecker, Planning Director
SUBJECT:	505 N. Old Woodward – Salvatore Scallopini – Final Site Plan Review and Special Land Use Permit Amendment

Executive Summary

The subject site is located at 505 N. Old Woodward. The building, Salvatore Scallopini Bistro, lies at the corner of N. Old Woodward and Harmon Street. The applicant is seeking a Special Land Use Permit to make interior and exterior changes to the building, including reworking the bar, expanding indoor seating to 64 seats, painting, recladding existing awnings, adding new awnings, removing the existing dining patio and installing a new mosaic tile base.

The bar, with four seats, was previously approved when reviewed at Final Site Plan. The bar is simply being reworked and updated. The expansion of indoor seating remains within the boundaries of the Bistro Ordinance, which requires Bistros to have no more than 65 indoor seats (proposal going from 62-64 seats).

With the removal of the outdoor dining patio, the applicant is proposing to place new outdoor seating along the south elevation, and expand the existing outdoor seating on the east elevation. The previously approved amount of outdoor seating was 26, which the applicant wishes to expand to 36. The plans show that there will be a 5 ft. walking path for pedestrians, as well as new various sized planters to separate the dining area from the walking path.

Salvatore Scallopini was approved for a Bistro license on June 27th, 2007. The minutes from that meeting are attached for your review.

1.0 Land Use and Zoning

- 1.1 <u>Existing Land Use</u> The existing site currently houses Salvatore Scallopini's restaurant. Land uses surrounding the site are retail and commercial.
- 1.2 <u>Existing Zoning</u> The property is currently zoned B-4, Business-Residential, and D-2 in the Downtown Overlay District. The existing use and surrounding uses appear to conform to the permitted uses of each Zoning District.

1.3 <u>Summary of Land Use and Zoning</u> - The following chart summarizes existing land use and zoning adjacent to and/or in the vicinity of the subject site.

	North	South	East	West
Existing Land Use	Commercial / Retail	Commercial / Retail	Commercial / Retail	Commercial / Retail
Existing Zoning District	B-4, Business- Residential	B-4, Business- Residential	B-4, Business- Residential	PP – Public Property
Downtown Overlay Zoning District	Unchanged	Community	D-2	N/A

2.0 Screening and Landscaping

- 2.1 <u>Screening</u> No changes are proposed.
- 2.2 <u>Landscaping</u> No changes are proposed.

3.0 Parking, Loading, Access, and Circulation

- 3.1 <u>Parking</u> No changes are proposed.
- 3.2 <u>Loading</u> No changes are proposed.
- 3.3 <u>Vehicular Access & Circulation</u> Vehicular access to the building will not be altered.
- 3.4 <u>Pedestrian Access & Circulation</u> No changes are proposed.
- 3.5 <u>Streetscape</u> The applicant is proposing to remove the existing outdoor dining deck and move new seating to the south and east elevations on the sidewalk. In doing this, the applicant will not be removing any trees, but plans on removing a public bench and newspaper rack and adding planters to separate the dining area from the public area. The Planning Board may wish to have the applicant relocate the bench to another area.

4.0 Lighting

The applicant is proposing two new light fixtures to illuminate the proposed blade sign at the southeast corner of the building. The proposed sign lights are from B-K Lighting (Sign Star model, Style L). The shielded lights have a black chrome finish and can project between 18"-48" from the wall to properly illuminate the sign.

5.0 Departmental Reports

- 5.1 <u>Engineering Division</u> The Engineering Division has no concerns.
- 5.2 <u>Department of Public Services</u> No concerns were reported from the DPS.
- 5.3 <u>Fire Department</u> No comments were received from the Fire Department.
- 5.4 <u>Police Department</u> The Police Department has no concerns.
- 5.5 <u>Building Division</u> No comments were received from the Building Division.

6.0 Design Review

The proposed changes are predominantly exterior. The proposed indoor changes are to the previously approved bar and an indoor seat expansion from 62-64 seats. Exterior changes are mostly cosmetic (paint, new mosaic tile base, new awnings on south elevation, recladding existing awnings), with one proposed new sign, a multi-window replacement, and an outdoor seating change.

- The new sliding windows with screens will be made of wood and be stained and varnished. The color of the proposed wood will be Brazilnut and Banister Beige. The windows will not be tinted, and no new signage is proposed.
- The new canopies and existing canopies will be clad in Sunbrella Fabric (Color: Alpine). The canopies will be 8 ft. above grade. See signage section for the proposed signage on the canopies.
- The building exterior will be painted "El Cajon Clay" by Benjamin Moore.
- The mosaic tile for the new base will come from American Olean. The tile will be unglazed and the color is "Cinnabar."

<u>SIGNAGE</u>

The proposed new sign is to be located at the southeast corner of the building. The sign will be a blade sign that protrudes into the right of way. Blade sign regulations are outlined in Article 1, Section 1.10 of the Birmingham Sign Ordinance. The ordinance states that the maximum sign area allowed is 7.5 sq. ft. per side, totaling 15 sq. ft. and the sign must be at least 8 ft. above grade. Wall mounted projecting signs are allowed to be illuminated and must not be within 20 ft. of any other projecting sign.

The proposed blade sign measures 2 ft. wide and 3 ft. tall, totaling 6 sq. ft. per side, and 12 sq. ft. total. The sign will feature a smiling Chef with an impressive moustache. The sign will

be made from cut wood and colored with gold leaf and black paint on both sides. The sign is proposed to be 8.5 ft. above grade, meeting requirements.

The applicant is also proposing to add signage to the canopy above the main entrance. The wording will be placed along the valence, and will read "Salvatore Scallopini" in gold lettering. No dimensions have been provided for the signage on the valance. The applicant has very little signage on the building so it appears that the amount of signage is well within the square footage limits allow by the sign ordiance. However, **the applicant must provide the height and width of the letters to determine if it is in compliance.**

7.0 Downtown Birmingham 2016 Overlay District

The site is located within the D-2 zone of the DB 2016 Regulating Plan, within the Downtown Birmingham Overlay District. Specifically, Salvatore Scallopini's follows the 2016 Plan by including outdoor dining areas in the public right-of-way as it is in the public's best interest which enhances street life, thus promoting a pedestrian friendly environment.

The proposed changes as outlined in the Special Land Use Permit Application will not alter the attributes of this building that lend themselves to promoting the vision of the Downtown Birmingham 2016 Plan.

8.0 Approval Criteria

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

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

9.0 Approval Criteria for Special Land Use Permits

Article 07, section 7.34 of the Zoning Ordinance specifies the procedures and approval criteria for Special Land Use Permits. Use approval, site plan approval, and design review are the responsibilities of the City Commission. This section reads, in part:

Prior to its consideration of a special land use application (SLUP) for an initial permit or an amendment to a permit, the **City Commission shall refer the site plan and the design to the Planning Board for its review and recommendation. After receiving the recommendation, the City Commission shall review the site plan and design of the buildings and uses proposed for the site described in the application of amendment.**

The City Commission's approval of any special land use application or amendment pursuant to this section shall constitute approval of the site plan and design.

10.0 Suggested Action

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board recommend APPROVAL to the City Commission of the applicant's request for Final Site Plan and a SLUP for 505 N. Old Woodward, Salvatore Scallopini.

11.0 Sample Motion Language

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board recommend APPROVAL to the City Commission of the applicant's request for Final Site Plan and a SLUP for 505 N. Old Woodward, Salvatore Scallopini with the following condition;

1. Applicant must provide the dimensions of the awning sign to verify sign ordinance compliance.

OR

Motion to recommend DENIAL of the Final Site Plan and SLUP to the City Commission for 505 N. Old Woodward, Salvatore Scallopini for the following reasons:

 1.

 2.

OR

Motion to POSTPONE the Final Site Plan and SLUP for 505 N. Old Woodward, Salvatore Scallopini, pending receipt of the following:

1.

2.

Planning Board Minutes September 27, 2017

2. 505 N. Old Woodward Ave. (Salvatore Scallopini's) - Request for approval of a SLUP Amendment and Final Site Plan and Design Review to allow interior and exterior changes to an existing bistro

Mr. Baka provided background. The subject building, Salvatore Scallopini Bistro, lies at the corner of N. Old Woodward Ave. and Harmon St. The applicant is seeking a SLUP Amendment to make interior and exterior changes, including reworking the bar, expanding indoor seating to 64 seats, painting, re-cladding existing awnings, adding new awnings, removing the existing dining patio and installing a new mosaic tile base. The bar, with four seats, was previously approved when reviewed at Final Site Plan Review. The bar is simply being reworked and updated. The expansion of indoor seating remains within the boundaries of the Bistro Ordinance, which requires bistros to have no more than 65 indoor seats (proposal going from 62-64 seats).

With the removal of the outdoor dining platform along Harmon, the applicant is proposing to place new outdoor seating along the south elevation, and expand the existing outdoor seating on the east elevation along N. Old Woodward Ave. The previously approved amount of outdoor seating was 26, which the applicant wishes to expand to 36. The plans show that there will be a 5 ft. walking path for pedestrians, as well as new various sized planters to separate the dining area from the walking path. Salvatore Scallopini was approved for a Bistro License on June 27, 2007.

Design Review

The proposed changes are predominantly exterior. The indoor changes are to the previously approved bar and an indoor seat expansion from 62 to 64 seats. Exterior changes are mostly cosmetic (paint, new mosaic tile base, new awnings on south elevation, re-cladding existing awnings), with one proposed new sign, a multi-window replacement, and an outdoor seating change.

• The new sliding windows with screens will be made of wood and be stained and varnished. The color of the proposed wood will be Brazilnut and Banister Beige. The windows will not be tinted;

• The new canopies and existing canopies will be clad in Sunbrella Fabric (Color: Alpine). The canopies will be 8 ft. above grade.

• The building exterior will be painted "El Cajon Clay" by Benjamin Moore.

• The mosaic tile for the new base will come from American Olean. The tile will be unglazed and the color is "Cinnabar."

Material samples were passed around.

Signage

The proposed new sign is to be located at the southeast corner of the building. It will be a blade sign that protrudes into the right-of-way. Blade sign regulations are outlined in Article 1, Section 1.10 of the Birmingham Sign Ordinance. The ordinance states that the maximum sign area allowed is 7.5 sq. ft. per side, totaling 15 sq. ft. and the sign must be at least 8 ft. above grade. Wall mounted projecting signs are allowed to be illuminated and must not be within 20 ft. of any other projecting sign. The proposed blade sign measures 6 sq. ft. per side, and 12 sq. ft. total. The sign will feature a smiling chef with an impressive moustache. It will be made from cut wood and

colored with gold leaf and black paint on both sides. The sign is proposed to be 8.5 ft. above grade, meeting requirements.

The applicant is also proposing to add signage to the canopy above the main entrance. The wording will be placed along the valence, and will read "Salvatore Scallopini" in gold lettering. Dimensions have been provided for the signage on the valance and the total amount of signage is well within the square footage limits allowed by the Sign Ordinance.

The existing street furniture and newspaper box will be removed to accommodate the improvements to the outside of the building. They will be integrated into another Downtown location. Chairman Clein noted the applicant is shifting the outdoor focus from Harmon to N. Old Woodward Ave.

Mr. Daryl Dingus with Ron & Roman Architects explained the existing building is being given an interior and exterior refresh and reconfiguration of some of the seating. Also, four windows are being replaced with sliding windows.

Ms. Whipple-Boyce had questions about the second door that comes off of the dining room. Mr. Dingus replied it will stay but not function as a door. She was also concerned that the randomly placed planters seem to end up in the right-of-way. Mr. Dingus said they do not want to create a problem for pedestrians.

Mr. Koseck asked why the applicant doesn't make the second door fit the interior configuration of the bistro. Mr. Dingus replied that was a consideration. Further, Mr. Koseck was really troubled about the thin tile at the base of the building. He encouraged the use of granite or some material with a longer life that could take winter abuse. Mr. Dingus explained the tile will be raised up from the sidewalk and trimmed with copper that will age to a green patina that will match new copper sills on all exterior windows.

No one from the public wished to comment at 8:20 p.m.

Motion by Mr. Boyle

Seconded by Mr. Jeffares to recommend approval to the City Commission of the request to amend the SLUP and approve the Final Site Plan and Design for 505 N. Old Woodward Ave., Salvatore Scallopini's.

Ms. Whipple-Boyce wanted some order to the planter boxes so they cannot be pushed into the right-of-way.

Amended by Ms. Whipple-Boyce and

Accepted by the makers of the motion to add the following conditions:

- > The non-operating door be filled in and turned into a window;
- > The sill of the window to match all other windows across the facade of the building.

Mr. Koseck stated there is no question in his mind that the tile is in the wrong location as it is only one eighth of an inch thick and can be easily cracked. There are other materials that are stronger and can provide the same sort of aesthetic.

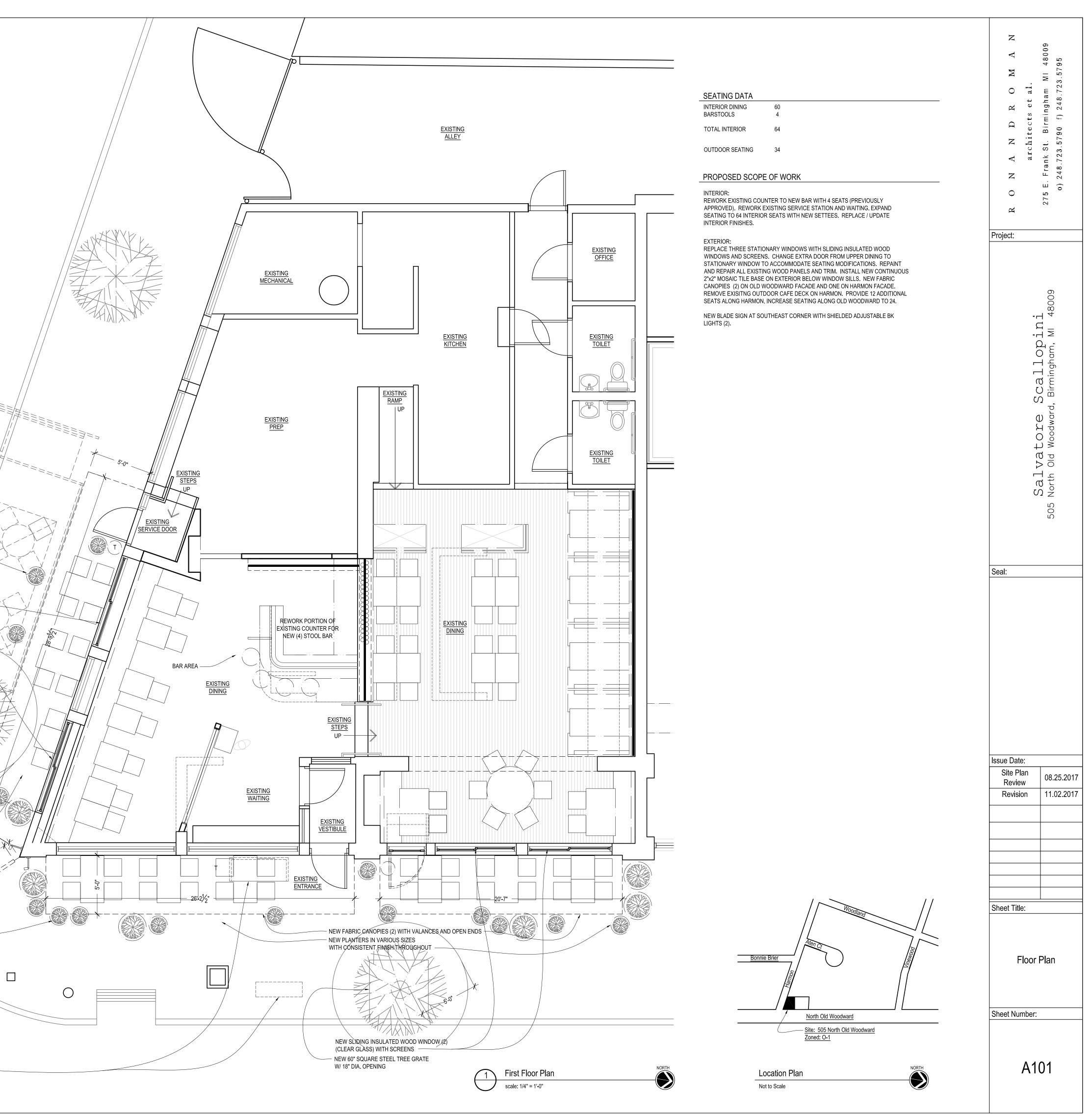
Comments on the motion were taken from members of the public at 8:30 p.m.

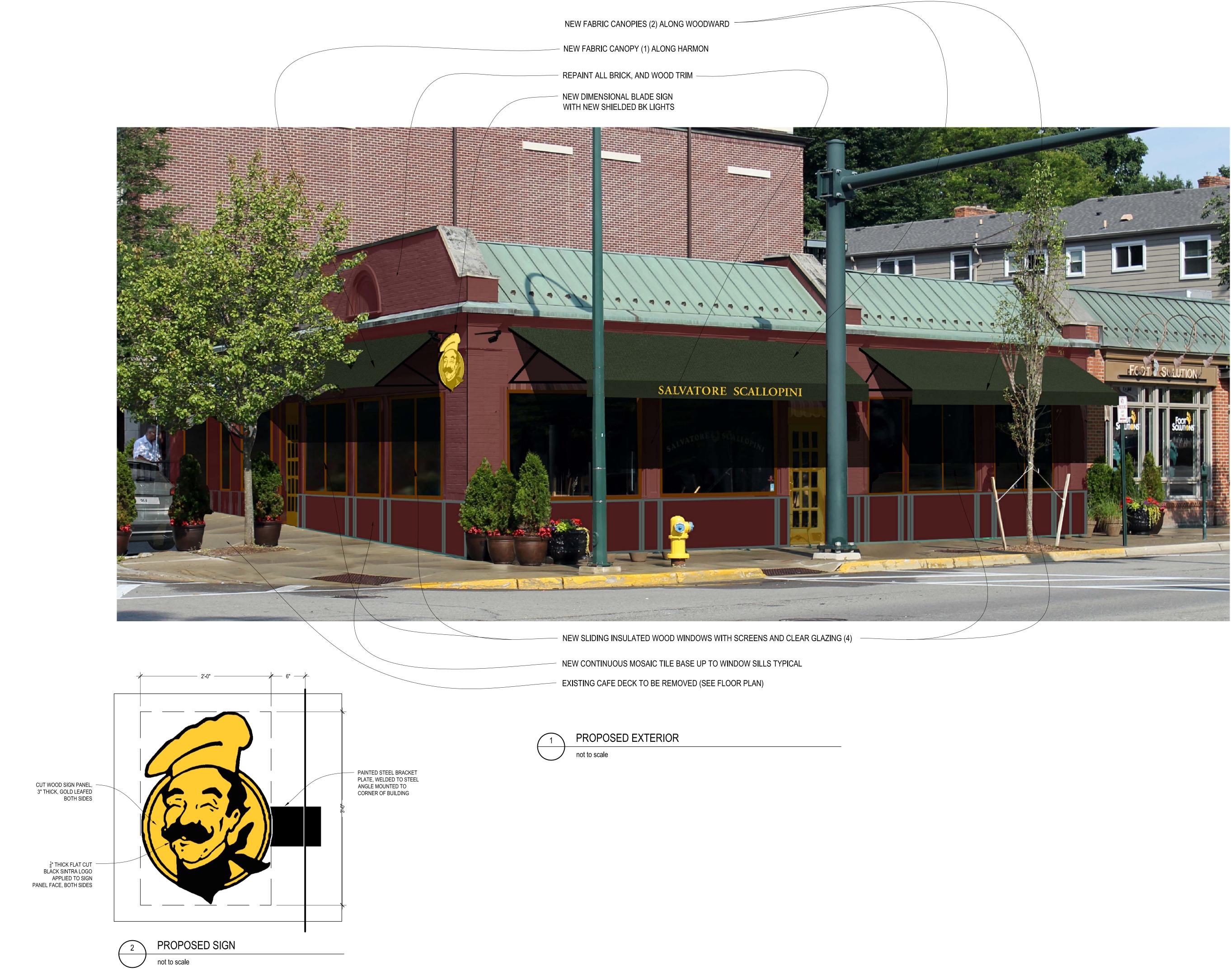
Mr. Guy Simons, 563 Watkins, received confirmation that the street furniture and newspaper box being removed will go back to the City to be relocated in the same vicinity in order to provide the same amenity.

Motion carried, 4-3.

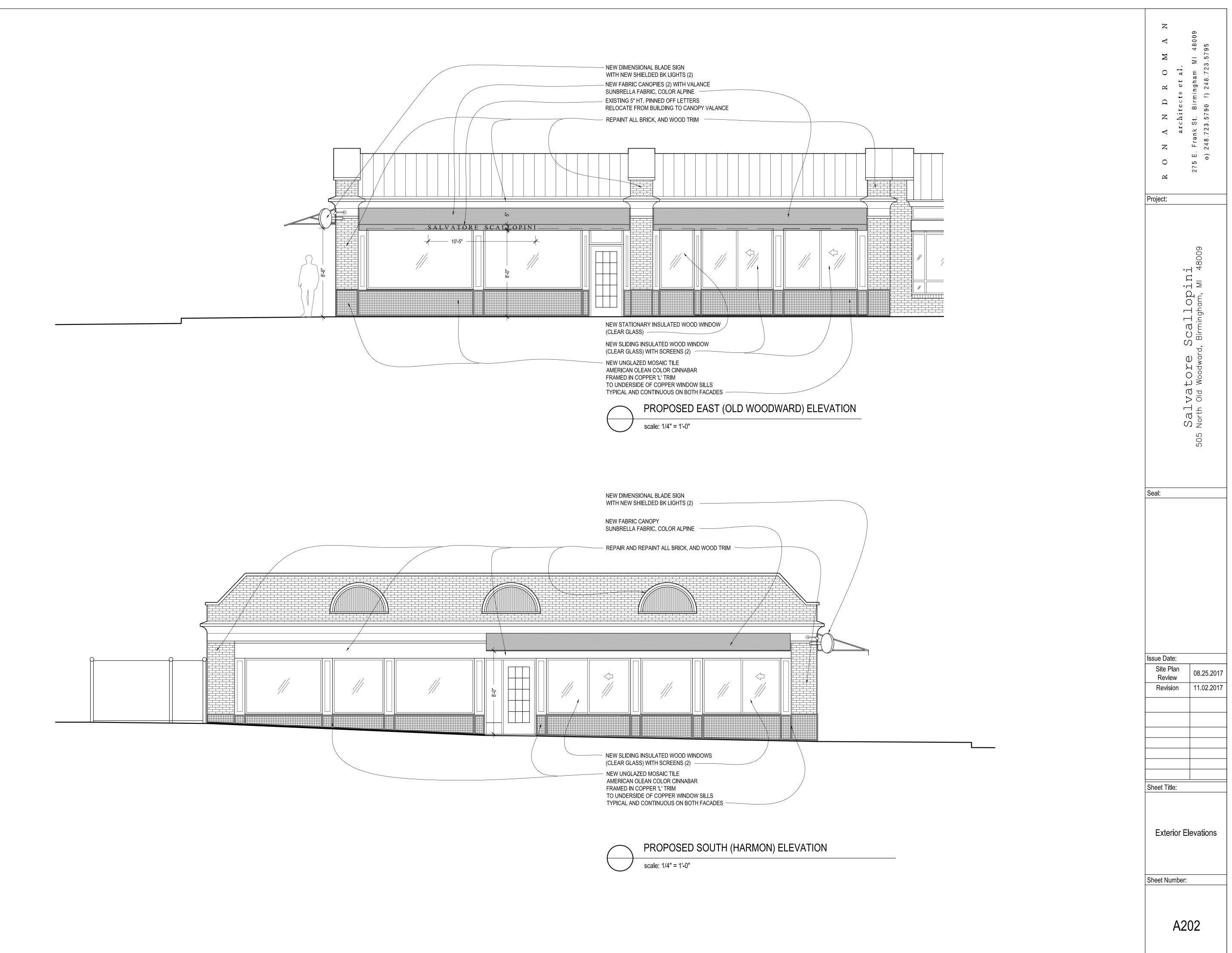
ROLLCALL VOTE Yeas: Boyle, Jeffares, Clein, Share Nays: Koseck, Prasad, Whipple-Boyce Absent: Lazar, Williams REMOVE EXISTING OUTDOOR CAFE DECK -NEW PLANTERS IN VARIOUS SIZES WITH CONSISTENT FINISH THROUGHOUT NEW SLIDING INSULATED WOOD WINDOWS (CLEAR GLASS) WITH SCREENS (2) NEW 60" SQUARE STEEL TREE GRATE W/ 18" DIA. OPENING — NEW FABRIC CANOPY -NEW OUTDOOR SEATS (12) -NEW BLADE SIGN WITH TWO SHIELDED BK LIGHTS -NEW PLANTERS IN VARIOUS SIZES WITH CONSISTENT FINISH THROUGHOUT

REMOVE EXISTING CITY BENCH AND NEWSPAPER DISPENSER





Z f) 248. \square 0 57 Z 723. \mathbf{A} 8 Z 0 0 2 Project: -Ц [–] lop1 gham, MI Scal. d, Birming Salvatore North Old Woodward 505 Seal: Issue Date: Site Plan 08.25.2017 Review 11.02.2017 Revision Sheet Title: Exterior Rendering Sheet Number: A201



SALVATORE SCALLOPINI BISTRO 505 N. OLD WOODWARD SPECIAL LAND USE PERMIT AMENDMENT 2017

- WHEREAS, Salvatore Scallopini filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate their existing restaurant as a bistro as defined in Article 9, section 9.02 of Chapter 126, Zoning, of the City Code;
- WHEREAS, The land for which the Special Land Use Permit is sought is located at the northwest corner of Harmon and N. Old Woodward;
- WHEREAS, The land is zoned O-2, Office Commercial, and is located within the Downtown Birmingham Overlay District, which permits bistros with a Special Land Use Permit;
- WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;
- WHEREAS, The Planning Board on September 27, 2017 reviewed the application for a Special Land Use Permit Amendment and Final Site Plan to allow interior and exterior changes to the existing bistro, and recommended approval with the following conditions:
 - 1. The non-operating door be filled in and turned into a window; and
 - 2. The sill of the window to match all other windows across the facade of the building.
- WHEREAS, The applicant is required to obtain an amended Outdoor Dining License from the City Clerk's office for the proposed outdoor dining;
- WHEREAS, The applicant has complied with all conditions for approval as recommended by the Planning Board on September 27, 2017;
- WHEREAS, The Birmingham City Commission has reviewed Salvatore Scallopini's Special Land Use Permit Amendment application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;
- NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and the Salvatore Scallopini application for a Special Land Use Permit Amendment authorizing the proposed interior and exterior changes to the existing bistro at 505 N. Old Woodward in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;
- BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit Amendment is granted subject to the following conditions:
 - 1. Salvatore Scallopini shall abide by all provisions of the Birmingham City Code;

- 2. The Special Land Use Permit Amendment may be canceled by the City Commission upon finding that the continued use is not in the public interest;
- 3. The hours of operation for outdoor dining shall cease at 12:00 a.m.;
- 4. Salvatore Scallopini shall provide for the removal of disposable materials resulting from the operation and maintain the area in a clean and orderly condition by providing the necessary employees to guarantee this condition, and by the placement of a trash receptacle in the outdoor seating area;
- 5. Salvatore Scallopini shall maintain a license agreement for use of the public rightof-way with the appropriate insurance certificates; and
- 6. Salvatore Scallopini enter into a contract with the City outlining the details of the proposed bistro option.
- BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.
- BE IT FURTHER RESOLVED, Except as herein specifically provided, Salvatore Scallopini and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of Salvatore Scallopini to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

I, Cherilynn Mynsberge, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on November 13, 2017.

Cherilynn Mynsberge, City Clerk

NOTICE OF PUBLIC HEARING BIRMINGHAM CITY COMMISSION

PROPOSED LOT COMBINATION

Meeting Date, Time, Location:	Monday, November 13, 2017 7:30 PM
	Municipal Building, 151 Martin
	Birmingham, MI
Location of Request:	607 S. Bates, Parcel #1936178026, T2N,
	R10E, SEC 36 ASSESSOR'S REPLAT OF PART
	OF TORREY'S, HOOD'S & SMITH ADDS PART
	OF LOT 53 BEG AT PT DIST N 01-09-
	00 E 43.66 FT FROM SW LOT COR, TH N 01-
	09-00 E 43 FT, TH S 89-06-52 E
	121.39 FT, TH S 00-44-40 W 43 FT, TH N 89-
	06-51 W 121.69 FT TO BEG 3-27-
	14 FR 021 and 635 S. Bates, Parcel
	#1936178027, T2N, R10E, SEC 36
	ASSESSOR'S REPLAT OF PART OF TORREY'S,
	HOOD'S & SMITH ADDS PART OF
	LOT 53 BEG AT SW LOT COR, TH N-01-09-00
	E 43.66 FT, TH S 89-06-51 E 121.69 FT, TH S
	00-44-40 W 43.70 FT, TH N 89-05-49 W 122
	FT TO BEG 3-27-14 FR 021.
Nature of Hearing:	To consider the proposed lot combination of
	607 S. Bates (Parcel #1936178026) & 635 S.
	Bates (Parcel #1936178027) into one parcel
City Staff Contact:	Jana Ecker 248.530.1841
	jecker@bhamgov.org
Notice Requirements:	Mailed to all property owners within 300 feet
	of subject address.
Approved minutes may be reviewed at:	City Clerk's Office

Persons wishing to express their views may do so in person at the hearing or in writing addressed to City Clerk, City of Birmingham, 151 Martin, Birmingham, MI 48009.
Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.



MEMORANDUM

Planning Division

DATE: November 3, 2017

- TO: Joseph A. Valentine, City Manager
- FROM: Matthew Baka, Senior Planner

APPROVED: Jana Ecker, Planning Director

SUBJECT: Public Hearing for a Lot Combination of 607 & 635 S. Bates, Parcel # 1936178026, T2N, R10E, SEC 36 ASSESSOR'S REPLAT OF PART OF TORREY'S, HOOD'S & SMITH ADDS PART OF LOT 53 BEG AT PT DIST N 01-09-00 E 43.66 FT FROM SW LOT COR, TH N 01-09-00 E 43 FT, TH S 89-06-52 E 121.39 FT, TH S 00-44-40 W 43 FT, TH N 89-06-51 W 121.69 FT TO BEG 3-27-14 FR 021 and 635 S. Bates, Parcel #1936178027, T2N, R10E, SEC 36 ASSESSOR'S REPLAT OF PART OF TORREY'S, HOOD'S & SMITH ADDS PART OF LOT 53 BEG AT SW LOT COR, TH N-01-09-00 E 43.66 FT, TH S 89-06-51 E 121.69 FT, TH S 00-44-40 W 43.70 FT, TH N 89-05-49 W 122 FT TO BEG 3-27-14 FR 021

The owner of the properties known as 607 & 635 S. Bates is seeking approval to combine the two parcels into one lot. The two subject lots were previously one lot as recently as 2014.

The house on the property is historically designated in the City of Birmingham. The new owners were approved by the Historic District Commission on June 21, 2017 to put an addition on to the existing home. On July 11, 2017 the applicant was granted four necessary variances by the Board of Zoning Appeals to construct the addition. Meeting minutes for the meetings are attached. The addition to the home would extend over the existing property line between the two lots and therefore requires that the parcel be combined.

On March 10, 2014 the City Commission approved a lot split of the parcel to allow for the renovation of the house at 607 Bates and the construction of a new house on the empty lot to the south. However, after the lot split was approved and recorded at the county, the property owner abandoned the project and later sold both parcels.

On November 13, 2017 the City Commission set a public hearing to consider the proposed lot combination. The application and land survey have been included for your review.

The Subdivision Regulation Ordinance (Chapter 102, Section 102-83) requires that the following standards be met for approval of a lot combination.

An unplatted or platted parcel or tract of land shall not be combined with another parcel unless the city commission finds that all of the following conditions have been met:

1. The combination will result in lots or parcels of land consistent with the character of the area where the property is located, <u>chapter 126</u> of this Code for the zone district in which the property is located, and all applicable master land use plans.

There are three existing parcels on this block that are larger than the proposed lot combination. In addition, the subject property was originally configured as currently proposed for the majority of the home's existence, which was built in 1865. **The proposal appears to meet this requirement.**

2. All residential lots formed as a result of a combination shall be a maximum width of no more than twice the average lot width of all lots in the same zone district within 300 feet on the same street.

Double the average lot width of the homes within 300' on the same street is 127.39'. The proposed width of the combined lots would be 86.66'. **The proposal meets this requirement.**

3. All residential lots formed as a result of a combination shall be a maximum area of no more than twice the average lot area of all lots in the same zone district within 300 feet on the same street.

Per the land survey provided, the average lot area of the homes within 300 feet on the same street is 8,716.8 sq. ft. The proposed lot area of the subject property, if combined, would be 10,548.8. **The proposal meets this requirement.**

4. The combination will result in building envelopes on the combined parcels that will allow for the placement of buildings and structures in a manner consistent with the existing rhythm and pattern of development within 500 feet in all directions in the same zone district.

Based on the attached survey the proposed lot combination appears to meet this requirement.

5. Any due or unpaid taxes or special assessments upon the property have been paid in full.

There are no outstanding taxes due on this property. The proposal meets this requirement.

- 6. The combination will not adversely affect the interest of the public or 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 or appropriate development of adjacent land or buildings will not be hindered, nor the value thereof impaired.

Vehicular access to the site will continue to be via a curb-cut and driveway along the north side of the home. This will not hinder access or development of neighboring properties. **The proposal meets this requirement.**

b) The effect of the proposed combination upon any floodplain areas, wetlands and other natural features and the ability of the applicant to develop a buildable site on the resulting parcel without unreasonable disturbance of such natural features.

This property is not located in a floodplain, nor adjacent to a floodplain.

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 proposed lot split does not appear to impact the supply of light and air to adjacent properties or the ability of the City to provide essential services.

SUGGESTED ACTION:

To APPROVE the proposed lot combination of 607 & 635 S. Bates as proposed

except as stated. Reviewed By: PO Aug 19, 2016

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



LIBER 49721 PAGE 360 \$16.00 DEED - COMBINED \$4.00 REMONUMENTATION \$5,375.00 TRANSFER TX COMBINED 08/19/2016 05:19:22 PM RECEIPT# 95581 PAID RECORDED - Oakland County, Mi Lisa Brown, Clerk/Register of Deeds



WARRANTY DEED

Corporate(Platted/Condominium)

Drafted By: Anthony Cupisz 330 E Maple Road Ste 448 Birmingham, MI 48009	Ithony Cupisz Joseph R. Angileri IO E Maple Road Ste 448 25800 Meadowriale		Send Tax Bills To: Joseph R. Angileri 25800 Meadowdale Franklin, MI 48025	
Recording Fee: \$22.00	State Transfer Tax:	\$4,687.50	Tax Parcel No.: 19-36-178-026, 19-36-	
File Number: 750186	County Transfer Tax:	\$687.50	178-027	

Know All Persons by These Presents: That 607 S. Bates, LLC, a Michigan limited liability company whose address is 330 E Maple Road Ste 448, Birmingham, MI 48009

Convey(s) and Warrant(s) to Joseph R. Anglieri, as Trustee of the Joseph R. Anglieri Revocable Trust U/A/D 01/05/1993, as Amended and Restated on 07/30/2012 and Julie S. Douse-Anglieri, as Trustee of the Julie S. Douse-Anglieri Revocable Trust U/A/D dated 07/30/2012 whose address is 25800 Meadowdale, Franklin, MI 48025

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

Deeded As:

Part of Lot(s) 53 of ASSESSOR'S PLAT OF PART OF TORREY'S ADDITION, HOOD'S ADDITION AND SMITH ADDITION according to the plat thereof recorded in Liber 41 of Plats, Page 36 of Oakland County Records, beginning at the Southwest Lot corner, thence North 01 degrees 09 minutes 00 seconds East 86.68 feet to the Northwest Lot corner, thence South 88 degrees 52 minutes 03 seconds East 121.76 feet, thence South 00 degrees 59 minutes 29 seconds West 86.70 feet, thence North 88 degrees 51 minutes 30 seconds West 122 feet to the point of beginning.

Assessed As:

Town 2 North, Range 10 East, Section 36, Assessor's Replat of part of Torrey's Hood's & Smith Addition, part of Lot 53 commencing at the Southwest lot corner, thence North 01 degrees 09 minutes 00 seconds East 43.66 feet along the West line of said Lot 53 to the point of beginning, thence North 01 degrees 09 minutes 00 seconds East, 43.00 feet to the Northwest lot corner, thence South 89 degrees 06 minutes 52 seconds East, 121.39 feet along the North line of said Lot 53, thence South 00 degrees 44 minutes 40 seconds West, 43.00 feet, thence North 89 degrees 06 minutes 51 seconds West, 121.69 feet to the point of beginning.

And

Find the state of the state of

First American Title

First American Title Insurance Company

(Attached to and becoming a part of Warranty Deed dated: August 09, 2016 between 607 S. Bates, LLC, a Michigan limited liability company, as Seller(s) and Joseph R. Angileri, as Trustee of the Joseph R. Angileri Revocable Trust U/A/D 01/05/1993, as Amended and Restated on 07/30/2012 and Julie S. Douse-Angileri, as Trustee of the Julie S. Douse-Angileri Revocable Trust U/A/D dated 07/30/2012, as Purchaser(s).)

Dated this August 09, 2016.

Seller(s):

607 S. Bates, LLC, a Michigan limited liability company

BV

Name: Anthony Cupisz Title: Sole Member

State of Michigan NV 11 AD County of ____

The foregoing instrument was acknowledged before me this August 09, 2016 by Anthony Cupisz, Sole Member of 607, S. Bâtes, LLC.

Notary Public:

Notaly County/State: / County Acting In: Commission Expires:

> JENNIFER LINN PAYTER NOTARY PUBLIC - STATE OF MICHIGAN COUNTY OF LIVINGSTON My Commission Expires June 5, 2023 Acting in the County of DUK Michigan

Town 2 North, Range 10 East, Section 36, Assessor's Replat of Part of Torrey's Hood's & Smith Addition, part of Lot 53 beginning at the Southwest lot comer, thence North 01 degrees 09 minutes 00 seconds East, 43.66 feet, thence South 89 degrees 06 minutes 51 seconds East, 121.69 feet, thence South 00 degrees 44 minutes 40 seconds West, 43.70 feet, thence North 89 degrees 05 minutes 49 seconds West, 122 feet along the South line of said Lot 53 to the point of beginning.

More commonly known as: **607 and 635 South Bates Street, Birmingham, MI 48009** For the full consideration of: **six hundred twenty five thousand Dollars (**\$625,000.00)

Subject To:

Existing building and use restrictions, easements, and zoning ordinances, of record.

BIRMINGHAM HISTORIC DISTRICT COMMISSION MINUTES OF JUNE 21, 2017 Municipal Building Commission Room 151 Martin, Birmingham, Michigan

Minutes of the regular meeting of the Historic District Commission ("HDC") held Wednesday, June 21, 2017. Chairman John Henke called the meeting to order at 7 p.m.

- **Present:** Chairman John Henke, Board Members Keith Deyer, Natalia Dukas, Vice Chairperson Shelli Weisberg, Michael Willoughby; Alternate Board Member Dulce Fuller
- Absent: Board Members Mark Coir, Thomas Trapnell; Alternate Board Member Adam Charles; Student Representatives Josh Chapnick, Griffin Pfaff
- Administration: Matthew Baka, Sr. Planner Carole Salutes, Recording Secretary

06-22-17

APPROVAL OF MINUTES HDC Minutes of May 3, 2017

Approval of the minutes was postponed to the next HDC meeting because there was not a quorum of those present at the May 3 meeting.

06-23-17

HISTORIC DESIGN REVIEW 607 Bates Major Jones House Bates St. Historic District

Zoning: R-3 Single-Family Residential

<u>History</u>: The house was designated historic in 1978 and the Bates St. Historic District designation came into effect in January of 1998. The house has been sold several times and reviewed by the HDC for potential renovations. However, none of those approved plans were executed, and the current owner is seeking to renovate the property with a new proposal.

<u>Proposal</u>: The existing two-story portion of the1865 structure is proposed to be fully restored, with all architectural detail retained and preserved. The single-story 691 sq. ft. non-contributing rear portion of the house is proposed to be removed. A large wing

addition is planned for the rear and the south elevations. Also, a recently constructed, non-contributing canopy over an existing basement door on the north side is proposed be removed.

West (Front) Elevation

The applicant proposes to retain the historic house on the west elevation. The existing enclosed front porch will be removed to allow for a wraparound porch that will connect the historic structure with the proposed addition. The proposed addition will extend out towards the south property line and feature two gable ends side by side and a cupola. The cupola exceeds the maximum height permitted. Accordingly, the applicant must obtain approval from the Board of Zoning Appeals for the construction of the cupola. Also they will have to go before the City Commission to combine the lots again.

South-West (Side) Elevation

Moving west to east, the south elevation will feature a row of eight 1/1 double hung windows with single transom windows above. There will then be a chimney constructed of Michigan fieldstone. To the east of the chimney is proposed another bank of windows which include two single-pane windows at ground level with two additional double-hung windows and transoms above that will match the eight windows to the west of the chimney. On the second floor of the south elevation the applicant is proposing four single-pane windows to the west of the chimney and two double windows to the east of the chimney.

East (Rear) Elevation

The applicant proposes to renovate the existing one-story rear addition into a two-story addition. The east (rear) elevation is proposed to feature extensive glazing with two sets of sliding glass doors opening out to a first floor deck. At the second story the applicant is proposing to construct a balcony space accessible from glass doors located on the second story. At the north end of the east elevation are two windows and a single man door to access the two-car attached garage.

North (Side) Elevation

The north elevation of the proposed addition will consist predominately of the entrance to the two-car garage. Above the western most garage door is a single gable end dormer. Between the garage and the historic portion of the house are two double-hung windows.

Differentiation

The new addition is proposed to be located fully behind the house, recessed 26 ft. farther away from the street. This has been done with the intent of respecting the historic resource and establishing its prominence over the addition. The eave height of the addition matches the existing house, the roof pitches match and the same roof height has been maintained. The use of cross gables attempts to further break down the scale and relates it directly to the existing house. The new construction will be compatible with the old house in size, scale and architectural features but the new and the old will be clearly distinguished one from the other. The existing house is sided with wood clapboard lap-siding with a 3 ft. exposure and 3 1/2+ in. corner boards. The addition is proposed to have Hardiplank cement board clapboard lap-siding with a 5 in. exposure and mitered corners.

The details of the original portion of the house, such as the eaves and window headers, will be restored. The addition will have trim that matches the original in scale but without the ornamentation. The windows will be rectangular and vertically oriented but will vary in size (due to egress window requirements). The existing windows will retain their decorative sash and colored glass, the new windows will be clear glass, without mullions. The wrap-around porch unifies the old and new by defining the entrance, and it also distinguishes the addition from the old house by breaking down the scale of the addition. The porch roof is a horizontal element that contrasts with the historic facade's verticality.

The Building Dept. had the comment that the dormers on the north and south elevations are too wide. *The applicant may have to apply to the Board of Zoning Appeals ("BZA") for a variance on the width of the dormers.* Mr. Willoughby maintained that a dormer sits on the base of the roof and these do not, so they are gable ends.

Mr. Deyer commented that at least from the drawings the original house almost disappears. There is so much going on that he would not recognize it as a historic home and he thinks the wrap-around porch adds to the confusion. They are adding almost two-thirds of a house to the remaining one-third. The addition seems out of scale with the historic home.

Mr. Bill Finnicum, Finnicum Brownlee Architects, the project architect, provided a three dimensional view and stated the historic resource is only 23 ft. and the new addition is 23 ft. behind it. It actually decreases the density that is allowable on that property. If they put in the roof that is allowed, it would be 38 ft. high and they are only under 26 ft. high for the entire building. The wrap-around porch doesn't enlarge the scale of the building; it cuts it down because it is a horizontal element interrupting the verticality, allowing the historic resource to come from the ground up to the ridge and dominating the composition of the building. The idea for the cupola is because his clients asked for a quiet and contemplative space.

Ms. Weisberg observed this is one of the best plans the HDC has seen for this house. However, she hates the cupola and wouldn't mind if it went away. Mr. Deyer said the view from the southwest doesn't recognize the historic home. Chairman Henke added that the concern is the new wraparound porch. The last section disguises what was the original portion of the historic house. Mr. Finnicum noted another way to put it is that it pulls and old and the new together.

Mr. Willoughby didn't know of anything that says an addition to a historic home cannot be larger than the original home. He thinks the simplicity of the detail is quite appropriate To him the cupola on the addition isn't a problem. It is clearly more contemporary, plus he doesn't think the height is an issue. The only thing that bothers him is not restoring the front porch.

Ms. Dukas liked the design. However she is not a big fan of the cupola and would not have a problem if the roofline of the addition was higher. To her the cupola seems to take away from the roofline of the original house. Further, she is concerned that the southeast corner of original house gets lost because of the wraparound porch element.

Ms. Fuller stated this is not a beautiful historic house and she feels the new addition is appropriate.

Motion by Mr. Willoughby

Seconded by Ms. Weisberg to approve the Historic Design Review for 607 Bates, Major Jones House, except that the porch is postponed for further study. The dormers (which are really not dormers but gable ends) are approved Further, the foundation on the west facade should be stucco to distinguish it from the original stone.

There were no comments from the public on the motion at 8 p.m.

Motion carried, 6-0.

VOICE VOTE Yeas: Willoughby, Weisberg, Deyer, Dukas, Fuller, Henke Nays: None Absent: Coir, Trapnell

Mr. Steve Lemberg, 648 S. Bates, said he and his wife are very pleased with the plans for such a nice house They are not opposed to the cupola.

Ms. Lee Zak, 630 Henrietta, said she and her husband also welcome the project because it looks absolutely beautiful and they don't have a problem with the cupola.

In response to Mr. Willoughby, Mr. Baka explained the cupola must go to the BZA because mid-point is above 28 ft. measuring from the eave of the cupola to the top. Mr. Finnicum added the cupola is scaled properly in relationship to the ground and the front face of it is 53 ft. back from the street. It is a contemporary element of Queen Anne homes which is appropriate.

Mr. Willoughby noted the cupola sits on the addition and because of its contemporary nature it really does distinguish from the historical portion. He thinks it reinforces the standards. The fact that it pops up above the roof is irellevent. That is why he is in favor of it and feels this commission shouldn't impede the process with the BZA.

Mr. Dever observed that just because something meets the Ordinance doesn't necessarily mean it would be approved by this commission. Also, if it exceeds the Ordinance, then the commission can't approve it.

Mr. Joseph Angileri, the property owner, said they are trying to maintain the integrity of the neighborhood that says a home similar to this is needed in order to fit into the context of the area. They came up with the cupola idea to separate the old from the new. It doesn't impact the scale of the neighborhood and if they had raised the roof it would literally be a dormer.

Chairman Henke said it sounds to him the cupola portion may be a scale and massing issue. Therefore he suggested the applicant do an elevation drawing that shows the relationship to the other two homes on the block. It may give the commission a better sense that this isn't as intrusive as it appears to be on a two- dimensional drawing.

Motion by Mr. Willoughby

Seconded by Ms. Weisberg to recommend to the BZA that they accept the design of the cupola because it reinforces what the Secretary of Interior Standards asks to be done to historic homes when an addition is put on.

Comments from the public on the motion were taken at 8:23 p.m.

Ms. Barbara Connolly, 648 S. Bates, said she is very much in favor of going forward with the plans for this beautiful house.

Mr. Bruce Zak, 630 Henrietta, indicated he and his wife, Lee, are totally in favor of the plans for this wonderful addition to their neighborhood.

Mr. Steve Lemberg, neighbor across the street, added he hopes the commission would have a holistic view of this because the applicant is taking something that is a mess and making it something wonderful. It will be a blessing to have that kind of house on the street.

Ms. Barbara Connolly observed it is notable that the neighbors are here pleading with the commission to support this requested design review.

Motion carried, 4-2.

VOICE VOTE Yeas: Willoughby, Weisberg, Dukas, Fuller Nays: Deyer, Henke Absent: Coir, Trapnell.

BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS TUESDAY, JULY 11, 2017 City Commission Room 151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, July 11, 2017. Chairman Charles Lillie convened the meeting at 7:30 p.m.

- **Present:** Chairman Charles Lillie; Board Members Kevin Hart, Jeffery Jones, Randolph Judd, Vice-Chairman Peter Lyon, Erik Morganroth; Alternate Board Member Jason Canvasser
- Absent: Board Member John Miller; Alternate Board Member Kristen Baiardi
- Administration: Matthew Baka, Sr. Planner Bruce Johnson, Building Official Carole Salutes, Recording Secretary Scott Worthington, Asst. Building Official

The Chairman welcomed everyone and explained the BZA procedure to the audience. Additionally, he noted that the members of the Zoning Board are appointed by the City Commission and are volunteers. They sit at the pleasure of the City Commission to hear appeals from petitioners who are seeking variances from the City's Zoning Ordinance. Under Michigan law, a dimensional variance requires four affirmative votes from this board, and the petitioner must show a practical difficulty. A land use variance requires five affirmative votes and the petitioner has to show a hardship. There are no land use variances called for this evening. Also, appeals are heard by the board as far as interpretations or rulings. Four affirmative votes are required to reverse an interpretation or ruling. There are no interpretations on this evening's agenda.

T# 07-45-17

APPROVAL OF THE MINUTES OF THE BZA MEETING OF JUNE 13, 2017

Since a full set of Minutes was not provided in the packets for the board, consideration of the Minutes of the BZA meeting of June 13, 2017 was postponed to the next meeting on August 8, 2017.

T# 07-46-17

612 DAVIS Appeal 17-17 Mr. Judd feels that in this circumstance strict compliance with the Ordinance dealing with the height of a fence would unreasonably prevent the property owner from using the property for a permitted purpose.

Also, to enjoy it and have such a restriction would be unnecessarily burdensome. He further notes that Mr. Baka from the Planning Dept. has advised that the property next door being B-2 could erect a fence much higher. In fact, there isn't really a limitation.

In this case, based on some of the challenges that the petitioner has described, Mr. Judd feels this is reasonable. He thinks to grant the variance would do substantial justice to the applicant as well as to surrounding property owners and he feels the plight is due to unique circumstance, and certainly doesn't feel that the problem is self-created. He would tie his motion to the plans and vote to grant.

Mr. Jones expressed his support for the motion. Part of his reason for support is that the business has been there and is grandfathered in with an existing non-conforming lighting use. That causes the issue for this applicant.

Mr. Lyon spoke in support. He believes the plight of the petitioner is not self-created in that the lighting is existing non-conforming. He also noted this business operates 24/7 and doesn't wind down at night. For that reason he thinks the homeowner is entitled to take action to alleviate the intrusion on her privacy. The fence seems to be a minimalistic action.

Motion carried, 7-0.

ROLLCALL VOTE Yeas: Judd, Lyon, Canvasser, Hart, Jones,, Lillie, Morganroth Nays: None Absent: Miller

T# 07-48-17

607 S. BATES Appeal 17-17

The owners of the property known as 607 S. Bates are requesting the following variances to allow for the construction of a two-story addition:

A. Chapter 126, Article 2, Section 2.10 requires the maximum building height to be 28 ft. to the midpoint. The proposed midpoint for the room referred to as a cupola is 32.81 ft.; therefore a variance of 4.81 ft. is requested.

B. Chapter 126, Article 2, Section 2.10 requires the maximum eave height of 24 ft. The proposed cupola's eave height is 28.94 ft.; therefore a variance of 4.94 ft. is requested.

C. Chapter 126, Article 4, Section 4.75 SS-02 B.3 requires a dormer on the side yard to be set back a minimum of 8 in. from the face of the second floor below. The dormer on the south elevation is flush with the second floor below and doesn't meet the 8 in. minimum setback; therefore a variance of 8 in. is required because it is not set back and is flush with the floor below.

D. Chapter 126, Article 4, Section 4.75 SS-02 B.3 requires a dormer on the side yard to be set back a minimum of 8 in. from the face of the second floor below. The dormer on the north elevation is cantilevered out 3.06 ft. from the second floor below; therefore a variance of 3.73 ft. (3.06 ft. + .67 in.) is required.

This property is zoned R-3.

Mr. Worthington observed the house was constructed in 1901 and is designated historical. The applicant appeared before the Historic District Commission ("HDC") on 6/21/17 for review and comments.

The Chairman observed if the appellant was building a brand new house it could go higher. But because they are adding onto a historic house there are limitations.

In response to Mr. Judd, Mr. Worthington stated this cupola could be looked at as a habitable attic per the Ordinance. It is more like a room.

It was verified that this application came in after the new ordinance for dormers took effect.

Mr. William Finnicum, Architect with Finnicum Brownlee Architects, spoke for the homeowners, Mr. and Mrs. Joseph Angileri who were present. This project is unique from the standpoint that every decision was driven by the fact that it is a historic resource. The height of the house is kept down to a scale that is in keeping with the historic resource.

The Dept. of the Interior Guidelines for Rehabilitation of Buildings mandates that the new addition be done in a way that is distinguishable from the old historic resource, but is compatible in size, scale and proportion. One thing that they did to help distinguish the new from the old was to place the cupola squarely on the new addition.

He feels their practical difficulty is in following these Guidelines and responding to the historic resource in such a way that they can be true to the house and be true to the

Guidelines. The BZA is permitted by the Zoning Ordinance to modify the height restriction of a cupola provided such height modifications do not violate the spirit and intent of the Zoning Ordinance. They feel this is a cupola and that the height extension is warranted.

They are allowed to have an eave height of 24 ft. and their eave height is 18 ft. That means they could go all the way up to 28 ft. at the ridge. However, their average height is 6 ft. 3 in. lower than what they are permitted if they were starting new with 24 ft. eaves and maxed the ridge height out to the ultimate 28 ft. That is why they do not feel the height is harmful to the historic resource. Also, he was not sure if it is customary to judge the average roof height for a structure from a secondary roof line. The cupola is only a tiny fraction of the entire roof form.

They considered the dormers as cross gables when they were designing the house. After two meetings with staff they were never told these were dormers until the Friday before going before the HDC. Now variances were required because the gables are called dormers. However, they do not match the description of a dormer that is in the Definition Section of the Ordinance. Personally he doesn't believe these are dormers. On the north side there are no walls that interrupt the roofline. On the other side setting back the dormers would change the style of the roof and be detrimental to the historic resource because it would not be in the Queen Anne style. The existing building is a Queen Anne and the new addition has been designed to be very respectful of that style.

Mr. Finnicum respectfully requested the board to grant the requested variances to enable the Angileris to move forward with their project.

Discussion concluded that if these were not defined as dormers there would not be an issue. Mr. Worthington said if a projection from the house comes out 2 ft. on a foundation it is a secondary roofline. Then the second floor roofline is going to be looked at as a dormer unless it meets that.

Mr. Finnicum noted the two lots that his client owns are going to be rejoined into one lot. He added that his client has received a number of letters from neighbors, all positive, in support. In addition, the heights of every historic house in the Bates St. Historic District with the exception of one are much taller than this house. The Chairman replied it is nice to have input from the neighbors, but whether they are for or against the project doesn't establish practical difficulty.

Responding to Mr. Morganroth, Mr. Finnicum said the cupola is in scale with the historic resource and it was carefully thought out to be the right element to distinguish the historic house from the new addition.

Mr. Hart received information that there is one issue still outstanding with the HDC on this project. It has to do with the corner of the porch roof that is concealing some of the

existing historic detail. They asked them to look into that. Therefore they will be back before the HDC next week with ideas for that. There was strong support for the cupola and its relationship to the historic resource by committee members because the cupola is located on the new construction.

Mr. Judd pointed out that anything this board does is contingent upon the two lots being rejoined as one. He added that after reading three quotes from the Minutes he thought there was somewhat of an ambivalent feeling about this plan by members of the HDC.

An answer to the Chairman, Mr. Finnicum reported the historic house occupies approximately 25% of the entire structure.

At 9:08 the Chairman took public comments on this appeal.

Mr. Steve Lemberg, 648 S. Bates, directly across the street from the subject property, spoke in favor of the proposed construction. He passed around a handout showing the view from his window of the existing house and lot. They will be looking right at the cupola and will see it more than anyone.

Ms. Lee Sack said she lives at 630 Henrietta, directly behind. She thought that keeping the historic home as it is rather than moving it and constructing two new houses as the previous owners wanted to do lends itself to the City's intent. Just adding on keeps the flavor of the historic home and the District. She hopes for approval.

Ms. Barbara Connolly, 648 S. Bates, said this appears like it will be one of the nicest historic homes in the area. The height seems to be very much on the same plain as the Taubman house next door, so the rooflines will be consistent and fit in well with the street.

Motion by Mr. Lyon

Seconded by Mr. Judd in regard to Appeal 17-19, 607 S. Bates, to approve the variances as advertised. He believes the appellant has shown that strict compliance with the Ordinance would be unduly burdensome. Due to the unique nature of this house being in a Historic District and the requirements that any improvements have to comply with the Secretary of the Interior Guidelines for Historic Buildings and the HDC review requirements also, he believes that strict compliance would be unduly burdensome.

Mr. Lyon believes the variances do substantial justice to the appellant and the other property owners in the District, especially given this is a historic building. He believes through the extensive testimony tonight that the architect has done an admirable job following all of those guidelines incorporating the elements required to both make it similar to, but not exact as the existing historic resource.

He believes this is due to the unique circumstances of the property. It is a unique historic home in the Queen Anne style. He does not believe the situation is self-created. To the contrary, this house has been there for a long time. It is a historic building in a Historic District and therefore the compliance with the historic guidelines is something that has to be followed and not necessarily self-created by the owner.

The motion is contingent on two lots being combined as one parcel.

He tied the motion to the plans as presented subject to any minor modification by the boards and the Building Official to comply with the needs of the Historic District.

Mr. Jones was concerned that the first time the new ordinance for dormers comes up a variance is needed. He was surprised the appellant stated that staff surprised the architect. Therefore he is concerned about complying with the ordinance that specifically deals with dormers.

Mr. Lyon asked that Planning Staff have a look at this Ordinance to determine if there are conflicts. To him a gable end is not a dormer. If they are forced to interpret this as a dormer given the Ordinance, then the City probably needs to look at the Ordinance.

Mr. Judd pointed out that what the board is doing here doesn't set any precedent. So, he doesn't feel they are undercutting the Building Dept. or the commission in this situation.

Mr. Hart agreed. He feels the Ordinance still has merit in other applications. The Dormer Ordinance was instituted to respond to the dilemma of new construction inside of roofs. The second floor of this historic home is essentially up inside the roof itself. He thinks the spirit of the law is met with these variances. Therefore he will support the motion.

Motion carried, 7-0.

ROLLCALL VOTE Yeas: Lyon, Judd, Canvasser, Hart, Jones, Lillie, Morganroth Nays: None Absent: Miller

T# 07-49-17

CORRESPONDENCE (none)

BIRMINGHAM HISTORIC DISTRICT COMMISSION MINUTES OF AUGUST 16, 2017

Municipal Building Commission Room 151 Martin, Birmingham, Michigan

Minutes of the regular meeting of the Historic District Commission ("HDC") held Wednesday, August 16, 2017. Chairman John Henke called the meeting to order at 7 p.m.

- **Present:** Chairman John Henke; Board Member, Thomas Trapnell, Shelli Weisberg, Michael Willoughby; Alternate Board Member Adam Charles
- Absent: Board Members Keith Deyer, Natalia Dukas; Alternate Board Member Dulce Fuller; Student Representatives Josh Chapnick, Griffin Pfaff
- Administration: Matthew Baka, Sr. Planner Carole Salutes, Recording Secretary

08-38-17

HISTORIC DESIGN REVIEW 607 Bates Major Jones House Bates St. Historic District

Zoning: R-3 Single-Family Residential

<u>History</u>: Mr. Baka noted the house was designated historic in 1978 and the Bates St. Historic District designation came into effect in January of 1998. The house has been sold several times and reviewed by the HDC for potential renovations. However, none of those approved plans were executed, and the current owner is seeking to renovate the property with a new proposal.

<u>Proposal</u>: The existing two-story portion of the1865 structure is proposed to be fully restored, with all architectural detail retained and preserved. The single-story 691 sq. ft. non-contributing rear portion of the house is proposed to be removed. A large wing addition is planned for the rear and the south elevations. Also, a recently constructed, non-contributing canopy over an existing basement door on the north side is proposed to be removed.

On June 21, 2017, the applicant appeared before the HDC seeking approval of an addition to the Major Jones House. The application was approved with the exception of the front porch. The commission requested that the applicant consider altering the design in a way that accentuates the original portion of the home and its detail features.

Accordingly, the applicant has submitted revised plans. The new plans have altered the ceiling of the wrap around roof so that it projects upward at an angle in order to reveal the angled window at the southwest corner of the original structure. Currently, this window is concealed within the existing enclosed porch. The applicant is now proposing to expose this window and restore the decorative wood details shown in the historic photos available for the house.

In addition, the applicant was granted the required variances at the July 11, 2017 Board of Zoning Appeals meeting to construct the copula and the gable ends that had previously been identified as dormers.

Mr. William Finnicum, Finnicum Brownlie Architects, was present, but no one had questions for him.

Motion by Ms. Weisberg

Seconded by Mr. Charles to issue a Certificate of Approval for the Design Review application for 607 S. Bates. The work meets the Secretary of the Interior's Standards for Rehabilitating Historic Buildings standard number 9.

Motion carried, 5-0.

There were no comments from members of the public on the motion at 7:05 p.ml

VOICE VOTE Yeas: Weisberg, Charles, Henke, Trapnell, Willoughby Nays: None Absent: Deyer, Dukas

PLOT PLAN

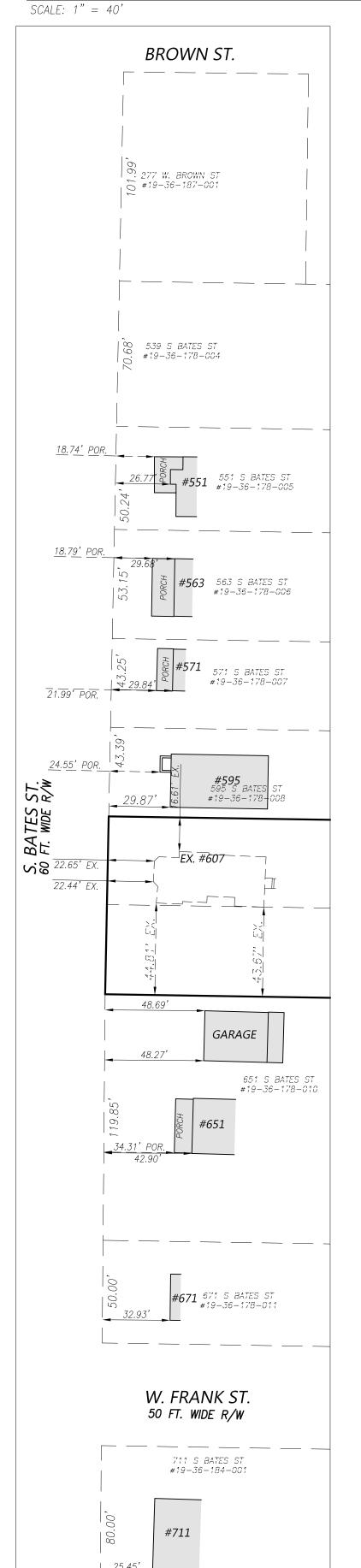
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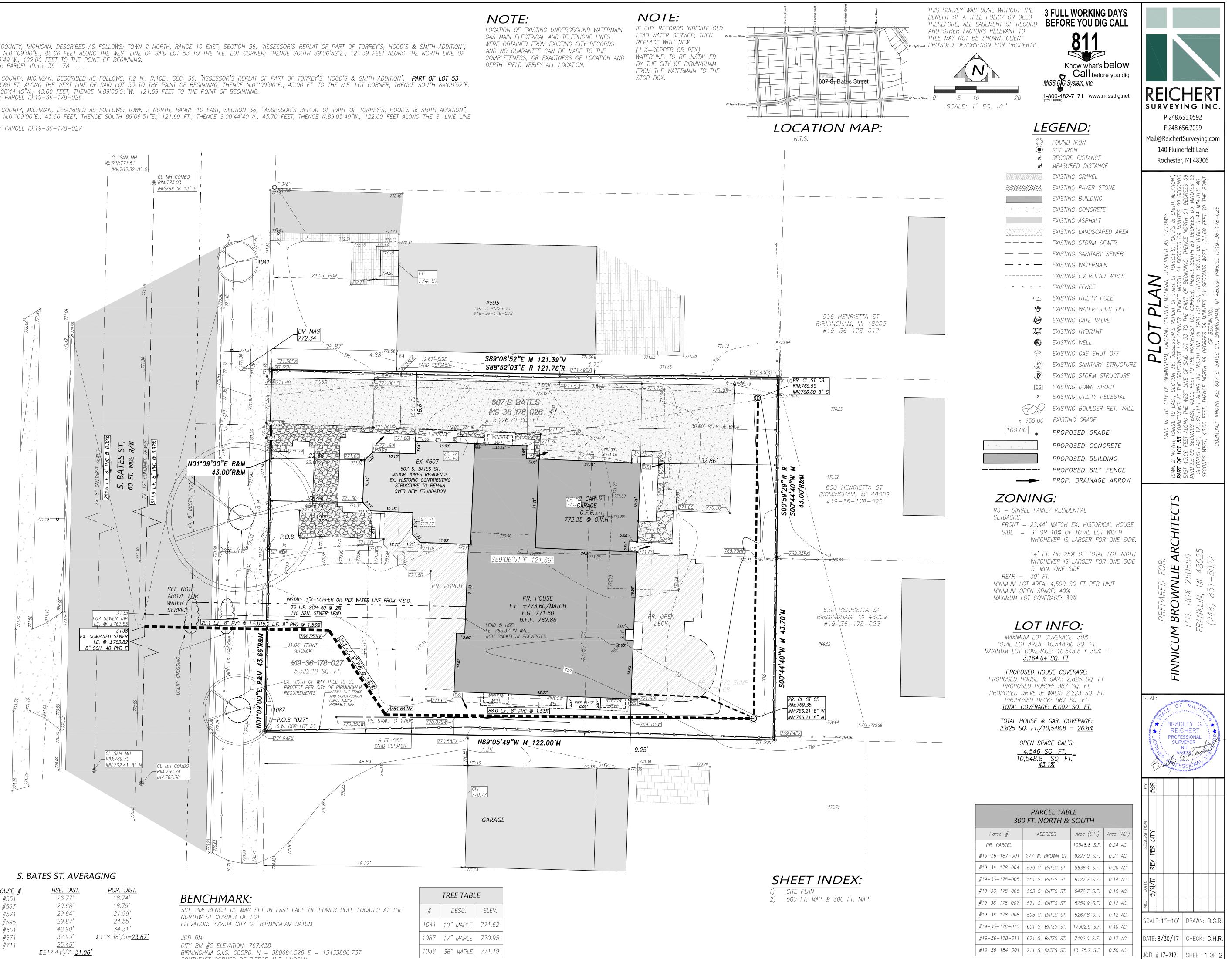
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SOUTHEAST CORNER OF PIERCE AND LINCOLN

FRONT YARD AVERAGING:





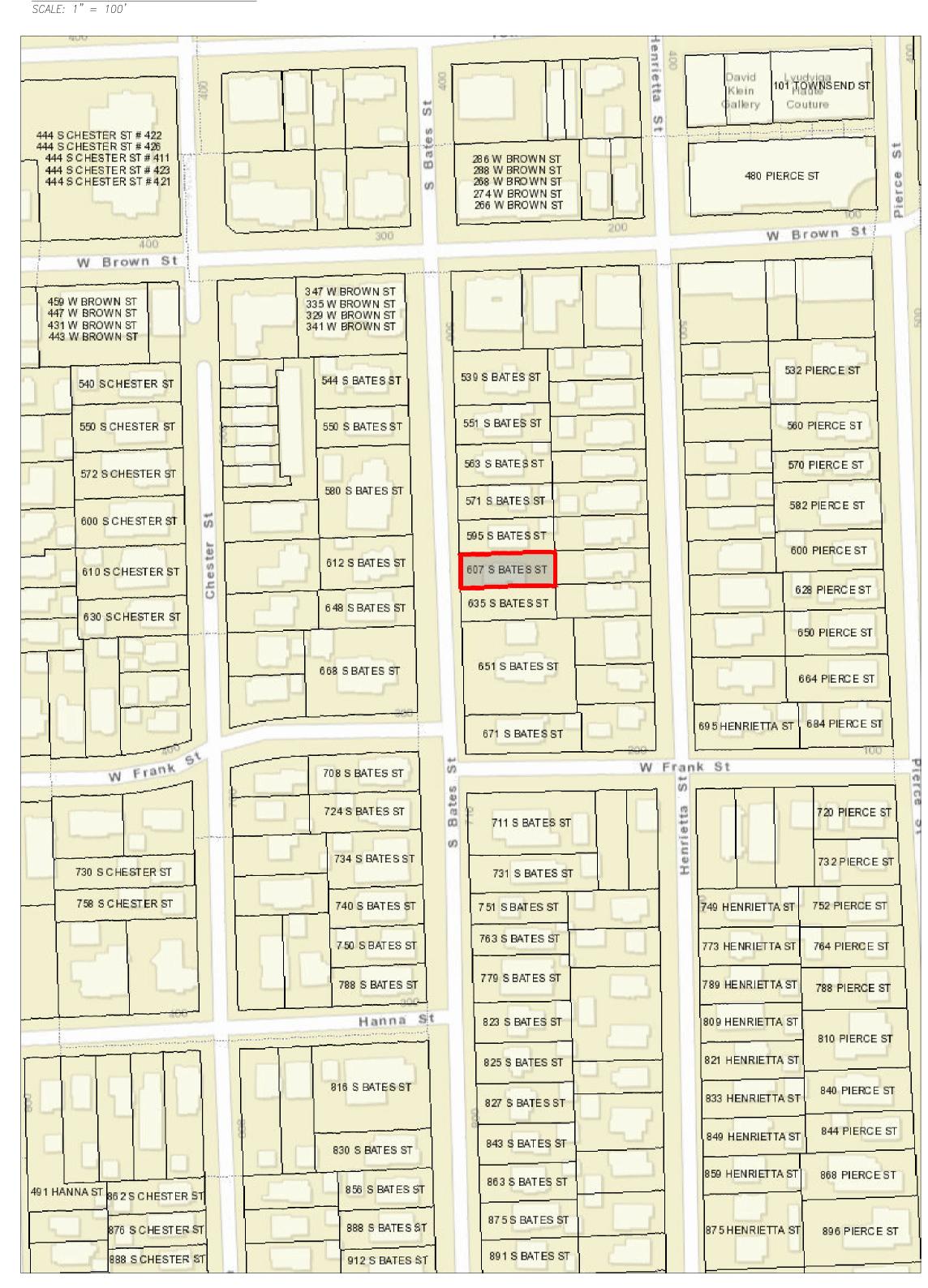
PLOT PLAN <u>PARCEL "A"</u>

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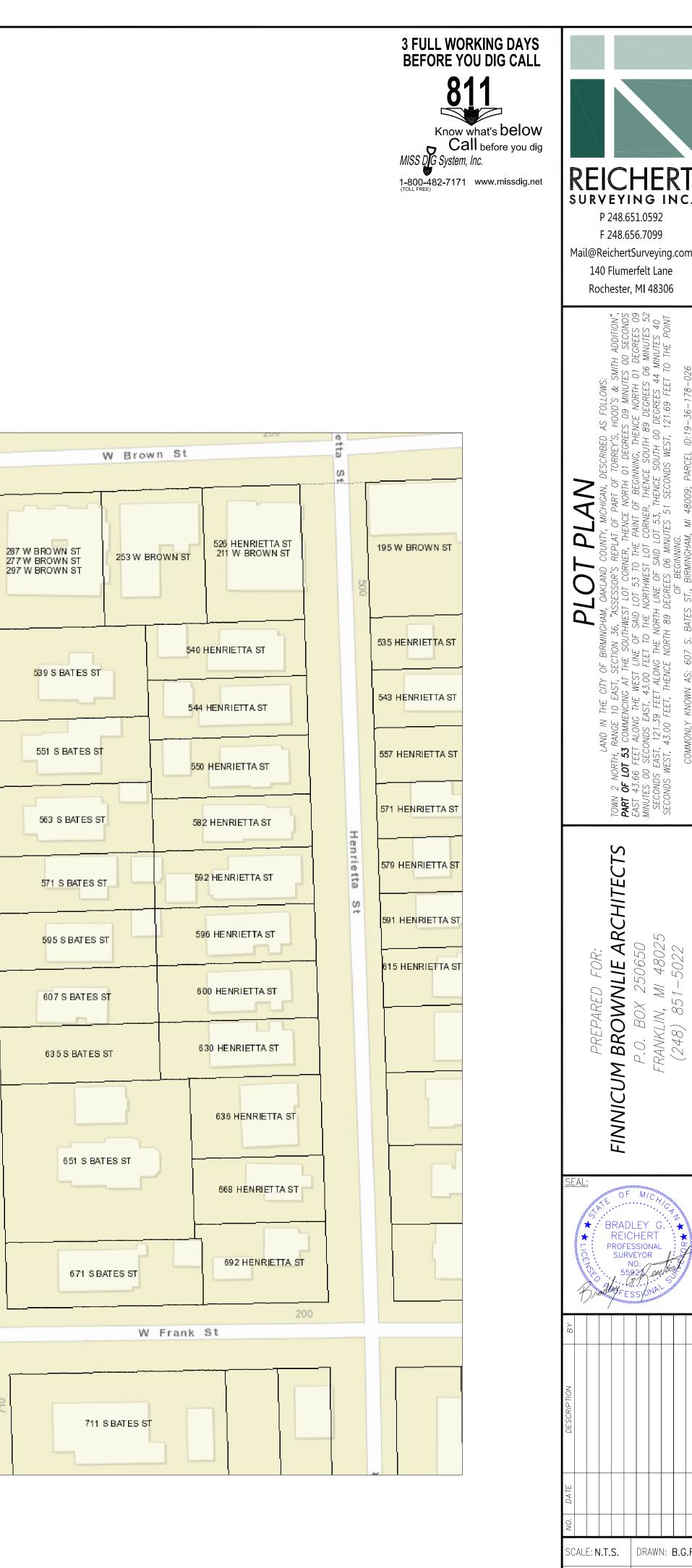
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500 FT. AREA MAP



300 FT. AREA MAP SCALE: $1'' = \pm 50'$





CALE: N.T.S. DRAWN: B.G.R. ATE: 8/30/17 | CHECK: G.H.R. IOB **# 17-212** | SHEET: **2** OF **2**



CITY OF BIRMINGHAM Date 09/22/2017 12:23:32 PM Ref 00142021 Receipt 392563 Amount \$400.00

Combination of Platted Lots Application

1. Applicant
Name: Julie + Jue Anguleri
Address: 25800 M cadowdale
Franklin, MI 48025
Phone Number: 248-626-6575
Fax Number:
Email Address: joe Rangileria gmailicom

2. Applicant's Attorney/Contact Person

Name: WILLIAM FINNICUM
Address: Finnicum Brownlie Architects
25885 German Mill Rdi Franklin Al Abors
Phone Number:
Fax Number:
Email Address:

3. Project Information

Address/Location of Property:	607	S.Ba	les
Bitmingham,	mi.	48009	
0:111 # 16 21 - 174 02	1 2 16	21 11-70	~ ~ ~

Sidwell #:	19-	34-1	18-0	144	4	17-26	13-	02	1
Current Zo	ning	12	sid	ent	ixi	R-3	2		

4. Attachments

- Proof of ownership
- Written statement of reasons for request .
- A letter of authority or power of attorney in the event the application is made by a person other than the property owner
- . Other data having a direct bearing on the request
- Sketches of proposed development (optional) .
- One digital copy of plans .

Property Owner

applicant * Name: Same as Address: Phone Number: Fax Number: Email Address:

Survey Company

Name: Reic	hert surveying luc
Address: 140	Flumer feilt Lane
Ro	chester MI 48306
Phone Number:	248.651.0582
Fax Number:	248.656.7099
Email Address:	Mail@reichertsurveying.com

Legal Description: See Surve

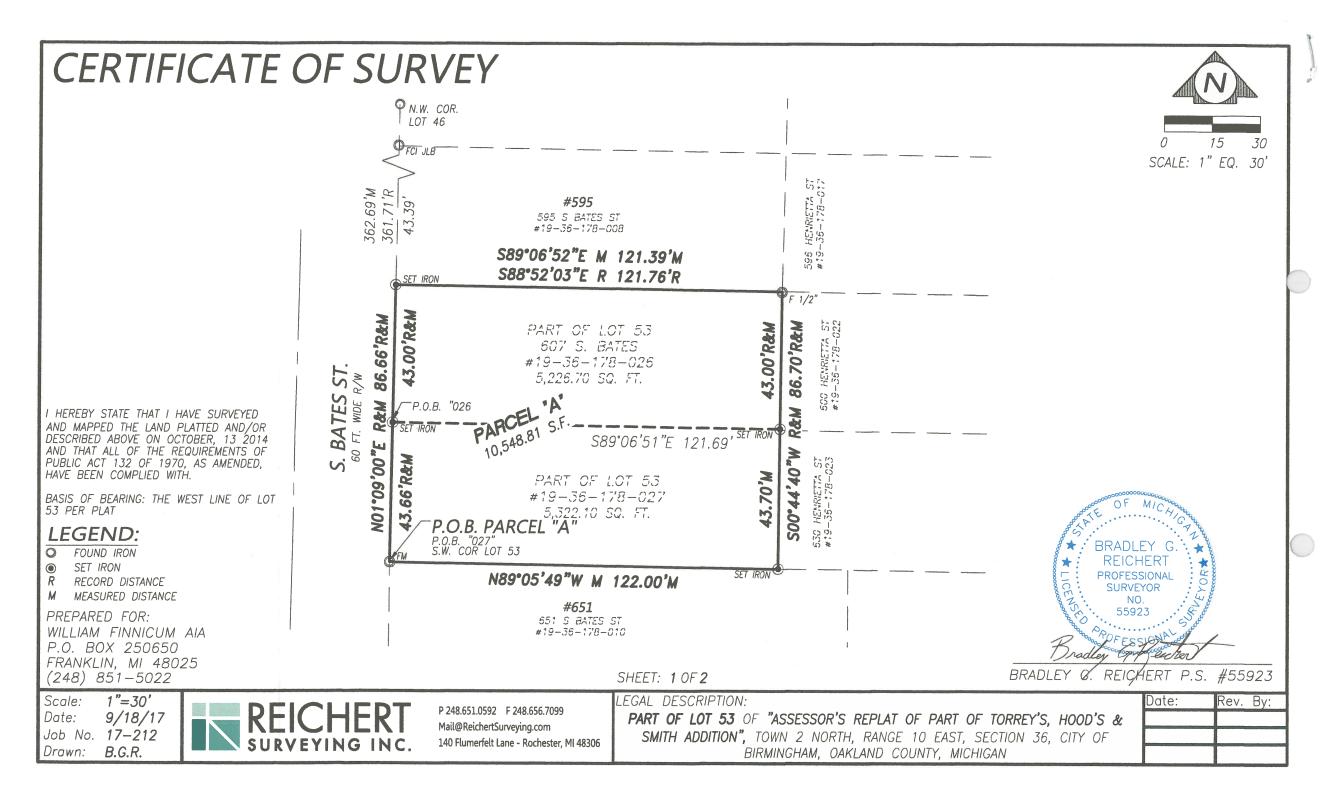
- Two (2) copies of a registered land survey showing:
 - All Existing and proposed platted lot lines
 - Legal descriptions of proposed lots
 - Locations of existing/surrounding structures for at least 500 feet in all directions
 - Footprints of proposed development including proposed building envelope with front, side and rear setbacks clearly marked.

(I), (We), the undersigned, do hereby request to combine lots of record in the City of Birmingham, Oakland County, Michigan. (I), (We), do hereby swear that all of the statements, signatures, and descriptions appearing on and with this request are in all respects true and accurate to the best of (my), (our), knowledge.

Signature of Property Owner: July mer trighty Than the	Date:	9.16.17
Print Name: Julie S Double Anailaria		
Signature of Applicant:	Date:	9.16.17
Print Name:Joseph R. Ansoleka		

Fee: \$200.00 per lot affected, minimum fee \$400

* Joseph R. Angileri, as trustee of the Joseph R. Angileri Revocable Trust WAID 04/05/1993, as amended and restated on 07/30/2012 and Julie S. Douse-Angileri as Trustic of the Julic S. Douse Angileri Reveable Trust 11/A/D dated 7/30/2



CERTIFICATE OF SURVEY

PARCEL "A"

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COMMONLY KNOWN AS: ____ S. BATES ST., BIRMINGHAM, MI 48009 PARCEL ID:19-36-178-___

EXISTING PARCELS 026 & 027

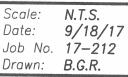
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COMMONLY KNOWN AS: 631 S. BATES ST., BIRMINGHAM, MI 48009 PARCEL ID:19-36-178-027

PREPARED FOR: WILLIAM FINNICUM AIA P.O. BOX 250650 FRANKLIN, MI 48025 (248) 851-5022



SHEET: 2 OF 2

SURVEYING INC.

P 248.651.0592 F 248.656.7099 Mail@ReichertSurveying.com 140 Flumerfelt Lane - Rochester, MI 48306

DATE:	REV. BY:



MEMORANDUM:

Date: September 21, 2017

To: Jana Ecker Planning Director City of Birmingham

From: William Finnicum AIA NCARB Finnicum Brownlie Architects

Re: STATEMENT OF REQUEST FOR LOT COMBINING, 607 S. Bates

In or about 2012, the former owner of the property located at 607 S. Bates split the existing platted lot. He intended to move the existing historic house onto the northern parcel and build a second house on the southern parcel. The project did not proceed and in 2016 he sold the house and two lots to Mr. and Mrs. Joseph Angileri.

Mr. and Mrs. Angileri value the historic resource, wish to restore its exterior and enlarge it with an addition toward the East. Drawings prepared by Finnicum Brownlie Architects were submitted to the Historic District Commission and a certificate of appropriateness was issued. Additionally, the Board of Zoning Appeals approved requested dimensional variances. Building Department review of both requests pointed out the need to re-join the two lots.

Attached you will find a completed lot combination application; 2 copies of the new plot plan with new legal description; 2 copies of the proposed site plan as approved by the HDC and the BZA; the footprints of all structures within 500 feet and proof of ownership.

Thank you,

H. Famicun.

NOTICE OF PUBLIC HEARING BIRMINGHAM CITY COMMISSION AMENDMENT TO ZONING ORDINANCE

Meeting - Date, Time, Location:	Monday, November 13, 2017 7:30 PM Municipal Building, 151 Martin Birmingham, MI 48009				
Nature of Hearing:	To consider amendments to the Zoning Ordinance, Chapter 126: TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS TO ADD A DEFINITION OF PERSONAL SERVICES.				
City Staff Contact:	Jana Ecker 248.530.1841 jecker@bhamgov.org				
Notice:	Publish: October 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.

City of T	Birmingham	<u>MEMORANDUM</u>
		Planning Division
DATE:	November 6, 2017	
TO:	Joseph A. Valentine, City Manager	
FROM:	Jana L. Ecker, Planning Director	
SUBJECT:	Public Hearing to Add a Definition of 9, section 9.02, Definitions, of the Zo	

1

On June 19th, 2017 the City held a joint workshop session with the Planning Board and City Commission to discuss current planning issues. One of the issues discussed was the Planning Board's study of permitted uses in the Redline Retail District. The City Commission indicated the desire for the Planning Board to draft a definition of personal services to clarify which types of services, if any, should be permitted in the Redline Retail District.

Subsequent to the joint meeting, the City Manager directed the Planning Board to postpone the public hearing that the Board had previously scheduled for July 12, 2017, to allow the Planning Board to conduct an additional study session to further discuss and focus in on a proposed definition for personal services to send to the City Commission.

On July 12, 2017, the Planning Board opened a public hearing to consider amendments to Article 03 section 3.04 to exclude community uses in the Redline Retail District and Article 09, Definitions to define Personal Services. The public hearing was immediately closed and the Planning Board postponed the public hearing to August 9, 2017 to allow the Planning Board to hold an additional study session on July 12, 2017 specifically with regards to drafting a definition for personal services as directed by the City Manager.

On August 9, 2017, the Planning Board conducted a public hearing to consider the draft amendment to the definition section of the Zoning Ordinance to consider adding a definition for personal services in Article 9, section 9.02 to clarify the uses permitted in the Redline Retail District. After much discussion and public input, the Board forwarded the draft definition to the City Commission for review, but voted unanimously not to recommend approval of the draft definition of personal services, but to recommend that the City Commission expedite the comprehensive master plan update.

On September 25, 2017, the City Commission considered setting a public hearing to create a definition for personal services in the Downtown Birmingham Overlay District. After much discussion, the City Commission did not set a public hearing date to consider the matter, but asked for the matter to be returned to the Planning Board for the purpose of having the

Planning Board provide the City Commission with their list of uses discussed at the joint meeting, and to have that list completed and back to the Commission by November 9, 2017. Further, the City Commission requested that the list include the rationale of the advantages and disadvantages for each category of use. The City Commission also expressed concern that the Planning Board had not considered enough sample definitions of personal services in other communities. Planning staff indicated that a number of sample definitions were selected from the research completed to provide the Planning Board with multiple options to consider for Birmingham.

On October 25, 2017, the Planning Board reviewed the draft chart of potential personal service uses prepared by the Planning Division staff, and made modifications to the pros and cons of each use. In addition, the Planning Board requested that the last two columns be removed and a comments column be added to note where there was not a unanimous opinion of the entire Planning Board. The requested changes have been made, and a column was added to provide examples of existing businesses located in the City that would fall under each category. In addition, the Planning Board reviewed again the 5 sample definitions that were previously provided as options in previous agenda packets, along with 12 additional definitions from other communities to supplement the ones originally selected as possible options.

On October 30, 2017, the City Commission set a public hearing date for November 13, 2017 to consider the proposed amendment to Article 9, section 9.02 of the Zoning Ordinance to add a definition for personal services.

On November 8, 2017, the Planning Board finalized the chart listing potential categories of personal service uses and passed a motion to forward this to the City Commission as directed for the public hearing on November 13, 2017. Please see the attached draft language, staff reports, and relevant meeting minutes related to this subject.

SUGGESTED ACTION:

To approve an amendment to Article 9, Section 9.02, Definitions, to add a definition for personal services to the Zoning Ordinance.

ORDINANCE NO._____

THE CITY OF BIRMINGHAM ORDAINS:

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

TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS, TO ADD A DEFINITION FOR PERSONAL SERVICES, TO ADD A DEFINITION FOR PERSONAL SERVICES.

Personal Services: An establishment that is open to the general public and engaged primarily in providing services directly to individual consumers, including, but not limited to, personal care services, services for the care of apparel and other personal items, but not including business to business services, medical, dental and/or mental health services.

ORDAINED this _____ day of _____, 2017 to become effective 7 days after publication.

Mark Nickita, Mayor

Cherilynn Mynsberge, City Clerk

City Commission Minutes June 20, 2016

E. Definition of retail

Ms. Ecker described the issue as the city's definition of retail in the ordinance, and people who would like the definition to be more specific. She said this comes up at the shopping district level. The retailers downtown want to see more retail. For the most part, the general public wants to see an active retail type use whether it is retail or restaurant. There is some debate on what percentage of each. The building owners have a different view.

Commissioner Nickita thinks this is long overdue for discussion. He feels it needs to be reexamined and cleaned up.

The consensus is to continue discussion on the definition of retail.

There were no public comments.

Planning Board Minutes March 29, 2017

5. Definition of Retail

Ms. Ecker observed that over the past decade, there has been an ongoing desire by some City Boards and Commissions to review the current definition of retail to ensure that we are encouraging true retail downtown, and not allowing office and other service uses to dominate. The issue is specifically relevant in the Downtown Overlay, where retail use is required in the first 20 ft. of depth for all buildings in the Redline Retail District.

As defined in Article 9, retail uses include the direct sale of products from the premises, but also include restaurants, entertainment and the purchase, sale or exchange of personal services. No definition for personal services is provided. Personal financial services, beauty services, banking services, real estate services, advertising services and other similar uses have been permitted within the Redline Retail District under the umbrella of personal services, provided that there is a display area for the sale or exchange of such goods and services in the first 20 ft. of the storefront, and the storefront is open to the public during regular business hours. Concern has been raised that this small display area 20 ft. in depth is not sufficient to create an activated, pedestrian-friendly retail district.

In the past, both the Planning Board and the Birmingham Shopping District Board have expressed concern with the existing retail definition, and have considered alternative definitions to tighten the definition of retail to include only shops which sell products, not financial, real estate or other such personal services. On the other hand, many property owners in the past have expressed concerns about tightening up the definitions as they desire the flexibility to lease space to a wider range of users in order to avoid vacancies.

Reviewing the research on other cities retail policies, one issue maybe that the Red Line Retail District is too big. Perhaps the City should target the Maple/Woodward core area for the strict definition of retail and then allow some of the service uses around that. Another recommendation may be to change the definition of retail use by eliminating "community and commercial uses." It would still keep in uses that would fall under entertainment. Another option is to include language that talks about what percentage of sales comes from the actual sale of products.

Mr. Share said maybe part of the answer is that mandatory true retail needs to be compressed and street activation needs to be the principle. The national market trend is that the retail footprint is shrinking and it is anchored by entertainment and by food. Ms. Whipple-Boyce commented she does not like to see offices on the first floor. They create horrible dead strips of nothing. Maybe the idea is to shrink the retail district if the market trend is shifting. No one had an issue with removing "community and commercial uses" from the definition of retail use. Mr. Jeffares suggested looking at Walnut Creek, CA and Hinsdale, IL for ideas about encouraging retail activity.

Consensus was that this topic will need further discussion.

Planning Board Minutes May 10, 2017

2. Definition of Retail

Ms. Ecker advised that last week Planning Staff was directed by the City Manager to come up with a temporary ordinance amendment that would halt the conversion of first-floor retail space to quasi office/quasi retail uses. The City Commission talked about that on May 8 and in the end they voted in favor of directing the Planning Board to bring back to them by July 24 an ordinance amendment that would be a temporary measure of relief until the board's overall discussion of retail is completed. Further, they have asked the board to consider an ordinance amendment that would temporarily stop personal services and community uses from being on first-floor retail space Downtown while the board studies the full issue. They want personal services to be defined.

After researching the subject, Ms. Ecker thought the best example of defining Personal Services came from the City of Bremerton, Washington:

Personal Service Business means an establishment engaged primarily in providing services involving the care of a person or apparel, such as: shoe repairs, laundry and dry cleaning, beauty and barber shops, clothing/costume rental, tanning, other personal grooming facilities and domestic assistance services. This does not include massage parlors, health care services, exercise establishments, nor funeral services.

At their meeting on May 8 it seemed the majority of Commission members appeared to value the beauty services as something that drives activity Downtown.

Mr. Boyle noted this is the fundamental problem of a form based code. It is not easy to take that form and assume you will get what you want in it.

Ms. Lazar observed the board needs to remember that offices like McCann Erickson that have moved into town have increased foot traffic, which also helps the retail. Chairman Clein said this board can either craft a measure for the presumed short term that solves a policy issue that the City Commission has already come to a conclusion on, and then come back and try and make it right; or they can continue to spin until the joint meeting.

Board members decided to add personal services to the definition of retail and to add a definition personal service that includes retail bank branches. Then in the Downtown Overlay, community uses should not be considered retail, but personal services should be allowed.

Consensus was to send this matter back to Staff for due consideration and they will bring back appropriate definitions to the next meeting. Also, invite the BSD Director to that meeting. The board can talk about scheduling a public hearing at that time.

Simon Group Holdings

Victor (Faiz) Simon President of Real Estate

May 19, 2017

Jana Ecker Planning Director City of Birmingham 151 Martin Street Birmingham, MI 48009 335 E Maple, Birmingham, Michigan 48009 Desk: 313.662.3616 Cell: 248.388.8753 vsimon@spcrealestate.com www.soaringpine.com | www.atlasoil.com



Dear Jana,

I am writing to respectfully express my opposition of the proposed amendment to define retail in the City of Birmingham Downtown Overlay. We currently own more than 3 buildings in the Birmingham area. It is no secret that retail shopping is a large part of the Birmingham's economic stimulation. However, by no means is retail the only reason in why the city is visited and should not be regarded as such. Most if not all businesses today, retail included, are transitioning from tangible storefronts to digital accessibility. Superpowers such as Amazon and eBay have completely altered the way in which our society attains its goods, causing retail stores to close at record rates. This change in society must not be ignored by the city when making a crucial decision in defining retail in Birmingham.

In place of amending the definition to further restrict the uses on the Overlay District, the City should complete the necessary due diligence, to provide evidence that this amendment will provide beneficial results in the city's retail space. The amendment would be understandable if Birmingham were turning away traditional "brick and mortar" retailers due to a lack of space. However, Birmingham could experience alarming levels of first floor vacancies should online competition prevent these first floor spaces from being filled.

Parking is also a huge issue in Downtown Birmingham. I commend the City, as they have taken aggressive action to address the issue. However, if you eliminate first floor uses such as real estate brokerages and financial services, it will not solve our parking problem, it will create vacancies that will not be filled due to lack of concepts. Building new parking decks, as well as incorporating them into new developments, will be the ultimate long term solution. It is obvious that the city is seeing expansion and will need to keep up with the demands of the increasing city population.

In summary, the Birmingham market is saturated with restaurants or service oriented business, which can be improved. We already have a number of restaurants in Downtown Birmingham. Diversification would have potential uses for first floor space, not restrict or limit the uses in an already shrinking sector. The city of Birmingham is thriving and its potential is just getting started.

These are the concerns I have and I respectfully request you and the Planning Board's denial and reevaluation of these amendment changes until there is a complete support among the Birmingham Community. I hope to see you and the board of directors make the right decision.

Sincerely, Faiz Simon

Managing Partner at Simon Group Holdings

Planning Board Minutes May 24, 2017

1. Definition of Retail

Ms. Ecker advised that over the past decade, there has been an ongoing desire by some City Boards and Commissions to review the current definition of retail to ensure that we are encouraging true retail Downtown, and not allowing office and other service uses to dominate. The issue is specifically relevant in the Downtown Overlay, where retail use is required in the first 20 ft. of depth for all buildings in the Redline Retail District. The City Commission talked about that on May 8, 2017 and they directed the Planning Board to move forward with ordinance amendments to provide temporary relief to halt the addition of first-floor non-retail uses into storefronts in Downtown while the Planning Board continues to study the issue of retail uses Downtown.

On May 10, 2017, the Planning Board discussed the direction from the City Commission to consider an ordinance amendment that would temporarily stop some of the uses that fall under the current undefined category of personal services and to stop community uses from being permitted in first-floor retail space Downtown while the board studies the full issue. After extensive discussion, the board directed the matter back to staff to provide ordinance language that would define personal services to include beauty salons and clothing services and other similar uses, and to allow personal services as defined within the Redline Retail District, but to exclude office, medical and quasi-office uses, and amend the definition of retail to include retail bank branches along with personal services as newly defined.

In addition, the Planning Board requested that the Birmingham Shopping District ("BSD") Director attend the Planning Board meeting on May 24, 2017. Ms. Tighe was not available to attend the meeting, but forwarded a copy of the BSD's latest retail study for Downtown Birmingham to assist the Planning Board in their review of this issue. The BSD is also working on a comparison between the market analysis that was done several years ago and the most current analysis to see what the changes have been in the different categories.

In response to the Chairman, Ms. Ecker advised that as proposed there would not be a time limit on the ordinance change. Mr. Jeffares had a concern that this is the right mechanism because the study might go on for years while they would see plywood go up on windows.

Motion by Mr. Williams

Seconded by Ms. Lazar to receive and file letters from Matthew Shiffman of Alden Development Group dated May 24, 2017 and from Faiz Simon of Simon Group Holdings dated May 19, 2017. Both letters oppose the proposed change.

Motion carried, 7-0.

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

Mr. Williams said he is a free market person and he thinks the market should dictate what goes into the stores. Ms. Lazar stated she did a drive-by of the businesses that are no longer there. There are four on W. Maple Rd. and four on N. Old Woodward Ave. She questioned the rationale behind stymieing a landlord from filling his space. At least it would look like there is activity. Mr. Jeffares thought the City should do some things to encourage retail such as solving the parking problem. If people can't find a place to park they won't come to Birmingham to shop. It would be better to solve that issue than to declare a moratorium that might last for a long time.

Ms. Prasad said she has noticed that most retailers close pretty early in the evening when there is a fair number of people going in and out of the first-floor offices. The business she has seen so far haven't really taken away from activation of the streets. Chairman Boyle observed if the City wants to keep the streets activated perhaps the merchants should be asked to make some modest changes in terms of hours, lighting, shades, litter, door openings etc. adjacent to their properties.

The Chairman took discussion from the public at 7:47 p.m.

Mr. Brian Najor, owner of buildings at 100-167, 600-640, and 720-726 N. Old Woodward Ave., noted there is a significant amount of change going on in retail today. He thought it is probably a big mistake to impose the proposed changes at this time when there is so much unknown. He encouraged further discussion prior to making changes. This temporary change to the ordinance could go on for years. He feels owners could be facing some challenges in filling space here. The City should be expanding its uses and keeping things open to bring in new tenants. Also, other building owners, Ted Fuller and James Esshaki, have indicated they are strongly opposed to the ordinance change.

Ms. Lazar felt there should be further discussion and consideration at another meeting so that more property owners can weigh in.

Ms. Whipple-Boyce indicated she is concerned about prime retail spaces being consumed with office use. She would very much like to see the board come up with a plan for this. Small retail stores in downtowns like ours are thriving in other communities and thriving here. Mr. Koseck said it concerns him not to put an end date on the study. Mr. Williams noted there is no factual basis that retailers are waiting and unable to find space to lease. The City Commission hasn't given the Planning Board the facts to be able to develop a proposal.

Chairman Boyle said this discussion should be continued in order to ask for evidence from retailers, building owners, and others. Mr. Jeffaries thought Ms. Tighe should be asked about the state of retail in the City.

Ms. Ecker noted that the City Commission in their meeting on May 8, 2017 was adamant that they wanted this matter moved forward to a public hearing and then back to the Commission in with all due haste.

Motion by Mr. Jeffares

Seconded by Mr. Williams to continue the discussion on the definition of retail to June 14, 2017.

Mr. Brian Najor received clarification that the board is not moving forward to June 14 for a public hearing on the proposed ordinance amendments. This discussion will be continued on June 14 to get more information and to get more people to weigh in.

Motion carried, 7-0.

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

Consensus was to limit the June 14, 2017 agenda to two items, the public hearing on glazing, and the retail discussion.



To: Jana Ecker May 24, 2017 Subject: Proposed First Floor Retail Amendment, City Of Birmingham, MI

Dear Jana,

I wanted to send you a quick note regarding the proposed amendment to define retail space in the downtown CBD. As you are aware, due to increased technology and shopping opportunities through non-traditional methods, retail as 'traditionally defined' is changing. Traditional brick-and-mortar retail shops are closing at a higher pace and this is reflective not just in the Birmingham market, but is occurring on a national level in properties we own and operate and beyond. This is bringing us, as landowners and operators, a unique challenge that needs a creative approach to combat. Although we are aware that a number of people in town have their own definition of what true retail is, due to the evolving nature of the consumer marketplace, flexibility is critical to keep storefronts full and local market economies flourishing. If this amendment is passed, we foresee a tremendous potential issue of first floor vacancy city wide in the CBD.

It would be a good approach for the city to take a step back and investigate further if this would be a true positive step in the right direction. The truth lies in the existing first floor vacancies in the downtown CBD currently. If the city was turning away traditional retailers currently due to lack of available space, that would be a different story. I know that we share a concern that is being echoed by other landowners in town. In this day and age, vacancies are a direct correlation to changing times in traditional retail and the consumer shopping experience.

There is also some discussion that non-traditional retail is creating this 'enormous' parking issue. Eliminating non-traditional first floor uses will simply create vacancies that will remain long term and will not solve the parking issues at all. The root of the parking issue is the nature of a growing community and antiquated decks with limited capacity that the city is taking excellent steps in exploring long-term solutions by expansion and redevelopment.

As you are aware, we are super supportive of all city efforts, want to be good neighbors and stewards of land in our small community while keeping our heads down and are staying in our lane with our existing projects. But, we felt compelled to speak out on this issue.

Best regards.

Matthew Shiffman

189 W Merrill St Birmingham, MI 48009 | Phone #: (248) 430-8888



Jana Ecker <jecker@bhamgov.org>

Tue, Jun 13, 2017 at 12:54 PM

Retail Uses Downtown

1 message

Eric Wolfe <elwolfe1@comcast.net> To: Jana Ecker <jecker@bhamgov.org> Cc: Joe Valentine <jvalentine@bhamgov.org>

Dear Jana,

I would like the following thoughts to be communicated to the Planning Board for their 6/14/17 meeting concerning retail and permitted uses in the redline retail district:

1) We all know what retail is, and it does not include residential real estate brokerage offices, digital marketing companies, advertising agencies, Gas Station TV or the Vibe Credit Union. This credit union, which might sound like it's a retail banking facility, doesn't have an employee. It is simply tying up prime retail space for a well lit lobby and an ATM. I heard some comments at your last meeting concerning the "activation" of the street. It should be obvious, although it seems to escape some of your Board members (who are real estate brokers), that when individuals meet with their residential real estate broker, they have only that destination in mind. They are not "activating" the street by any reasonable definition. They might have lunch, but they certainly are not planning on shopping. These brokerages and other traditional office users tie up valuable retail space, overburden the parking situation, and are clearly detrimental to the perpetuation of a thriving shopping district.

2) The former chairman and current member of the Planning Board suggested that Landlords have an obligation as well. I couldn't agree more. When a Landlord has units of 4000 sf and more, the easy solution is to say that there are no tenants, so please help us by bending the retail definition. It's high time they subdivided their units to more desirable sizes. I have been a real estate developer for 30 years, have spoken to several retail real estate brokers recently, and have learned that the sweet spot is 1500-2000 sf units. It isn't surprising that your proposal is opposed primarily by the most well-financed developers in town, some of whom have new developments under way. They should be well aware that if their units are sized properly, it might cost them a few peanuts more to build, but they will actually find "retail" users! Instead, they complain about the market, the malls, and national retailer and chain store closings. That is not the target market for downtown Birmingham. There are countless examples of successful unique, boutique shopping districts around the country that don't sacrifice their shopping district mix every time the market slows down or new challenges emerge. I would suggest Newbury Street in Boston, or Oak Street in Chicago as good examples. Also, despite widespread commentary to the contrary, e-commerce retail sales currently represent only 8.5% of total retail sales (according to the US Bureau of the Census, see https://fred.stlouisfed.org). An interesting, vibrant retail district will draw customers. It's been proven all over the world.

3) Flexibility on rent is a huge factor. The cost of a retail location in downtown Birmingham is astronomical. Lower the rent, to the actual market rate, and the stores will be occupied. It's simple supply and demand. Instead we hear the cries of well-heeled developers who have showed their lenders a pro forma with unattainable retail rates. Other than Starbucks, there are very few traditional retailers that can pay \$40/sf.

4) It would be helpful if the vacant storefronts didn't look like abandoned businesses. Again, Landlords would seemingly rather not spend a dime than to give a future tenant a head start by demolition to the "white box" as successful retail landlords do routinely. A "white box" would give the appearance of a healthy retail district.

5) Parking continues to be a major concern of my customers. Whether there are spaces in the nearest garage or not, the widely held perception is that Birmingham is a terrible parking environment. I suggest severely restricting the use of

City of Birmingham MI Mail - Retail Uses Downtown

Shain Park, Old Woodward, and surrounding streets for events. These events are not unique, can be found in the next town the next week, and are just killing business for everyone (except restaurants perhaps). During the Village Fair, dozens and dozens of spaces were taken out of commission for 6 days in the heart of the nice weather shopping season, when customers enjoy walking through downtown. Add to that the dozens of spaces out of commission for months and months due to new developments on Old Woodward, the reputation of aggressive parking enforcement, and customers will naturally just go elsewhere. Inexplicably, thehe APC continues to propose raising parking rates, when there is free parking just about everywhere in this region, with fewer and fewer reasons to shop in Birmingham.

6) PSD assessments are an additional burden. My store is charged a pro rata share of what my Landlord pays, which I believe is based on street frontage. I don't know if multi level buildings are charged based on only their street frontage, but if so, this should be reconsidered, along with any other manner of bringing down PSD costs. I recall that the \$30,000 Christmas tree in Shain Park was partially paid for by the PSD, meaning the retailers are paying. I don't think that's fair. What else is being allocated to the PSD? I have no problem paying for sidewalk snow removal and the beautiful flowers, but that's about it.

I know, and I appreciate, that all of you have the best intentions and desire a healthy retail district. I don't believe you need "experts" to see what the problem is. We are all shoppers. Why would *you* visit downtown Birmingham? Are there enough interesting retailers to justify searching and paying for parking, compared to the nearby alternatives?

Thank you for your time and consideration.

Eric Wolfe

Detroit Guitar



Jana Ecker <jecker@bhamgov.org>

Red Line District

1 message

James Esshaki <jesshaki@esscodevelopment.com> To: James Esshaki <jesshaki@esscodevelopment.com> Wed, Jun 14, 2017 at 1:15 PM

Dear members of the Planning Board:

I would like to begin this discussion by noting downtown Birmingham's unique structure. It is a bustling and balanced hybrid of business-to-business and business-to-consumer establishments, as well as an enviable residential environment. Birmingham's stakeholders – from residents to business owners to landlords to consumers – are proud to be part of the fabric of the city, largely because of this unique composition. I am here (writing) to express my many concerns about the proposed changes to zoning ordinances that would restrict use in the Redline Retail District.

I am deeply invested, both personally and financially, in Birmingham's overall constitution. I am the sole proprietor of Essco Development Company, which owns and manages three major real estate properties (over 150,000 square feet) in Birmingham: the Plaza of Birmingham, Park Plaza and the Wabeek Building. Decades of experience in property management here afford me a uniquely qualified perspective on your proposed changes.

My concerns are as follows:

• The proposal is based on unsubstantiated assumptions without any feasibility studies;

• Birmingham is not the city of choice for major national retailers, but rather small boutiques and independently owned retail outlets;

- Birmingham is at least as much of a service-oriented community as it is a major shopping district;
- Any retailer that desires to come to Birmingham can be accommodated. I don't know of any retailers to date who have been turned away for lack of available space;

• Several of the spaces that would be affected in the Redline Retail District are not conducive for retail and would become empty should the current tenants vacate if the proposed ordinance was enacted.

Some buildings are not situated at the street level and are several steps above grade. Examples
include the Birmingham Mansion, Bird and the Bread and Flemings.

• Secondary locations with hardly any foot traffic (ie. google)

 Large spaces of 8,000+ square feet having narrow frontage and almost no window space (ie. google, The Bird and the Bread, Schechter Investments)

- Many of the existing large first-floor spaces are not divisible and too deep for retail users;
- Removing existing office tenants seriously would diminish day traffic in the downtown area, which would impact retail stores, restaurants, hotels, etc.
- Retailers are shrinking with the increase in internet sales. Several have gone out of business. The growth of companies such as google, Microsoft, Facebook and the like are the ones requiring more space. The city of Birmingham should do their everything possible to attract those types of businesses;

• Some people have suggested shrinking the Redline Retail District. The same concerns noted above apply, regardless of the size of this area. Furthermore, certain landlords and business owners would be targeted, while others would see no impact.

In conclusion, the proposed ordinance, if enacted, will severely and irreversibly damage this beautiful and thriving city. I will continue to oppose this effort and encourage my colleagues to do the same to prevent unnecessary harm and disservice our community.

Statement of VS Birmingham Holdings, LLC In Opposition to Proposed Definition of Retail in the Redline Retail District

VS Birmingham Holdings, LLC owns approximately 108,000 square feet of office and retail space in the building generally known as Birmingham Place located at 401 South Old Woodward. Our principal executive offices are located in downtown Birmingham at 260 East Brown Street. Furthermore, members of our management team reside in the City of Birmingham.

We have reviewed the proposed Definition of Retail in the Redline Retail District as described in the memorandum dated May 2, 2017 ("Memorandum") from Planning Director Jana L. Ecker to City Manager Joseph A. Valentine which is an agenda item for consideration by the Planning Commission at its meeting on June 14, 2017. The suggested action advocated by the Planning Director is to "direct the Planning Board to review and present the recommendation to amend Article 3, section 3.04(C)(6), Specific Standards, to amend the Downtown Birmingham Overlay Standards to exclude community and personal service uses as permitted in the Redline Retail District and to forward a recommendation to the City Commission by June 26, 2017."

We call your intention to the top of the third page of the Memorandum which states "both the Planning Board and the Birmingham Shopping District Board have expressed concern with the existing retail definition, and have considered alternative definition to tighten the definition of retail to include only shops which sell products, not financial, real estate or other such personal services."

If this alternative definition were implemented, then by our count 31 out of the 103 current businesses in the District would not comply with the alternative definition. Furthermore, by our count just over 10% of the storefronts in the District are vacant or soon to be vacant (businesses with "going out of business" displayed in the window). These statistics are shown by street and in the aggregate in the table below

Street	<u>Compliant</u>	Non-Compliant	Non-Compliant %	Vacant
Maple	46	9	20%	6
Old Woodward	36	13	36%	4
Pierce	8	5	63%	0
Martin	2	1	50%	0
Merrill	<u>11</u>	<u>3</u>	27%	<u>1</u>
Total	103	31	30%	11

We note that Birmingham Place is outside of the Redline Retail District and the proposed restriction of uses within the Redline Retail District may have a collateral benefit to Birmingham Place if tenants were to be displaced by the proposed tightening of the definition of retail, creating demand for properties immediately outside the Redline Retail District. Nonetheless, VS Birmingham is OPPOSED to the proposed amendment of Article 3, section 3.04(C)(6).

We believe that the proposed amendment infringes on the property rights of landlords. Furthermore, we could find no feasibility study or impact analysis in the public record that was considered by the Planning Department in formulating its recommendation.

While having the first floor storefronts within Downtown Birmingham populated exclusively with retail shops may be a laudable goal, it simply does not comport with current retailing realities. Owners of commercial real estate need more flexibility not less in order to cope with the increasing uncertainties in the retail sector brought on by the Amazon effect.

As Downtown Birmingham has evolved over the years, so has the configuration and layout of the first floor space within the District. Many of the spaces occupied by beauty salons, banks and real estate firms are not readily adaptable to small space specialty retail typically found in the District. Displacement of these tenants would, in our judgment, increases the overall amount and duration of vacancies within the District.

Beauty salons, banks and real estate firms have been a part of the Downtown Birmingham community for many years and, drawing on our experience as a landlord in Birmingham, draw shoppers to Downtown Birmingham. We view the elimination of these businesses from the District to be ill advised. Eliminating banks from the District would impose an unnecessary inconvenience for all businesses in Downtown Birmingham.

What the Planning Director is proposing in our view is likely to increase the number of vacant storefronts in Downtown Birmingham and prolong the vacancy periods to the detriment of the Downtown Birmingham experience and the City of Birmingham lifestyle. With 10% of the storefronts currently vacant or to-become vacant, the Planning Commission needs to enact policies to encourage more businesses to come to Downtown Birmingham and avoid policies which turns away prospective businesses.

VS Birmingham reiterates it OPPOSITION to the proposed amendment.



Jana Ecker <jecker@bhamgov.org>

Wed, Jun 14, 2017 at 5:02 PM

Fwd: Planning Commission Meeting June 14, 2017

1 message

Matthew Baka <mbaka@bhamgov.org> To: "Ecker, Jana" <Jecker@bhamgov.org>

Did you get this one?

Matthew Baka Senior Planner The City of Birmingham mbaka@bhamgov.org 1(248) 530-1848

------ Forwarded message ------From: **Rick Huddleston** <rhuddleston@valstonepartners.com> Date: Wed, Jun 14, 2017 at 4:58 PM Subject: Planning Commission Meeting June 14, 2017 To: "mbaka@bhamgov.org" <mbaka@bhamgov.org>

I will be attending the Planning Commission meeting this evening on behalf of VS Birmingham Holdings, LLC

VS Birmingham Holdings, LLC owns approximately 108,000 square feet of office and retail space in the building generally known as Birmingham Place located at 401 South Old Woodward

VS Birmingham is OPPOSED to the proposed amendment to the definition of "retail" which is an agenda item for the

Please distribute the attached statement of opposition

I would request the opportunity to speak at tonight's meeting

Richard Huddleston

ValStone Asset Management

260 East Brown, Suite 250

Birmingham, Michigan 48009

(248) 646-9200 x25



PLANNING BOARD MINUTES WEDNESDAY, JUNE 14, 2017

1. Definition of Retail

Mr. Share recused himself because of a conflict of interest. Ms. Lazar also recused herself based on her part ownership of a commercial building in Birmingham.

Chairman Clein reiterated this is not a public hearing. The only action the board could take tonight would be if they decided to set a public hearing. This board does not approve or deny any ordinance language, they only make a recommendation to the City Commission.

He explained that the City Commission has sent forth instructions to the Planning Board to study and provide a recommendation along with a directive for a particular course of action.

Ms. Ecker advised the Planning Board has been assessing this matter for probably six months or so. Specifically the City Commission directed the Planning Board to hold a public hearing on amendments to Article 3, section 3.04 (C) (6) of the Downtown Overlay District and the Redline Retail District to take away Community Uses and Personal Service Uses as permitted uses on the first floor. They also specifically directed the board to state what would be included in retail and to come up with the definitions of Personal Services and Community Uses.

This proposal clarifies exactly what uses would be allowed on the first floor within the Redline Retail District. This is what the City Commission has asked the Planning Board to consider as a temporary measure while the board further discusses the bigger picture of retail. It would halt some of the changes they have been concerned about in terms of the types of tenants that have been coming in on the first floor and the parking implications of those tenants.

Ms. Ecker advised that the Planning Division has been working with the City Manager and the Birmingham Shopping District ("BSD") to obtain all relevant data as to the current mix of uses on the first floor in the Redline Retail District and the changes to this mix that have occurred since the inception of the 2016 Plan in 1996. Discussion followed regarding information provided by the BSD data base regarding office uses on the first floor in the Redline Retail District.

Mr. Jeffares observed the proposal would be a temporary fix but it would turn into a permanent change if the board's study continues on for a long period of time.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Koseck to add the following communications to the record: Mr. Eric Wolfe in favor of the proposed ordinance changes; Mr. James Esshaki opposed;

Mr. Rick Huddleston opposed.

Motion carried, 5-0.

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

At 8:09 p.m. the chairman invited members of the public to speak.

Mr. Richard Huddleston said he represents VS Birmingham Holdings, LLC, the owner of Birmingham Place which contains 108,000 sq. ft. of office and retail. It was noted that the portion of his building that fronts on S. Old Woodward Ave. is in the Redline Retail District. They are opposed to the ordinance proposal because they believe that landlords need more flexibility to deal with 21st Century retail. He wondered if Birmingham can sustain increasing the vacancy rate by 30 or 40% and still retain the viable Downtown that everyone knows and loves.

Mr. Peter Sobelton indicated he is a resident and also a commercial property owner in Birmingham. He highlighted what most recently occurred at Fairlane Towne Center where Lord and Taylor had a 250,000 sq. ft. location. That has been converted to office use for 1,500 Ford Motor Co. employees. There was an immediate increase in traffic and the most significant increase was at the food and beverage courts. He encouraged that people not be put in a position where they are forced into only one area of commerce; i.e., retail.

Ms. Rene Acho, resident and business owner in Birmingham, said to jeopardize the balance that Downtown has had for so many years could be detrimental. Everyone can remember what happened in 2008 and 2009 when all of the retailers went down and no one was there to take those spaces. That could again be an issue for all of us.

Mr. Bedros Avedian said he owns 261-275 E. Maple Rd., the Jos. A Bank Building. Also, he owns 297-323 E. Maple Rd. He went on to name a number of Downtown businesses that have failed. He has had to reduce rents but his taxes haven't gone down. That is a big hit on all of the real estate owners.

Mr. Ken Kajoian who lives on Lakepark and owns two buildings in the Redline Retail District thought the proposed plan does not allow for the diversity that is needed in Birmingham. He noticed that Hamilton is not in the Redline Retail District and that is not equitable. He agreed it is nice to have more retail, but with the dynamics of the economy and what is going on with retail, that is not viable right now.

Ms. Jeanette Smith was present on behalf of James Esshaki. She thought the board ought to take time to really understand the data and understand what could happen as others have said. Blanket rules open the door to some issues. She asked the board to consider Birmingham's realities, the market forces at work, and the retail landscape that is changing rapidly. Keep the landlords empowered to do what they do best.

Mr. Paul Chicorian said he is Executive Manager Director for Colliers International, a commercial real estate firm. Also he is a resident at 1076 Fairfax. He believes if this change were approved it would severely damage the City and its residents. During the slowdown buildings were empty and landlords couldn't get tenants. Now things are better, and it may seem like a good idea to switch everything to retail. But if the economy goes back into a slowdown which it inevitably will, Birmingham will have vacancies and ultimately Gypsy retails will come in and out. The present mix is ideal, so don't try to fix it.

Mr. Mark Alhermizi indicated he lives on Frank and has been a commercial tenant for the last ten years. He rents about 3,000 sq. ft. of office space in a commercially zoned building. He currently is looking for 6,000 sq. ft. and his options are extremely limited. This proposed change would only make it more difficult or impossible to attract more business prospects to this great town.

Mr. Dan Jacob noted he has been a broker in Birmingham for 28 years. He has done the majority of brokerage deals in town. It is the daytime population that co-exists with the residential that gives Birmingham its synergy. Services are needed from the people that work in town. It would be really devastating if the landlords' hands were tied so they didn't have flexibility that is reactive to the times. It is necessary to be cognizant of who wants to be here and who does not. He explained it isn't like retailers are knocking on our door, they don't have that urgency to come here.

Mr. Brian Najor said he owns several buildings Downtown. He wanted to echo everything he has heard tonight. It troubles him the board is trying to make a very important decision but doesn't have all of the facts. He has heard a lot about why this change shouldn't be done but hasn't heard a lot about why it should. Obviously more needs to be done in terms of studies. The proposal that has been discussed seems very counterintuitive. Everyone that has spoken tonight has provided evidence and facts and understands the market. He urged the City Commission to walk down the streets and talk to the owners, retailers, and the real estate brokers in order to educate themselves on where the market is today.

Mr. Dan Jacob spoke again to ask for a foot traffic study. That is very critical when you want to restrict uses to only retail and not allow quasi retail.

Chairman Clein clarified this volunteer board is not attempting to push a particular change up to the City Commission. The board was asked to start studying retail and its definition. That study would need to include all of the details that have been discussed this evening. The reason everyone is here tonight is that the City Commission passed a resolution specifically asking this board to do exactly what is at hand. The Planning Board is grappling with the same questions that the audience asks. What is the data; why are we doing this; all of these questions. The board is trying to work through a process that was specifically requested of them by the elected leaders who set policy.

Ms. Christine Jackson, the owner of Scandia Home, stated that she has lost the other two retail stores that are on her block. Now she doesn't get a lot of foot traffic. She is a destination store so people still tend to come. She proposed there will need to be some type of a compromise. Perhaps the Redline District could be narrowed down some more so all of the retailers are in context to one another. That way they will prosper and won't go out of business. Brick and mortar is different from on-line and there will always be people who want to come and experience what they are buying.

Mr. Richard Sherer stated that he presently owns 175-185 W. Maple Rd. and his sister has several stores on Pierce. His property at 185 W. Maple Rd. has been vacant for a year. That is his reality, and to further constrict restricts free enterprise and he is entirely opposed. He questioned what the ordinance proposes to do for building owners who have long-term skin in the game.

Mr. Matt Ferrill Farrell, CEO and founder of Core Partners, a commercial brokerage company, spoke. They property manage, broker, and advise on commercial real estate transactions throughout the State of Michigan. He is opposed to the intended implication. His company tries to educate their clients that flexibility, creativity and an open market are key when it comes to marketing and advertising commercial real estate space. Any limiting factors to that and further hampering will change the result of the market condition. The reason the vacancy factor in Birmingham is in the 6% range when you look at office, retail, and multi-family combined has nothing to do with the rental rates, walkability, or urbanization; but has everything to do with being able to accommodate people coming in and out of town and the parking constraints.

Mr. Kevin Denha, the owner of 700 N. Old Woodward Ave. in the Redline Retail District as well as the building on Lincoln and Adams where Great Harvest Bread is located, added a couple of things. He thought any tweak to the ordinance needs to be analyzed very seriously and also questions why this is happening.

Mr. James Esshaki, Essco Development, said he owns three buildings that are all being affected by the proposed legislation: Park Plaza, Plaza of Birmingham, and the Wabeek Building. He noted the following: These buildings were purchased and built based on existing ordinances. If the City were to enforce the new ordinances, it would have a devastating effect on real estate. It would reduce the value of his holdings by 20 to 30%.

He does not know of any retailer who wanted to come to this town that has been turned away.

Birmingham is not a retail destination as large cities are. Large national tenants will not come here because it is not conducive to their type of product. So, chasing these people is like chasing moonbeams.

If office tenants close down and people try to replace the spaces with retail, a lot of foot traffic will be lost across the City. The retail may have six or seven employees versus 100 or 150 office workers.

There are spaces that would have to be made retail where retail could not fit, such as Google and Schecter. These will end up as permanent vacancies.

Chairman Clein announced he would not support the proposed amendment to restrict uses. The board has not had spent enough time having the detailed discussions and reviewing relevant data to support restricting uses in this way. However, the City Commission has directed the board to set a public hearing. At the joint Planning Board/City Commission meeting on Monday of next week he will be expressing his concerns about the process.

Mr. Koseck indicated the one comment he thought was brilliant was that maybe the Redline Retail District needs to be changed. He feels uncomfortable with pushing the proposal to a public hearing because he thinks it needs study. This matter can be discussed at the joint meeting.

Mr. Jeffares observed the amount of information that came out tonight was extremely helpful. Hopefully more information can be obtained from the BSD so the best possible choice can be made.

Ms. Ecker stated the direction from the City Commission is clear. The Planning Board should hold a public hearing, review it, and decide on a recommendation. Ultimately it will be up to the City Commission to make the final decision.

Ms. Whipple-Boyce thought the City Commission wants absolute clarity about what office is by today's standards. She feels it is important to get additional data on national trends along with information that will shed some light on this matter. For example, is retail dead? Or do online sales only make up 8%? For now it is clear to her that the City Commission has instructed this board to set a public hearing and she believes that should be done tonight.

Motion by Ms. Whipple-Boyce

Seconded by Ms. Prasad to set a public hearing date of July 12, 2017 at the Planning Board to consider the following ordinance amendments to Chapter 126, Zoning:

1) Article 3, Section 3.04, Specific Standards, to amend the Downtown Birmingham Overlay Standards to exclude community and personal service uses as permitted uses in the Redline Retail District; and

2) Article 9, Section 9.02, Definitions, to add a definition for personal services, to amend the definition of commercial use to exclude personal services and to amend the definition of retail use to include retail bank branches and personal services.

Public comments on the motion were heard at 9:20 p.m.

Mr. Brian Najor came forward again. He questioned if there is any mechanism to hold a town hall meeting. He noted this matter is being pushed down the road to the City Commission where, if the Commission decides, it could potentially pass very quickly and that is a big change. There needs to be some discussion and the City Commission needs to convince the board that this is the right thing to do and this is what needs to be passed. Ms. Ecker responded that the joint meeting next week is the best time for them to come together and have a discussion. Mr. Koseck added the public is welcome to come to that meeting next Monday.

Mr. James Esshaki said he thinks the public has spoken. Everybody was against the proposed amendment except for one person who was not 100% against or for. He doesn't know why so many additional meetings are needed.

Mr. Ken Kajoian said just as the 2016 Plan was crafted over a period of years, it is necessary to figure out how to craft this plan by implementing positive changes in certain areas. This is happening way too fast. On Monday night perhaps board members could talk about the key elements that need to be put together in terms of what other downtowns similar to Birmingham are doing; what is their makeup. Then, do these studies.

Mr. Richard Sherer added three retailers to the list of upcoming vacancies in town.

Mr. Bedros Avedian received clarification that if the changes are approved by the City Commission they would take effect seven days after publication in the newspaper and would restrict first-floor retail space to retailers, retail bank branches, beauty salons and other personal services, along with restaurant and bistro uses, artisan uses, and entertainment uses. These uses would not include business services, medical, dental, or mental health services. Mr. Avedian asked if he could lease to a live/work tenant in his building at Maple Rd. and Old Woodward Ave. if the ordinance amendment has not gone through yet. Ms. Ecker answered the tenant would have to sell either products or services to the public within the first 20 ft.

Motion carried, 5-0.

ROLLCALL VOTE

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

Chairman Clein thanked the public for its time and input.



Jana Ecker <jecker@bhamgov.org>

Fwd: retail resolution

1 message

Joe Valentine <jvalentine@bhamgov.org>

Thu, Jun 15, 2017 at 8:07 AM

To: "Andrew M. Harris" https://www.aharris@bhamgov.org, Carroll DeWeese <cdeweese@bhamgov.org</td>To: "Andrew M. Harris" https://www.aharris@bhamgov.org, Carroll DeWeese <cdeweese@bhamgov.org</td><mnickita@bhamgov.org</td>Patty Bordman <pbordman@bhamgov.org</td>Hoff <rackyhoff@hotmail.com</td>Stuart Sherman <ssherman@bhamgov.org</td>To: Jana Ecker <Jecker@bhamgov.org</td>Cc: Jana Ecker <Jecker@bhamgov.org</td>

fyi

From: **Mark Nickita** <mnickita@bhamgov.org> Date: Wed, Jun 14, 2017 at 4:14 PM Subject: Fwd: retail resolution To: Joe Valentine <jvalentine@bhamgov.org>

Mark Nickita, FAIA, CNU, APA Mayor City of Birmingham, MI

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Twitter @MarkNickita

Begin forwarded message:

From: Richard Grinstein <richard@grinsteinjewelry.com> Date: June 14, 2017 at 4:04:20 PM EDT To: mnickita@bhamGov.org Subject: retail resolution

Hi Mark, I won't be able to attend the meeting tonight, but would like to express my support for the idea of limiting storefront space on the ground floor in the central business district to retail, including restaurants as retail. The main goal, as I understand it, is to prevent an increase in the use of storefront properties for office space. Thanks!

Richard Grinstein

Grinstein Jewelry & Design 162 S. Old Woodward Birmingham MI 48009

248-647-4414

6/15/2017

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

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Jana Ecker <jecker@bhamgov.org>

Required Storefronts Code

1 message

rgibbs@gibbsplanning.com <rgibbs@gibbsplanning.com> To: "Jana Ecker (jecker@bhamgov.org)" <jecker@bhamgov.org> Fri, Jun 16, 2017 at 2:40 PM

Jana: I understand the city is considering requiring retail storefronts along many of the downtown streets. Although the 2016 Master plan recommended some required retail storefronts 20 years ago, this has proven impractical and is no longer included in our downtown master plans.

Instead, we require the first level buildings be constructed to allow for retail: high ceilings, large glass areas, sign bands, operating doors, etc. But we allow all commercial, office and even residential on the first level. Eventually retail will likely occupy the first floor if the buildings are designed properly.

I will be out of town and cannot participate in Monday's public workshop on the issue but would be happy to meet to discuss further.

Best Regards,

Rob

Robert J. Gibbs, AICP, ASLA, CNU-A

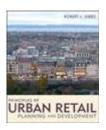
President

Gibbs Planning Group

Celebrating 29 Years!

240 Martin Street Suite 200 Birmingham, Michigan 48009 248.642.4800

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Now available at Amazon: https://www.amazon.com/Principles-Urban-Retail-Planning-Development/dp/0470488220



Jana Ecker <jecker@bhamgov.org>

Fwd: Regarding ground floor office versus preserving the space for retail...

1 message

Joe Valentine <jvalentine@bhamgov.org> To: Jana Ecker <Jecker@bhamgov.org> Mon, Jun 19, 2017 at 4:40 PM

fyi ------Forwarded message ------From: Joe Valentine <jvalentine@bhamgov.org> Date: Mon, Jun 19, 2017 at 4:39 PM Subject: Fwd: Regarding ground floor office versus preserving the space for retail... To: "Andrew M. Harris" aharris@bhamgov.org, Carroll DeWeese <cdeweese@bhamgov.org</td>Mark Nickita<mnickita@bhamgov.org</td>Patty Bordman <pbordman@bhamgov.org</td>Pierre Boutros<mnickita@bhamgov.org</td>Stuart Sherman <ssherman@bhamgov.org</td>Tim Currier

fyi

------ Forwarded message ------From: **Reed Benet** <reedmbenet@gmail.com> Date: Mon, Jun 19, 2017 at 4:05 PM Subject: Regarding ground floor office versus preserving the space for retail... To: Joe Valentine <Jvalentine@bhamgov.org> Cc: cheryl@tenderbirmingham.com, Jacqueline Benet <jacquelinebenet@gmail.com>

Hello Mr. Valentine:

It is my understanding that there will be a (Planning Commission or City Council?) discussion tonight at City Hall regarding the high demand for ground floor office that might conflict with the upsides of preserving the space for retail.

I fully understand that the property owners want to get the most income from their ground floor property, and that they might be able to do so today with office uses. And I'm also cognizant of ground floor being preferred for office workers who might have trouble negotiating the stairs, or who might be endangered in an emergency if they aren't on the ground floor. Yet other than these latter and I would assume rarer circumstances, I am the strongest supporter of preserving ground floor for retail businesses since retail businesses make for walkable main streets.

It is my belief that ground floor retail, cafes (thank you for facilitating theses), and other such amenities are what make ground floor office space in Birmingham so attractive. I strongly doubt that the other way works as well, let alone at all.

I trust that you will look into all relevant issues, but I would like to strongly support preserving ground floor space for retail.

Thank you for your consideration!

Reed M. Benet Founder/CEO zeroto6t, inc. DBA herohomes.com reedmbenet@gmail.com Cell: 415-342-3634

Goethe (1892): "Von hier und heute geht eine neue Epoche der Weltgeschichte aus und ihr koennt sagen, ihr seid dabei gewesen."

7/13/2017



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

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Fwd: Please Share Attachment at Tonight's Meeting

1 message

Joe Valentine <jvalentine@bhamgov.org>

Mon, Jun 19, 2017 at 5:55 PM

To: "Andrew M. Harris" <aharris@bhamgov.org>, Carroll DeWeese <cdeweese@bhamgov.org>, Mark Nickita <mnickita@bhamgov.org>, Patty Bordman <pbordman@bhamgov.org>, Pierre Boutros <pboutros@bhamgov.org>, Racky Hoff <rackyhoff@hotmail.com>, Stuart Sherman <ssherman@bhamgov.org>, Tim Currier <tcurrier@bhlaw.us.com> Cc: Jana Ecker <Jecker@bhamgov.org>, Ingrid Tighe <itighe@bhamgov.org>

fyi ------Forwarded message ------From: **Sharon Woods LandUseUSA** <sharonwoods@landuseusa.com> Date: Mon, Jun 19, 2017 at 2:28 PM Subject: Please Share Attachment at Tonight's Meeting To: jvalentine@bhamgov.org

Attn: City manager, city council, planning commission, planning staff, DDA, and other stakeholders

Please allow LandUseUSA to contribute the attachment and this email for this evening's study group session.

In LandUseUSA's professional opinion, brick-and-mortar retail is NOT dead. In fact, this is the perfect opportunity for your downtown merchants to "*Take it Back*" from Big-Box America. National chains are contracting and downsizing because they are redundant and have failed to deliver an enjoyable shopping experience for demanding and savvy shoppers. Those same shoppers are now seeking a more complete experience and they want to be entertained while they shop and dine.

Please see the attachment and kindly share it with your city and planning officials at tonight's meeting. This attachment is an updated excerpt from a study that we originally prepared for the City of Birmingham in 2013 (as part of the Woodward Avenue Corridor plan). Although big-box America is contracting, the enclosed line charts show that same-store-sales are growing (albeit modestly), and sales per square foot is actually gaining - <u>not</u> declining. Some fluctuations should also be expected year-to-year, and decade-to-decade.

Dear Merchants, please don't let the media hype dissuade you from this new opportunity to benefit from shifting consumer preferences. They are shifting in your favor! By focusing on convenience, unique merchandise, high-service, and Placemaking amenities, and you can collectively succeed in "Taking it Back".

The attached packet also identified some growth opportunities and retail niches that we identified for Birmingham in 2013.

Thank you for this opportunity to contribute.

Sharon

. . .

Sharon Woods, CRE Counselor of Real Estate (517) 290-5531 www.LandUseUSA.com ---

Target Market Analysis | Downtown Strategies | Land Use Economics

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

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Jana Ecker <jecker@bhamgov.org>

Fwd: Principal shopping district

1 message

Joe Valentine <jvalentine@bhamgov.org> To: Jana Ecker <Jecker@bhamgov.org> Mon, Jun 19, 2017 at 9:07 AM

fyi

-----Forwarded message ------From: Joe Valentine <jvalentine@bhamgov.org> Date: Mon, Jun 19, 2017 at 9:07 AM Subject: Fwd: Principal shopping district To: "Andrew M. Harris" <aharris@bhamgov.org>, Carroll DeWeese <cdeweese@bhamgov.org>, Mark Nickita <mnickita@bhamgov.org>, Patty Bordman <pbordman@bhamgov.org>, Pierre Boutros <pboutros@bhamgov.org>, Racky Hoff <rackyhoff@hotmail.com>, Stuart Sherman <ssherman@bhamgov.org>, Tim Currier <tcurrier@bhlaw.us.com>

fyi -

From: Mark Nickita <mnickita@bhamgov.org> Date: Mon, Jun 19, 2017 at 8:01 AM Subject: Principal shopping district To: Joe Valentine <jvalentine@bhamgov.org>

Joe

Has this been shared with all of the commission?

Thx M

Mark Nickita, FAIA, CNU, APA Mayor City of Birmingham, MI

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Twitter @MarkNickita

Begin forwarded message:

From: Barbara Ritsema <barbritsema@gmail.com> Date: June 19, 2017 at 7:47:49 AM EDT To: mnickita@bhamgov.org Subject: Principal shopping district

To whom it may concern:

I would like this to be shared with all who make decisions about our downtown shopping district. As a lifelong resident of Birmingham, what has kept me here are three things: our schools, our safe neighborhoods, and our beautiful downtown shopping area. I am a true believer in supporting local businesses, and I shop here as much as I can. When I have visitors from out of state, they are amazed that a city like this exists, with shops and restaurants and has been voted numerous times as a most walkable

city.

It has come to my attention, that there are those who are trying to promote more office space on the first floor of buildings, rather than continuing to attract new businesses like Gazelle sports, back country north, West Elm and Sundance Shoes; as well as encouraging business owners to adapt to changing interests and opening stores like stem and stone.

You only have to visit major cities, like Chicago to see what happens to areas that are primarily business office space in the evening and on weekends: even major retailers don't open, in those parts of the city, and they lose the safety of a vibrant downtown area.

The people who have been invested in Birmingham forever, while agreeing that change is necessary, do not want to lose our downtown shopping area. What is attracting businesses to open offices, are the shops, retail, and the restaurants. They need to be delegated to the second floor of buildings, or the perimeter the central shopping district

Thank you, Barb Ritsema 165 Puritan Ave., Birmingham, MI

Sent from my iPhone

Joseph A. Valentine City Manager City of Birmingham 151 Martin Street Birmingham, MI 48009 (248) 530-1809 Office Direct (248) 530-1109 Fax jvalentine@bhamgov.org Twitter: @JoeValentine151

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BIRMINGHAM CITY COMMISSION / PLANNING BOARD JOINT WORKSHOP SESSION MINUTES JUNE 19, 2017

G. RETAIL DEFINITION REVISION

Ms. Ecker explained that the issue is the type of uses permitted on the first floor of the Redline Retail District. These are the streets designated on the zoning map with red lines. Primarily the streets are Old Woodward, Maple, Hamilton, sections of Pierce, Willits. In that area, the current ordinance calls for a retail use in the first 20 feet of depth, which comes from the 2016 plan. The plan recommended that retail be in the first floor for the first 20 feet of depth, and it had a definition for retail. The exact language was taken from the 2016 plan and adopted into our ordinance.

What we have to look at now is, was there enough clarity in the type of definition for retail and the associated definitions. Currently, retail is defined in the ordinance but it includes commercial. Commercial is then defined in the ordinance, and it includes personal services. Personal services is not defined. We did not vary from the 2016 plan because the author of the plan did not recommend we define it so we did not, but things change and over time, we have different uses that have come up that have tried to get into the downtown. They want to be in the downtown and they fall under this definition of personal services because we have not defined it, and they have been able to get in on the first floor spaces. The Commission has directed the Planning Board to come up with the temporary relief mechanism to change the wording of the overlay district, and to add a definition for personal services and to look at specifically taking the quasi-office type use out of being a permitted use in the Redline Retail District downtown. The Board set a public hearing for July 12th to consider the temporary relief measures that the Commission sent to them. The

12^{ch} to consider the temporary relief measures that the Commission sent to them. The Board has been studying the issue of retail and the use downtown that the Commission sent to them last year; specifically, how do we define it and how has it changed. That was the bigger picture, comprehensive issue. Specifically with regards to the Redline Retail and having a temporary relief valve, that is what they set the public hearing for on July 12th.

In this case, is there interest by the Commission to direct the Board to conduct a study session to review the intent of the Redline Retail District as proposed in the 2016 Plan and evaluate whether the current application of personal services is consistent with what the intent was in the 2016 plan.

The interpretation has been that a personal service is any type of service that a person can walk in and ask and pay for that service and get that service. The business has to be open to the public so a person off the street has to be able to walk in. It is that gray. A firm selling a marketing service or website designs is a quasi-office use. Maybe these types of uses were not envisioned at the time the 2016 plan was written. We are not sure what the intent of the 2016 plan was with regards to those. Businesses have been able to get in under the definition of personal services because they are open to the public and people walk in and buy their services. The argument is that they are offering personal services. Without a

definition, it is difficult to clarify and draw the line as to what constitutes personal services and what doesn't.

So the definition of personal services that is up for consideration right now was arrived at by looking at other jurisdictions and what they defined as personal services. The most common use was that personal services dealt with the care of a person or their clothing, such as tailors, salons, facials, tanning places, shoe repair, anything dealing with the person or their clothing. If that definition was adopted that would very clearly specify that only those types of personal services would fall under commercial and therefore, the quasi-office type uses that we are seeing that are almost more business-related services would not fall under permitted uses in the Redline Retail district. So it is clarifying what would be permitted, and do we want to look at the intent of the 2016 plan and some of these uses that may or may not have even been conceived of at that time.

Mayor Nickita said there are two questions. The bigger question is concerning the state of potential uses that may be available now that were not available years ago. The other question is a question that came from the Building Official which is a matter of logistics on how Mr. Johnson does his job. When he gets a set of plans, he has to determine if it is allowed under our ordinance or not allowed under our ordinance. Ordinances become gray sometimes and projects look for clear identification. We had this issue with the dormer issue being unclear. There were a number of questions whether or not they fit within our ordinance. Mr. Johnson asked for clarity in the ordinance because it was unclear for him to do his work. The Board and Commission quickly took a look at it, and we found a solution to clear up a gray area that was there. The garage house issue was the same. They were done because there was a loophole in the ordinance that created difficulty for the building staff to clarify. Over time, people interpret the ordinances differently or the interpretation gets grayer. The personal use term is too gray to identify for clarity from a legal perspective for approval. It seems like there is a misunderstanding as to what is being asked of the Planning Board. This is a clarification; we are not changing the ordinance.

The larger question brought up is the Redline Retail area accommodating uses of the day, or should it be reviewed. That is a separate issue and can be done at a different time. The issue at hand is can we help the Building Department do its job.

Commissioner Bordman understands that the problem is that we do not have a definition for an essential aspect of the Zoning Ordinance. As to the effect it might have on the Redline district or the other aspects of the Redline district, we should study it, but it can be done over time. Perhaps we make it a top priority over time. But we have an immediate issue that must be examined. Birmingham is a dynamic City and we get proposals all the time, and if our Building Official cannot address those issues right now while they are coming in, that is a problem. This creates a situation for the employees to be put in an awkward position to make a decision. She agreed that both issues should be addressed quickly. They are connected issues, but they are separate. Mr. Williams said the distinction was not made at the time this came to the Board. One of the issues the Board is grappling with is adopting a proposed solution without a permanent or expiration date. Temporary measures tend to be permanent if they are not replaced. If we are going to have a solution here that is appropriate, we have to put a time frame on it, which would force us to prioritize it. He is quite confident that the landlords are furious because they do not understand the distinction being made tonight, nor did he.

Commissioner Sherman said it is clear that the Board received direction that was unclear, and that is what is we are trying to do now. He said the idea of having a study session of what the intention was of the personal service uses under the 2016 plan is a very good next step, even before the Public Hearing. He suggested moving the July 12th Public Hearing to a date certain, have a study session to narrow the definition down a little bit, and then have the Public Hearing. When the Commission prioritizes these items, it is the Commission's job to give the Board priorities with expectations and timelines. He agreed that something should not be temporary and then allowed to become permanent.

Commissioner Hoff favors creating a personal service definition. She agrees we need a definition of personal service and then we will decide what to do with it, but we are not at the point of asking the Board to amend anything.

Commissioner DeWeese was concerned about community service also. In terms of community service, there are certain governmental units that are independent of the City that can come in regardless of our ordinances, and he didn't want it exclusionary. We need clear definition and clear intent of what our Master Plan has been trying to achieve and what works for walkable communities.

Mr. Clein said he has just heard two opinions that we kind of slow the bus, and do not have any real conversation on actual changes to the ordinance, but simply provide definitions. What he heard originally was that the Commission wanted the Board to make changes to the ordinance.

He thinks that is where the confusion came, because the Board was in the middle of its study of retail. He thought he was all clear. He would like clarity on what the Commission's goal is here.

Mayor Nickita said the idea was to make sure the Board has the ability to study this personal service determination and be able to clarify that and put off the Public Hearing until the Board is able to do that.

Commissioner Sherman said the motion was passed 4-2 to have the Public Hearing and make changes, and to define the term. There was some discussion as to what the term actually meant. The comments heard from Commissioners Hoff and DeWeese were minority opinion. The majority opinion was what you understood and articulated.

Commissioner Boutros said the message sent to the Board was different from what the intention was.

Commissioner Bordman expressed concern about the postponement in that it will be mistaken to mean take all the time needed, rather than getting this done as quickly as possible. There needs to be some direction on this idea of postpone and study.

Mayor Nickita thinks the intention driving this to begin with was Building Department staff needing help and that it is needed it sooner than later.

Commissioner Hoff commented that we should move forward on definition before July 24th. She thinks that it is still reasonable.

Mayor Pro Tem Harris said the majority position was for definition of personal use only and not a definition of community use.

Commissioner Sherman said his original comment was to postpone the Board's July 12th Public Hearing to shortly thereafter to give time for a study session.

Mr. Williams clarified that it has been suggested that Board open the July 12th Public Hearing, postpone it to a date certain, then begin study session of the personal service definition.

Mayor Nickita said this is not to be a broad review of the downtown, but recognize that ordinances become unclear and situations change. The idea is to take the Redline Retail district as a next step with current day market conditions and identifying where it could be strengthened with the intention of making it a pedestrian, walkable place is a valid thing to do, but it is not to be done when we look at personal service.

Ms. Ecker said she understands that they are to postpone the Public Hearing, focus on the personal services definition only. She asked to confirm the Commission does not wish the amendment to Article 3, Section 3.04(C)(6) right now.

Commissioner Sherman said that the ordinance amendment is still going to be the discussion at the Public Hearing, but in order to get to that point, the Board has to first study the personal services definition to incorporate it into the amended ordinance. That is what the Public Hearing is about. Ms. Ecker noted the Public Hearing was noticed for the amendment of Article 3, Section 3.04 <u>and</u> the personal services definition. She asked if the Commission wants the Planning Board to come up with a personal services definition and send that to the Commission first. She noted that the motion as passed directs the Board to consider the definition of personal services and Article 3.04 to exclude personal services from the Redline Retail District. She asked if the Commission still wants both of those together. Commissioner Sherman confirmed, and believes that is what was discussed. Then it will come to the Commission for a Public Hearing.

City Manager Valentine said if the Board provides the definition, the ordinance has to be amended. It has already been noticed that way. The process is being separated somewhat

to add the additional review of the 2016 plan on what the intent is, and then discuss the definition.

Ms. Ecker clarified that the Commission wants the Board to postpone the Public Hearing to a later date, and focus on the definition of personal services only. Then hold the Public Hearing for the ordinance amendments and the definition. Commissioner Sherman explained that it is one ordinance. Mr. Valentine said the resolution that was passed included the definition, so it is all one action by resolution of the Commission.

Commissioner Hoff stated she did not think the Board was going to amend the Downtown Birmingham Overlay standards to exclude community and personal services when we do not know what the personal service definition is. Mr. Valentine clarified that the resolution that passed had a subsequent amendment added which stipulated that the definition of personal services be included when it comes back the Commission.

Commissioner Sherman said the Commission recognized that it made no sense to amend it without a definition of personal service. The Commission is asking the Board to come back with a definition of personal services and the change incorporated into the ordinance as a recommendation.

Commissioner Hoff clarified to exclude community and personal service uses. It is very specific to exclude them. Commissioner Sherman clarified that the Board has to define it. We need a definition to know what those are.

Commissioner Boutros asked what would happen if the Board does not have a definition in time for the July 24^{th} Public Hearing. Commissioner Sherman noted the Commission does not have a hearing on July 24^{th} , and that the Commission asked that the Board report back to the Commission that date.

Mr. Valentine said he will follow up with the Board with written communication outlining what was discussed tonight, so there are no questions going forward.

Mr. Williams requested that Mr. Valentine address if the Board is to <u>include</u> or <u>exclude</u> personal services.



Jana Ecker <jecker@bhamgov.org>

Fwd: Birmingham 1st floor office space

1 message

Joe Valentine <jvalentine@bhamgov.org> To: Jana Ecker <Jecker@bhamgov.org>

fyi

From: Luis Flores <floresluis071@gmail.com> Date: Thu, Jun 22, 2017 at 3:15 PM Subject: Birmingham 1st floor office space To: jvalentine@bhamgov.org

To whom it may concern:

As a resident of Birmingham and an employee of a retail store in Downtown Birmingham, I oppose the use of office space on the first floor of buildings. They need to be delegated to the second floor or above of buildings, or the perimeter of the central shopping district.

Thank you, Luis Flores 1734 Henrietta St, Birmingham MI 48009

--

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

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Wed, Jun 28, 2017 at 3:24 PM

6/29/2017



Jana Ecker <jecker@bhamgov.org>

Fwd: BPSD

1 message

Joe Valentine <jvalentine@bhamgov.org> To: Jana Ecker <Jecker@bhamgov.org> Thu, Jun 29, 2017 at 12:53 PM

------ Forwarded message ------From: **Nikki Keller** <kellerfox@gmail.com> Date: Thu, Jun 29, 2017 at 10:55 AM Subject: BPSD To: jvalentine@bhamgov.org

Dear Mr. Joseph Valenitne and fellow, City Commissioners,

Recently, I was approached by a concerned Birmingham resident who explained to me that the city was considering changes that would greatly impact the feel of beautiful downtown Birmingham. Although, I am a Beverly Hills resident, I consider Birmingham my community as well. Professionally, I avidly advocate for families in the area and compose articles for a local magazine that highlight the uniqueness of the city. Personally, I've spent countless hours with my children at the parks, food establishments and walking along the store fronts. The energy Downtown Birmingham perforates is par none. It affords locals an opportunity to escape from the daily grind for a few hours during the week while walking of the stress and into a few shops. As for the out-of-towner's, it's a true destination location in the Detroit Metropolitan area; accessible retail has a great deal to do with that.

Over the last 20 years of calling Birmingham my home, my biggest regret for the city was losing Jacobson's Department Store. It kept people in the Birmingham Principal Shopping District and out of the malls. It complimented the small boutiques and specialty stores that the city was known for. It'll be a shame if we continue down the path of becoming more general and non-descript, like many other local communities. As Detroit slowly starts to flourish, it's even more important that Birmingham keeps its edge not only with more store fronts, less entry level offices but also with an interesting and eclectic display of retail. It will keep our community vibrant, safe and draw on the population to support it.

Thank you for considering my thoughts, and know that they're said with concern and good intention.

Sincerely,

Nikki Keller

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

City of	Birmingham	MEMORANDUM
		Office of the City Manager
DATE:	June 30, 2017	
TO:	Planning Board	
FROM:	Joseph A. Valentine, City Manager	
CC:	City Commission	
SUBJECT:	Defining Personal Services	

There is a desire by the City Commission to provide clarification on the definition of Retail Use under the zoning ordinance. As you know, the current definition of Retail Use includes Commercial Use as a permitted use. Commercial Use, as defined, includes the category of personal services. Personal services, however, is not defined and left to the interpretation of city staff. Over the past 10 years, roughly 46 businesses have occupied first floor spaces in the Redline Retail area under the undefined category of personal services. To assist city staff in the administration of the zoning ordinance and to clarify the intent of the personal services category, a policy directive was given to the Planning Board to promptly address this issue. This directive was intended to establish a temporary relief measure while the Planning Board continues to study the definition of retail as part of its action list that was adopted in July of 2016.

While there may have been some initial confusion with regard to temporary relief measure that was directed, the general intent is to provide an immediate definition for personal services as further study continues on this issue. The collective discussion at the joint workshop between the City Commission and Planning Board on June 19, 2017 offered the following course of action.

- 1. Postpone the public hearing set for July 12, 2017 to a date certain in the immediate future.
- 2. Hold a study session on July 12, 2017 to review the Redline Retail Area as prescribed by the Downtown Birmingham 2016 Report for background on the intent for retail in the downtown, then review the current draft definition of personal services as reviewed by the Planning Board on June 14th for appropriate application.
- 3. Conduct a public hearing on the proposed definition for personal services following this study session and provide a recommendation to the City Commission on a proposed definition at the earliest opportunity.

The latest draft definition for personal services reviewed at the Planning Board's June 14th meeting does provide a definition for further discussion. However, as it is stated below, this

draft language should be modified to only include the services that are permitted and not identify excluded services. This will help further clarify the application of the proposed definition by city staff.

Personal Services: An establishment that is engaged primarily in providing services involving the care of a person or apparel, including but not limited to: beauty and barber shops, nail care or skin salon services, other personal grooming services, laundry services, dry cleaning, shoe or clothing repair; but does not include business services, medical, dental and/or mental health services.

Because Community Use is already defined and does not pose this same immediate issue, this can be further reviewed in the second stage of discussion on the definition of retail.

Following the completion of the clarification of the personal service definition, the Planning Board should continue to review the definition of retail in accordance with the previous direction to the Planning Board as follows:

- a. To evaluate the success of the red line retail district in Downtown Birmingham to determine if the intended objectives are being met;
- b. To study the existing definition of retail in the Zoning Ordinance and recommend any needed amendments to the definition; and
- c. To review all retail-related requirements contained in the Zoning Ordinance and recommend any needed amendments.



Fwd: First Floor Retail

1 message

Joe Valentine <jvalentine@bhamgov.org> To: Jana Ecker <Jecker@bhamgov.org>, Matthew Baka <MBaka@bhamgov.org> Wed, Jul 5, 2017 at 12:19 PM

fyi ------ Forwarded message ------From: **Andrea Rehm** <andirehm@yahoo.com> Date: Wed, Jul 5, 2017 at 11:26 AM Subject: First Floor Retail To: jvalentine@bhamgov.org

It has recently come to my attention that the City of Birmingham is considering that offices be able to occupy the first floor in the town? I honestly didn't believe it since it would ruin our walkable community. Making such a radical decision would seriously impact the vitality of our darling Downtown Shopping District. I implore you do everything possible to keep such a move from happening. As someone who lives and works in Birmingham I am very concerned. Thank you for your time. Best,

Andrea Rehm 738 Graefield Court Birmingham, Mi 48009

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



Jana Ecker <jecker@bhamgov.org>

Fwd: Commercial Office Space on First Floors/ Birmingham

1 message

Joe Valentine <jvalentine@bhamgov.org> To: Jana Ecker <Jecker@bhamgov.org> Mon, Jul 10, 2017 at 10:35 AM

Please include with the PB materials for their July 12th meeting.

------ Forwarded message ------From: **Karen Mucha** <karen.mucha@icloud.com> Date: Mon, Jul 10, 2017 at 10:04 AM Subject: Commercial Office Space on First Floors/ Birmingham To: jvalentine@bhamgov.org

Mr. Valentine,

We have lived in Birmingham for the past 20 years. We enjoy having a vibrant retail downtown with stores and restaurants. We want this to remain as is. We do not want first floor commercial businesses in the downtown retail spaces. It will adversely effect the success and vibrancy of the downtown retail district. It will be a disincentive to new shops and restaurants to open in birmingham.

I am happy to discuss my thoughts at your convenience.

Karen Mucha

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



Fwd: Keep retail on the first floor in town

1 message

Joe Valentine <jvalentine@bhamgov.org>

Mon, Jul 10, 2017 at 10:54 AM

To: "Andrew M. Harris" <aharris@bhamgov.org>, Carroll DeWeese <cdeweese@bhamgov.org>, Mark Nickita <mnickita@bhamgov.org>, Patty Bordman <pbordman@bhamgov.org>, Pierre Boutros <pboutros@bhamgov.org>, Racky Hoff <rackyhoff@hotmail.com>, Stuart Sherman <ssherman@bhamgov.org>, Tim Currier <tcurrier@bhlaw.us.com> Cc: Jana Ecker <Jecker@bhamgov.org>

fyi

From: **Joe Valentine** <jvalentine@bhamgov.org> Date: Mon, Jul 10, 2017 at 10:53 AM Subject: Re: Keep retail on the first floor in town To: Elizabeth Belkin <elizabeth.belkin@gmail.com>

Ms. Belkin,

Thank you for your email sharing your concerns for ensuring a strong retail presence on first floor properties in the downtown. I will share you comments with the Planning Board as they plan to review this matter during their meeting on July 12th. This meeting is intended to review our downtown master plan as it relates to first floor retail and develop a definition for personal services that coincides with retail uses. This meeting will begin at 7:30pm at Birmingham City Hall.

Thank you again for sharing your concern.

Best Regards, Joe Valentine

On Sat, Jul 8, 2017 at 12:01 PM, Elizabeth Belkin <<u>elizabeth.belkin@gmail.com</u>> wrote: Hello.

I am a resident of Birmingham and I am very upset to hear that offices are looking to take over first floor retail.

I am opposed to this and as a former retailer, I know the value in having a downtown filled with amazing shops and restaurants on the street level.

Thank you, Elizabeth Belkin 411 South Old Woodward Avenue unit 805 Birmingham, Michigan 48009

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



really? 1 message

Christopher Longe <cjlonge@cjlongeaia.com> Tue, Jul 11, 2017 at 8:45 PM To: "jlwboyce@gmail.com" <jlwboyce@gmail.com>, Robin Boyle <r.boyle@wayne.edu>, "stuartjeffares@gmail.com" <stuartjeffares@gmail.com>, Dan Share <dshare@bsdd.com>, Gill Lazar <glazar@hallandhunter.com>, "jwilliams@dickinsonwright.com" <jwilliams@dickinsonwright.com>, Scott Clein <sclein@giffelswebster.com>, "bkoseck@neumannsmith.com" <bkoseck@neumannsmith.com> Cc: Jana Ecker <jecker@bhamgov.org>

Dear Board Members;

I know you folks are looking forward to tomorrow's Planning Board public hearing - basically trying to define retail/personal services/commercial use/etc. at the request of the City Commission.

The articles I've referenced below (light reading as it is) do nothing more than reinforce what you may already be thinking, believe to be accurate - or alternatively you may take issue with. You can certainly find, with ease, a credible source to reinforce your thinking.

The reason I chose to engage in the conversation is five fold -

1. I am a proponent - as are most building owners/architects/planners - in 1st floor retail being the highest and best use for a pedestrian friendly city.

2. Retail is not, at the moment (or for the past 20 years) a relevant or driving force filling for Birmingham commercial space.

3. Merchants pay a PSD consultant to recruit and convince retailers to locate in Birmingham. If there were a line to get in, Birmingham wouldn't need a 'salesman'.

4. Forcing a solution on an already successful 'mix' is misguided and unnecessary.

5. Birmingham, to a very large degree, has become the Banking, Creative and Restaurant capital of Michigan -AND – It could or should be embraced and marketed as such. Retail will follow and displace 'personal service/commercial' as foot traffic increases. Factually building owners prefer retail – it is something desired, creates an active environment and reinforces the 'city' vitality and viability. Traditionally retail commands a higher rent rate forcing office use to the upper floors. It is not now nor has it been the case for a very long time.

As the Architect for 'Shift Digital' and 'McCann World Wide', I am compelled to respond to what has, for no real or factual reason, become an issue.

The contention that somehow that these are not viable and contributing to the city fabric is upsetting and not accurate.

Shift replaced a large Real Estate office. McCann replaced a large failed retailer.

'Shift' (2 locations on Maple Road), as you might expect, are concerned by the suggestion that they are 'retail killers'. They along with McCann worldwide – both national industry flagships – have filled spaces that, in McCann's case (we designed for retail that we could not attract – anchors nor smaller merchants), were vacant for long periods of time.

Shift's employees/owner (as I witness everyday/I'm a neighbor) use the services of local retailers and restaurants (Starbucks, Via, Toast, Streetside, 220 Merrill, etc.), local caterers, have 250 Powerhouse Gym memberships, activate previously dead West Maple and East Maple/Woodward Ave sidewalks & crossings. It's AMAZING to see people on the streets all times of the day as a result.

McCann and Shift along with other 'personal service' outlets support and give rise to retail uses! Ferndale and Royal Oak are working to get more office uses to support their retail/restaurants during the day, when their streets are largely vacant. Birmingham actually has daytime PEDESTRIAN TRAFFIC ! Retail will follow as the market that has been created ... additional retail will result. The balance between retail 'personal service' will change over time as the pendulum swings.

I would hope that the Commission and the Planning Board would focus on the; BOTH-AND; not the EITHER-OR and on solving the cyclical parking problem, which is a greater barrier to retail than any other factor.

Encourage what you want. Carrot-not the stick sorta thing.

Success is hard to overcome.

Sincerely, Chris Longe

"...do not be carried away by success into demanding more than is right or prudent." - Winston Churchill

http://www.theridgefieldpress.com/83487/first-floor-retail-rule-finding-the-carrot-not-the-stick/

https://www.theatlantic.com/business/archive/2017/04/retail-meltdown-of-2017/522384/

http://www.zerohedge.com/news/2017-06-14/2017-will-be-worst-retail-apocalypse-us-history-over-300-retailers-have-already-file

http://www.spur.org/publications/urbanist-article/2014-06-03/designing-ground-level

Christopher J. Longe AIA, Architecture & Interiors

124 Peabody, Birmingham, MI 48009 P 248.258.6940 C 248.330.9595 <u>cilonge@cilongeaia.com</u> To get the latest information regarding the City of Birmingham, please sign up for our communication tools by clicking here www.bit.ly/bhamnews.

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Re: Retail Space

1 message

Joe Valentine <jvalentine@bhamgov.org> To: Tom Booth <tlbooth999@gmail.com> Cc: Jana Ecker <Jecker@bhamgov.org> Tue, Jul 11, 2017 at 8:28 AM

Jana Ecker <jecker@bhamgov.org>

Mr. Booth,

Thank you for email sharing your concerns regarding first floor retail. I will share your concerns with the Planning Board as they consider this issue.

Best Regards, Joe Valentine

On Mon, Jul 10, 2017 at 7:41 PM, Tom Booth <tlbooth999@gmail.com> wrote:

Dear Mr. Valentine,

I have read about the current issue facing the Birmingham Planning board regarding the definition of retail space.

In my opinion, I think it is important to maintain the retail space at ground level for shoppers.

The retail space attracts walkers and shoppers. Without them, Birmingham character will change.

Retail stores will wither and die without shoppers.

Please keep that in mind when discussing this issue.

Best regards,

Tom Booth

430 Aspen

Birmingham

P.S. I will not be able to attend the planning board meeting on July 12 due to a previous commitment.



Virus-free. www.avg.com

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Planning Board Minutes July 12, 2017

PUBLIC HEARINGS

1. An ordinance to amend Chapter 126, Zoning as follows:

ARTICLE 3, SECTION 3.04, SPECIFIC STANDARDS, TO AMEND THE DOWNTOWN BIRMINGHAM OVERLAY STANDARDS TO EXCLUDE COMMUNITY AND PERSONAL SERVICE USES AS PERMITTED USES IN THE REDLINE RETAIL DISTRICT; AND

ARTICLE 9, SECTION 9.02, DEFINITIONS, TO ADD A DEFINITION FOR PERSONAL SERVICES, TO AMEND THE DEFINITION OF COMMERCIAL USE TO EXCLUDE PERSONAL SERVICES AND TO AMEND THE DEFINITION OF RETAIL USE TO INCLUDE RETAIL BANK BRANCHES AND PERSONAL SERVICES.

Ms. Lazar recused herself due to a familial relationship with the applicant.

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

Mr. Clein stated that based on the discussion between the City Commission and Planning Board at the June 19, 2017 joint meeting regarding the definition of retail, the City Manager has provided a memo outlining the course of action considered at that time. This discussion suggested postponing the public hearing to a date certain and holding a study session in lieu of the public hearing to consider the definition of personal services and to review the Redline Retail District as prescribed in the Downtown Birmingham 2016 plan for background and intent in regards to personal services.

Motion by Mr. Williams

Seconded by Mr. Boyle to continue the public hearing to Wednesday evening, August 9, 2017.

There was no discussion from the public on that motion.

Motion carried, 6-0.

VOICE VOTE Yeas: Williams, Boyle, Clein, Jeffares, Prasad, Whipple-Boyce Nays: None Recused: Lazar Absent: Koseck Chairman Clein closed the public hearing for tonight at 7:41 p.m.

07-131-17

STUDY SESSIONS

1. Definition of Personal Services

Ms. Lazar continued to be recused for this study session.

Motion by Mr. Williams Seconded by Ms. Whipple-Boyce to accept and file the following communications as part of the official record:

- > E-Mails from various individuals -
 - Elizabeth Elkin on July 10;
 - Tom Booth on July 10;
 - Karen Mucha on July 10;
 - Andrea Rehm on July 5.
- > E-Mail to Planning Board members from Christopher Longe on July 11.

Motion carried, 6-0.

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

Ms. Ecker advised there is a desire by the City Commission to provide clarification on the definition of personal services in the Zoning Ordinance. The current definition of retail use includes commercial use as a permitted use. Commercial use, as defined, includes the category of personal services. However, the term personal services is not defined and left to the interpretation of City Staff.

Ms. Ecker advised the City Manager has provided a letter that makes clear the direction from the City Commission to the Planning Board at the joint Planning Board/City Commission meeting held on June 19, 2017, which is as follows:

1. Postpone the public hearing set for July 12, 2017 to a date certain in the immediate future.

2. Hold a study session on July 12, 2017 to review the Redline Retail Area as prescribed by the Downtown Birmingham 2016 Report for background on the intent for retail in the downtown, then review the current draft definition of personal services as reviewed by the Planning Board on June 14th for appropriate application.

3. Conduct a future public hearing on the proposed definition for personal services following this study session and provide a recommendation to the City Commission on a proposed definition at the earliest opportunity.

The latest draft definition for personal services reviewed at the Planning Board's June 14, 2017 meeting does provide a definition for further discussion, however, the City Manager's comment was that the draft language should be modified to only include the services that are permitted and not identify excluded services. This will help further clarify the application of the proposed definition by City Staff.

Personal Services: An establishment that is engaged primarily in providing services involving the care of a person or apparel, including but not limited to: beauty and barber shops, nail care or skin salon services, other personal grooming services, laundry services, dry cleaning, shoe or clothing repair; but does not include business services, medical, dental and/or mental health services.

Further direction from the City Manager states that because Community Use is already defined and does not pose this same immediate issue, this can be further reviewed in the second stage of discussion on the definition of retail.

Consensus was that at this time, the board's direction is to focus only on the definition of Personal Services.

Mr. Williams wanted to know by the time of the public hearing how many vacancies there are in the Redline Retail District and what the current mix is, by percentage of square footage and number of units. Also, if information is available what new vacancies will come up in the immediate future.

Mr. Jeffares summarized his view that the core of personal services is from a business (B) to an individual consumer (C), rather than from a business (B) to a business (B) which deals with large corporate clients and doesn't cater to individuals.

Mr. Williams thought the current definition is way too restrictive. He doesn't like making lists. Since the Building Official is the one who must deal with the practical application issues, it would be nice to have him present to provide input. Also, he wanted to hear from the representative of the Birmingham Shopping District ("BSD"). Ms. Whipple-Boyce agreed it is

very difficult to provide a list of permitted uses and keep it current. In her opinion it would be more logical to list businesses that they don't want to see Downtown. She worries what may be left out in the present list of permitted services.

Mr. Boyle suggested they want the Downtown to operate as accessible, vibrant, colorful, safe, walkable. They have achieved that. Now he is worried that attempts to define all of the individual uses might backfire. So he thought the board might pay more attention to what they want the City to be and not try to tell people what uses they can or cannot have. Mr. Williams agreed. He feels the City needs a new Master Plan and thinks interim solutions are a mistake. He would rather have a definition that is more expansive and focused on individual services as opposed to corporate or institutional services. He also does not like lists, as they are soon outdated. He supports a broader statement of intended uses by persons in activating the street.

Several board members agreed that they don't want lists. It would be better to offer guidance. Regardless of what uses they come up with, there will always be a body of uses that will not be defined.

The board then discussed whether they concur with the definition of personal services if the list of services it taken out. Ms. Whipple-Boyce observed that the ordinance contains pages and pages of lists. That is part of what makes it work for the Building Official and for people who are looking to do certain things in certain areas. They know exactly what is permitted there. Ms. Prasad agreed it is important for the board to provide examples and direction for the types of uses they want to see.

Mr. Williams did not understand why the board cannot list excluded categories.

Chairman Clein synthesized what he has heard: An establishment that is open to the general public and is primarily engaged in providing services directly to the consumer; including but not limited to personal care, care for apparel and other personal items, and any other service directly sold to the consumer; but does not include business to business services, medical, dental, or mental health services.

At 8:58 p.m. he invited members of the public to come forward to talk about Personal Service.

Mr. Richard Huddleston appeared on behalf of Unit 1 at Birmingham Place, 401 S. Old Woodward Ave., which is approximately 110,000 sq. ft. of commercial and retail space. After walking the Redline Retail District Mr. Huddleston found 10 vacancies out of 110 total storefronts, of which about forty were not retail type uses. He offered his opinion that what is good for retail is foot traffic, and the biggest source of foot traffic in a retail area is high density office.

Ms. Jeanette Smith, VP of Marketing for Core Partners, urged that before a public hearing is held an advisory group be formed that includes people from different walks of life who can weigh in. An interim solution seems a little premature.

Mr. Richard Sherer said his family owns property on Pierce and W. Maple Rd. He stated that any attempt to legislate what can be in buildings is very nebulous. It will be extremely damaging to landlords.

Ms. Cheryl Daskas who is a resident, a retailer, and a property owner, said she does not want to see first-floor offices in her town. As Tom Markus once said, It takes three things: it's your downtown, your neighborhoods, and your school system. If one falters, then the whole thing crumbles. She noted first-floor offices stop the foot traffic.

Ms. Ecker said what she heard from the majority of members is that Personal Services is an establishment that is open to the general public and engaged primarily in providing services directly to an individual consumer; including but not limited to personal care services, care of apparel and other personal items; and not including business to business services, medical, dental, and/or mental health services.

Mr. Boyle stated the board needs to have a serious conversation about the Downtown. Everyone knows there is a lot of change happening. His thought was that it behooves the City Commission to take the leadership and create some form of opportunity for people to weigh in on this issue of the nature of our Downtown. So he strongly recommended to the City Commission to give that serious consideration and get it moving in advance of yet more delays on the Master Plan.



Fwd: Downtown Birmingham Tenant Mix

1 message

Joe Valentine <jvalentine@bhamgov.org>

Thu, Jul 13, 2017 at 8:05 AM

To: "Andrew M. Harris" <aharris@bhamgov.org>, Carroll DeWeese <cdeweese@bhamgov.org>, Mark Nickita <mnickita@bhamgov.org>, Patty Bordman <pbordman@bhamgov.org>, Pierre Boutros <pboutros@bhamgov.org>, Racky Hoff <rackyhoff@hotmail.com>, Stuart Sherman <ssherman@bhamgov.org>, Tim Currier <tcurrier@bhlaw.us.com> Cc: Jana Ecker <Jecker@bhamgov.org>

fyi ------ Forwarded message ------From: **Joe Valentine** <jvalentine@bhamgov.org> Date: Thu, Jul 13, 2017 at 8:05 AM Subject: Re: Downtown Birmingham Tenant Mix

To: Gillian Levy <Gannelevy@comcast.net>

Ms. Levy,

Thank you for your email and sharing your concerns for the downtown retail mix. To the contrary, the current discussions are intended to further clarify the retail uses permitted in the downtown and encourage more retail establishments as you suggest. The City Commission has directed the Planning Board to provide a definition for personal services that is inline with the City's downtown master plan and encourages a strong retail core in the center of the downtown. Without a definition for personal services, several office type uses have utilized this undefined category to occupy prime retail spaces, which is not inline with our downtown master plan. This is what is currently being corrected. Please know your concerns are shared by the City Commission and on their way to being addressed.

I will pass along your comments and thank you again for your time in sharing your concerns.

Best Regards, Joe Valentine

On Wed, Jul 12, 2017 at 6:21 PM, Gillian Levy <Gannelevy@comcast.net> wrote:

Mr.Valentine

Please share this email with those members of the board of commissioners who are considering permitting commercial office space in store fronts. I am a transplant from New York, and many reasons have kept me here instead of returning to New York. I have been a Birmingham resident since 1987, first in a house for almost 30 years and now in an apartment in downtown. Birmingham reminds of the neighborhood where I grew up in Brooklyn. There was a main shopping thoroughfare, similar to our downtown area. I knew most of the merchants, as I do now. I enjoy walking through the downtown area, as I did in the shopping area in Brooklyn, looking in store fronts and seeing the merchandise and art work. No fun in looking at desks with people nose to nose with their computers.

It is my understanding that some of our city officials are trying to promote more office space on the first floor of buildings, rather than continuing to attract new businesses like Gazelle Sports, Back Country North, West Elm, Sundance Shoes; the Art Galleries, and other boutiques. Our downtown suffered when Somerset expanded but rebounded with fines shops that do well on city streets rather than in malls. The downtown again rebounded after the financial crisis and we have a thriving city.

Office use of storefronts will serve to drive out retailers and reduce the homey feel and vibrancy of our downtown. We cannot permit this to happen for the sake of a few landlords who seek out the quick dollar in place of being a resident within our city and bringing in tenants that will harmonize with our downtown and keep it growing. We certainly do not need another storefront realtor or a computer consultant.

Change is a part of growth but that change can be tempered to serve the needs of the residents. We must preserve a viable and vibrant downtown and not become an office space community only

Gillian A. Levy

555 S Old Woodward Avenue

Birmingham MI 48009

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

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Jana Ecker <jecker@bhamgov.org>

Fwd: Retail space

1 message

Joe Valentine <jvalentine@bhamgov.org>

Thu, Jul 13, 2017 at 8:08 AM

To: "Andrew M. Harris" <aharris@bhamgov.org>, Carroll DeWeese <cdeweese@bhamgov.org>, Mark Nickita <mnickita@bhamgov.org>, Patty Bordman <pbordman@bhamgov.org>, Pierre Boutros <pboutros@bhamgov.org>, Racky Hoff <rackyhoff@hotmail.com>, Stuart Sherman <ssherman@bhamgov.org>, Tim Currier <tcurrier@bhlaw.us.com> Cc: Jana Ecker <Jecker@bhamgov.org>

------ Forwarded message -----From: **Joe Valentine** <jvalentine@bhamgov.org> Date: Thu, Jul 13, 2017 at 8:08 AM Subject: Re: Retail space To: frank@carusocaruso.com

Mr. Caruso,

Thank you for your email and sharing your concerns for a strong retail mix in the downtown. I will share your comments as this issue is discussed and ordinance language is developed to address this concern. Your concerns are shared by the City Commission and I expect clarification on this issue shortly.

Best Regards, Joe Valentine

On Wed, Jul 12, 2017 at 7:17 PM, <frank@carusocaruso.com> wrote:

I have had my business on Maple st. For 39 years, between the parking issues and landlords increasing rents it's been a challenge. Please don't allow office space on the first floor, we need more retail to succeed. Thank You. Frank Caruso Caruso Caruso Sent from my iPhone

Joseph A. Valentine City Manager City of Birmingham 151 Martin Street Birmingham, MI 48009 (248) 530-1809 Office Direct (248) 530-1109 Fax jvalentine@bhamgov.org Twitter: @JoeValentine151

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Jana Ecker <jecker@bhamgov.org>

Fwd: Caruso Caruso, Birmingham MI

1 message

Joe Valentine <jvalentine@bhamgov.org> To: Jana Ecker <Jecker@bhamgov.org> Mon, Jul 17, 2017 at 10:08 AM

------ Forwarded message ------From: Lennon Caruso <lennon@carusocaruso.com> Date: Sat, Jul 15, 2017 at 11:55 PM Subject: Caruso Caruso, Birmingham MI To: jvalentine@bhamgov.org

Joe-

At the request of other retailers I am sending you this email to please push for the ground floor square footage of downtown Birmingham to remain retail, services, dining and / or entertainment only. Retail defined as goods sold such as jewelry, clothing or housewares and services such as salons, makeup application, tailoring or even pedestrian computer repair. We need to pass or redefine any city ordinance in the downtown area that allows business' such as marketing firms, advertising companies or startups to occupy "fish bowl" ground floor square footage. I strongly believe the residents of our community want to window shop on their nightly strolls, not read "to do" lists written across white boards or be able to view the new list of company leads coordinated by color on sticky notes.

I have ran the daily operations at Caruso Caruso (166 W. Maple) for the past 10 years and was born and raised in this community. Every time I walk by Shift Digital I can still smell Marty's Cookies (I know it's technically Cafe Viá but you get what I'm saying.)

Thank you for your time. I'd be happy to give you more feedback personally or lay things out for business owners, landlords and / or Bham residents in a public setting.

Thanks. Peace. Lennon Lalonde

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Jana Ecker <jecker@bhamgov.org>

Fwd: First floor retail

1 message

Joe Valentine <jvalentine@bhamgov.org> To: Jana Ecker <Jecker@bhamgov.org> Thu, Jul 20, 2017 at 6:14 PM

------ Forwarded message ------From: **Deborah Vail** <deborahdvail@yahoo.com> Date: Wed, Jul 19, 2017 at 9:44 AM Subject: First floor retail To: jvalentine@bhamgov.org

Dear Joe,

I am writing to you to express my concerns on allowing business offices to take up first floor space in our town. Birmingham is a walking community and if spaces are taken up with offices then it will kill this town. I was raised here and Birmingham certainly has changed. Not sure if it is for the better. I realize nothing stays the same but let's not ruin the town with just office space and food and drink. We need more retail to keep this a viable town where families like to come and enjoy walking around. Thank you, Debbie Vail Co owner of Adventure in Toys

Sent from my iPhone

Joseph A. Valentine City Manager City of Birmingham 151 Martin Street Birmingham, MI 48009 (248) 530-1809 Office Direct (248) 530-1109 Fax jvalentine@bhamgov.org Twitter: @JoeValentine151

INTERCONTINENTAL

INTERCONTINENTAL MANAGEMENT CORP.

1270 Soldiers Field Road Boston, Massachusetts 02135-1003 Telephone 617-782-2600 Facsimile 617-782-9442

July 27, 2017

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City of Birmingham Planning Board 151 S. Martin Street Birmingham MI 48009

Attention: Jana Ecker, Planning Director Scott Klein, Planning Board Member

Dear Ms. Ecker and Mr. Klein:

As owners of 325 N. Old Woodward, one of the signature properties in Birmingham, we are very disappointed and concerned to hear that there is an initiative to make changes to the definition of retail in the City. In our opinion, this would have a negative impact on all landlords and the overall vitality of Birmingham's retail climate.

We have been pleased to be part of the redevelopment of the downtown district. Our property would not have enjoyed the success it has had, and the community would not have benefitted from the sales and tax revenue it has enjoyed, without the flexibility that the current definition provides. One major tenant that would not be here now and may not continue to be here due to this proposed change is Google. The space it currently occupies was shunned by many retail prospects because of its location and configuration. However, in conjunction with the City and the flexibility of the current definition, it suited Google perfectly. This significant tenant, sought by the City and landlords alike, will be forced to go elsewhere should this initiative progress forward creating unnecessary financial and employment shortfalls for the City.

Diversity and flexibility have always been the hallmarks of any successful business or community. Birmingham's downtown district is such a vibrant community, currently able to adapt to the constantly changing urban landscape. Google, like many other companies, is changing the work environment for everyone, creating a model for the future where work, shopping, and entertainment are mixed into an urban setting. There are many other existing businesses in the City which rely on that diversity as well and it seems logical that the City would understand the benefits of becoming more flexible - not more restrictive. Why Birmingham would seek to change something that is working is puzzling. We don't believe that "any" Landlord would deny retail if there were a demand for it and we would like an explanation regarding what is not working? Are there retailers that are prevented from locating in Birmingham now? Trying to "redefine retail" when it seems well understood by the City employees and business community alike seems improvident. Furthermore, these changes could have a significant impact on how the investment & lending community view Birmingham. Make no mistake, landlords and their lenders relied on the flexibility the current definition of retail provides in order to make significant capital investments in this community. Lenders and owners alike get nervous when you change the rules...especially when it can affect the value of the assets and underlying collateral. If the rules are changed leading to increased vacancy and value diminution, mortgages may go to into default and precipitate a pullback and stagnation in future investment in Birmingham.

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Economists suggest that the market will drive the client base. If retailers want to be in Birmingham, they will pressure the market to be there. We strongly suggest that Birmingham let the market determine what it wants to be. Flexibility is the key to adaptation, and success.

As you are certainly aware, changes are typically made to solve problems, not create them and in this instance we strongly advise the City Commissioners and City Planners to reject this proposed change.

Sincerely

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ef le Sweeney

Joseph A. Sweeney Regional Director – Asset Management

City of	ningham
	A Walkable Community

MEMORANDUM

Planning Division

DATE: August 1, 2017

TO: Planning Board

FROM: Jana L. Ecker, Planning Director

SUBJECT: Public Hearing to consider changes to Article 03 section 3.04 to exclude community uses in the Redline Retail District and Article 09, Definitions to define Personal Services

Joint meeting update

Based on the discussion between the City Commission and Planning Board at the June 19th, 2017 meeting regarding the definition of retail, the City Manager previously provided a memo outlining the course of action considered at that time. This discussion suggested postponing the public hearing to a date certain and holding study session in lieu of the public hearing to consider the definition of personal services and to review the Redline Retail District as prescribed in the Downtown Birmingham 2016 plan for background and intent in regards to personal services. The memo from the City Manager is again attached.

Retail discussion and background

Over the past decade, there has been an ongoing desire by some City Boards and Commissions to review the current definition of retail to ensure that we are encouraging true retail downtown, and not allowing office and other service uses to dominate. The issue is specifically relevant in the Downtown Overlay, where retail use is required in the first 20' of depth for all buildings in the Redline Retail District as illustrated below.

At the joint meeting with the City Commission on June 19, 2016, both the City Commission and the Planning Board members agreed that the existing definition of retail and the related definitions in the Zoning Ordinance should be discussed in further detail. This issue was added to the Planning Board's 2016 – 2017 Action List for future discussion. Accordingly, the Planning staff assembled the following information regarding the existing ordinance requirements which affect permitted commercial uses within the Redline Retail District.

Zoning Ordinance regulations:

Article 3, Section 3.04 (C)(6) states:

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 frontage 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.

Accordingly, all buildings built under the Downtown Overlay in the areas marked in red on the map inset above, must contain retail uses in the first 20' of depth of the first floor. Article 9, section 9.02 of the Zoning Ordinance provides the following retail related definitions:

Retail Use: Any of the following uses: artisan, community, commercial, entertainment (including all establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 3, Licenses for Economic Development), bistro or restaurant uses.

Artisan Use: Any premises used principally for the repair, manufacture, and sale of domestic furniture, arts, and crafts. The work must take place entirely within an enclosed building using only hand-held and/or table-mounted manual and electric tools.

Community Use: Premises used principally for education, worship, cultural performances, and gatherings administered by nonprofit cultural, educational, and religious organizations; premises used principally for local, state, and federal government, administration, provision of public services, education, cultural performances, and gatherings.

Commercial Use: Premises used generally in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services.

Office: A building or portion of a building wherein services are performed, including professional, financial (including banks), clerical, sales, administrative, or medical services.

As defined in Article 9, retail uses include the direct sale of products from the premises, but also include restaurants, entertainment and the purchase, sale or exchange of personal services (given the inclusion of personal services in the definition of commercial uses, which are included as retail uses). No definition for personal services is provided. Personal financial services, beauty services, banking services, real estate services, advertising services and other similar uses have been permitted within the Redline Retail District under the umbrella of personal services, provided that there is a display area for the sale or exchange of such goods and services in the first 20' of the storefront, and the storefront is open to the public during regular

business hours. Concern has been raised that this small display area 20' in depth is not sufficient to create an activated, pedestrian-friendly retail district.

The current definitions for retail and commercial have thus permitted some uses that are not universally considered "true retail" as there are no physical goods for sale. In the past, both the Planning Board and the Birmingham Shopping District Board have expressed concern with the existing retail definition, and have considered alternative definitions to tighten the definition of retail to include only shops which sell products, not financial, real estate or other such personal services. On the other hand, many property owners in the past have expressed concerns about tightening up the definitions as they desire the flexibility to lease space to a wider range of users to avoid vacancies.

Retail Intent in the 2016 Plan

A detailed review of the Downtown Birmingham 2016 Plan (hereinafter "the 2016 Plan") was conducted to determine the intent of the creation of the Redline Retail District, the City's success or failure in meeting this intent, and the need for any changes to the regulations to comply with the recommendations contained in the 2016 Plan. In addition, the Planning Division has been working with the City Manager and the Birmingham Shopping District to obtain all relevant data as to the current mix of uses on the first floor in the Redline Retail District and the changes to this mix that have occurred since the inception of the 2016 Plan in 1996. Please see Appendix A for minutes and staff reports from the adoption of the 2016 Plan in 1996.

The 2016 Plan was written to create a vision for the future of Downtown Birmingham. Detailed recommendations were included on the type and mixture of desired uses in downtown, as well as recommendations regarding building form, scale and character of the streetscape. Specific recommendations regarding the type and mixture of desired uses downtown can be found in both Retail sections 1 - 12 and Building sections 1 - 2, which are summarized below.

With regards to downtown retail uses, the 2016 Plan identifies the key retail loop (or retail epicenter) as the portion of Old Woodward from Oakland to Brown and portions of Maple from Willits/Chester to Park/Peabody. This area encompasses a five minute or 1,200 foot walking radius centered on the intersection of Maple and Old Woodward. The 2016 Plan recommends that the downtown continue to offer its residents and non-residents alike a chance to enjoy a walkable and diverse shopping experience. The 2016 Plan identified five primary commercial areas in Downtown Birmingham (as of 1996): The Central Business District (5 minute walking radius or CBD), North Woodward, South Woodward, Bowers and East Maple. Each of these areas are defined by their different sizes, the character of the roads and streetscapes, the types of businesses offered, the quality of shops, and the continuity of retail frontages.

Recommendation: Creation of Expanded Downtown District

One of the primary recommendations of the 2016 Plan is to enlarge the CBD by merging or connecting the key retail loop with the N. Old Woodward district north of Oakland, the S. Old Woodward district south of Brown, and the Bowers and E. Maple districts. The 2016 Plan states that this should be accomplished by encouraging first floor retail liners between the five districts to connect discontinuous retail frontages and encourage supportive retail, restaurant and services to be carefully grouped to promote cross-shopping and better reflect the variety and quantity of merchandise and services offered.

The 2016 Plan states that "controlling frontage and regulating first floor use are tools to foster pedestrian life", which is essential for vibrant downtowns. In order to enhance the pedestrian environment, the 2016 Plan recommends the removal of actual or perceived barriers to moving between districts, and the improvement of the quality and maintenance of the streetscape. The Ring Road system is noted as a barrier to cross-shopping between districts, as is the need for improved pedestrian crossings throughout downtown. The need for pedestrian-scaled architecture and controlled building height are also noted.

Recommendation: Maintain Retail Anchors

The 2016 Plan states that the CBD has significant anchors at the periphery (Jacobson's Mens' and Womens' department store and Crowleys were present in 1996) to help provide a connection to the other downtown commercial districts. The Plan states that department stores are primary destinations and important anchors for many businesses in the CBD as they are leading destinations that support apparel, jewelry, shoe, and accessory stores, as well as restaurants and coffee houses throughout downtown. The 2016 Plan recommends ensuring the maintenance of anchors in the CBD to promote visits to other retail uses through shoppers strolling to and from these anchor sites, as well as attracting new shoppers and visitors to the downtown.

Recommendation: Desired Mix of Uses

The Plan states that the five commercial areas in the study area for the 2016 Master Plan house a mixture of 6 primary retail types: Apparel, Department Stores, Restaurants/Specialty foods, Antiques and Art Galleries, Neighborhood Convenience & Services, and Other Retail and Services. The types of retail and the specific nature of services existing in 1996 at the time the Plan was written are not defined.

The 2016 Plan recommends creating a variety of retail options for shoppers through the maintenance and expansion of the existing range of tenants downtown. The mix of uses listed in the 2016 Plan (as existing in 1996) are as follows:

Antiques and Art Galleries	5%
Restaurants/Specialty Foods	10%
Apparel (men's, women's, children's, shoes)	15%

Neighborhood Convenience & Services	15%
Other Retail and Services	17%
Department Stores	38%

However, the 2016 Plan states that space is not unlimited and should not strive to be similar to a retail mall, as there is a point where Birmingham's character could be jeopardized. The 2016 Plan recommends adding 242,500 ft² of retail space in the City to connect the commercial areas together and support retail just outside of the Maple-Old Woodward epicenter. The specific recommendation of the 2016 Plan is to include artisan, civic, commercial, cultural, entertainment, or restaurant uses. Commercial uses are defined as those premises used generally in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services. Personal services are not defined.

The 2016 Plan also states that Birmingham should maintain a balance of office, financial and employment generators in the downtown area. At the edges of the CBD, residential and office uses are encouraged along with retail, restaurant and service anchors to support retail. As many of Birmingham's residents patronize the downtown more often than any other area, the 2016 Plan states that the downtown commercial areas are intended to be convenient for people from the surrounding neighborhoods and employers to patronize.

Finally, the 2016 Plan explicitly states that while the 1996 existing mix of uses should be maintained. The Plan also clearly states that this mix of uses will evolve over the next 20 years, and that if market forces distort the mix of uses, then a future City Commission has the right and obligation to readjust the mix to ensure an active and vibrant Downtown Birmingham.

History of quasi-office uses in the downtown 2007-2017

In an effort to quantify the ambiguity of the definition of retail the Planning staff has compiled a spreadsheet charting the number of first floor quasi-office tenants in the Redline Retail District. As the spreadsheet shows, no less than 46 tenants who would qualify as quasi-office have occupied a first floor retail space, 36 of which are still open. These numbers are based off of available data.

Recent Planning Board activity

In April of 2017, the City Manager directed staff to consider measures to provide temporary relief to halt the addition of non-retail uses into storefronts in Downtown Birmingham located within the Redline Retail District, while the Planning Board continues to study this issue. Accordingly, on May 8, 2017, the City Commission directed the Planning Board to move forward with ordinance amendments to provide temporary relief to halt the addition of non-retail uses into storefronts in Downtown while the Planning Board continues to study the issue of retail uses Downtown. However, the City Commission appeared to be supportive of allowing beauty

salons and similar uses in the Downtown given the foot traffic that they create, and thus requested a definition of personal services be added.

On May 10, 2017, the Planning Board discussed the direction from the City Commission to consider an ordinance amendment that would temporarily stop some of the uses that fall under the current undefined category of personal services and to stop community uses from being permitted in first-floor retail space Downtown while the board studies the full issue. After extensive discussion, the board directed the matter back to staff to provide ordinance language that would define personal services to include beauty salons, retail bank branches and other similar uses, and to allow personal services as defined within the Redline Retail District, but to exclude office, medical and quasi-office uses, as well as community uses until the Planning Board can complete a comprehensive study regarding retail Downtown.

On May 24, 2017, the Planning Board reviewed draft ordinance language that excluded community uses from the Redline Retail District, added a definition of personal services that includes beauty and clothing services, but excluded office, medical and quasi-office uses, and amended the definition of retail to include personal services as newly defined. All of these changes would prohibit the use of first floor space in the Redline Retail District from being occupied by office or quasi-office uses. After much discussion, board members did not vote to set a public hearing on the proposed ordinance amendments, but requested that staff notify property owners in the Redline Retail District and invite them to attend the next Planning Board meeting to provide their input. The Planning Board also requested additional information from prospective retailers, building owners and the state of retail in the City currently. The board felt they needed more data before they could proceed, and unanimously approved a motion to continue the discussion at the Planning Board meeting on June 14, 2017.

At the June 14 meeting the Planning Board held an additional study session and received input from a large number of commercial property owners on the impact of the proposed ordinance language. At the end of the study session the Planning Board passed a motion to hold a public hearing on July 12, 2017 to consider a recommendation to the City Commission on the draft language.

On June 19th, 2017 the City held a joint workshop session with the Planning Board and City Commission. At that time there it was discussed that the Public Hearing scheduled for July 12, 2017 should be postponed and the Planning Board should have an additional study session to further discuss the proposed definition for personal services.

As stated above, during the joint meeting of the City Commission and the Planning Board it was discussed that the focus of the next Planning Board discussion should be on the definition of personal services. By creating a definition for personal services much of the ambiguity experience by City staff could be eliminated. More clear and concise direction would be readily

available as to what is and is not considered a personal service, and therefore what is permitted in the redline retail district.

On July 12, 2017, the Planning Board opened a public hearing to consider amendments to Article 03 section 3.04 to exclude community uses in the Redline Retail District and Article 09, Definitions to define Personal Services. The public hearing was immediately closed and the Planning Board postponed the public hearing to August 9, 2017 to allow the Planning Board to hold an additional study session on July 12, 2017 specifically with regards to drafting a definition for personal services.

Based on the direction by the City Commission and City Manager to review the Redline Retail Area as prescribed by the Downtown Birmingham 2016 Report for background on the intent for retail in the downtown, staff provided a review of the retail intent in the 2016 Plan, including the type of uses and the mix of uses to be included. The 2016 Plan was clear that personal services should be a permitted use in the Redline Retail district, but did not provide a definition for personal services. Board members discussed the definition of personal services that had been drafted for the public hearing. Based on the direction by the City Commission and City Manager to focus solely on the personal services definition at this time, the board discussed the type of services that would be permitted under the draft definition, and discussed providing a further distinction for personal services to exclude business services that are primarily offered to business or corporate clients. Board members did see the value in allowing services in the Redline Retail district that were primarily offered to individuals, such as beauty services, real estate services and clothing repair services. Board members stated their desire to allow uses that enhanced the level of activity on the street by providing services to individual consumers who would then patronize these businesses. The draft definition of personal services was amended accordingly, and is attached for your review.

Further, board members discussed the City Manager's direction to remove any reference to services that were not included in the definition to help clarify the application of the proposed definition by City staff. After much discussion, board members concluded that the exclusions should remain in the draft definition to be recommended to the City Commission. The consensus was that listing these excluded services did clarify the City's intent on the appropriate personal services to be permitted in the Redline Retail district, and thus the Planning Board wished to recommend that these exclusions remain in the definition of personal services to be recommended to the City Commission.

Suggested Action:

To recommend APPROVAL to the City Commission of the proposed amendment to the Zoning Ordinance, Article 9, Section 9.02, Definitions, to create a definition for personal services.

CLARK HILL

Paul S. Magy T 248.988.5844 F 248.988.2332 Email: pmagy@clarkhill.com Clark Hill PLC 151 S. Old Woodward Avenue Suite 200 Birmingham, MI 48009 T 248.642.9692 F 248.642.2174

clarkhill.com

August 4, 2017

BY HAND DELIVERY

Ms. Jana Ecker, Planning Director Birmingham City Planning Board City of Birmingham 151 Martin Street Birmingham, MI 48009

Re: Proposed Zoning Ordinance Changes Involving the Definition of Retail in the "Redline Retail District"

Dear Ms. Ecker:

We represent the Birmingham Roundtable, LLC. The membership consists of building owners, business owners and citizens operating and residing within the "Redline Retail District" who are opposed to the recent efforts to amend the definition of retail use under the City's zoning ordinance. Our client's members like to say that you should not be trying to fix what is not broken.

The Birmingham Roundtable includes individuals who are experienced professionals in developing, leasing and managing commercial properties. It includes retailers in our community as well. Their opinions are based on sound principles, knowledge of the market and trends in the retail and commercial real estate industry and many years of experience. Their companies have the necessary resources, financial and otherwise, to study, verify and confirm that the city's planned action will not lead to your hoped for results. Rather, the opposite is likely to occur.

The membership also includes residents who are legitimately concerned that the planned action will actually erode the City's tax base and require future increases in taxes to make up for the resulting shortfalls. Business owners and our resident members alike believe that your actions will place the City at a competitive disadvantage with other nearby communities and will be more than detrimental to the long term viability of Redline Retail District and the City's economic health.

The proposed amendment, as it presently stands, would significantly restrict the use of first-floor commercial space within the Redline Retail District and prohibit the operation of

Ms. Jana Ecker, Planning Director Birmingham City Planning Board August 4, 2017 Page 2

existing or future medical, dental and other professional uses. The articulated justification for the proposed amendment is based on planning data that is woefully outdated (*i.e.*, part of the City's 1996 master plan). The proposed changes will have a devastating effect on the City's commercial tax base. Our clients have voiced their opposition at several meetings of the Planning Board.

Out of concern that the voice of reason and experience may not ultimately prevail at this level, we have been engaged because legal resources may be necessary. After reviewing this matter, we share our client's concerns. We intend to conduct further investigation and to analyze the legality of the proposed amendment on their behalf. We are prepared to initiate litigation if warranted. As part of our investigation, we will be submitting a Freedom of Information Act request seeking any public records that provide justification for the proposed amendment.

We understand the Planning Board will again consider this matter at a public hearing on August 9, 2017. We request an opportunity at your earliest possible convenience to meet with members of the Planning Board and the City Commission to discuss the proposed amendment, share our clients' concerns in greater detail and to help you avoid the devastating consequences of the planned action.

We respectfully hope it is possible to postpone the adoption of the proposed amendment until sometime after we have had a chance to meet. Certainly no action should be taken unless and until the true economic impact or the proposed action has been empirically studied and examined. We look forward to the opportunity to discuss these matters with each of you.

Sincerely,

CLARK HILL PLC

Paul S. Magy

cc: Mr. Timothy Currier, City Attorney

'LARK HILL

DRAFT Planning Board Minutes August 9, 2017

PUBLIC HEARINGS

1. An ordinance to amend Chapter 126, Zoning to consider changes to Article 03 section 3.04 to exclude community uses in the Redline Retail District and Article 09, Definitions to define Personal Services

The Chairman opened the public hearing at 8:15 p.m.

Ms. Lazar and Mr. Share recused themselves and Chairman Clein rejoined the board.

Ms. Ecker explained that at the last meeting based on the direction memo from the City Manager, the point was to solely focus on the Personal Services definition. Thus, tonight the board will focus on Article 9, section 9.02 Definitions to add a definition for Personal Services. The proposed definition is as follows:

Personal Services: An establishment that is open to the general public and engaged primarily in providing services directly to individual consumers, including but not limited to: personal care services, services for the care of apparel and other personal items but not including business to business services, medical, dental and/or mental health services.

There has been a lot of discussion so far and Ms. Ecker briefly went through some of that history. The Planning Board started discussing retail at large in March of this year. In April and again in May there was direction from the City Commission to move forward with ordinance amendments that would provide temporary relief to halt the addition of non-retail uses into storefronts in Downtown while the Planning Board continues to study the issue of retail uses Downtown. The Planning Board talked about this at several subsequent meetings.

On June 19, 2017 the Planning Board and City Commission held a joint workshop session. At that time it was discussed that the public hearing scheduled for July 12, 2017 should be postponed. The Planning Board postponed the public hearing to August 9, 2017 to allow the Planning Board to hold an additional study session on July 12, 2017, specifically with regards to drafting a definition for Personal Services. Based on the direction by the City Commission and City Manager to review the Redline Retail Area, staff provided a review of the retail intent in the 2016 Plan, including the type of uses through the definition of retail and commercial. Within the definition of commercial the 2016 Plan said that personal services should be included and permitted in the Redline Retail District. It did not, however, define personal services. Therefore, the City Commission has directed the Planning Board to zero in on a discussion of personal services and to draft a definition to be added to the Zoning Ordinance.

Thus, tonight the board will talk about a potential definition for personal services and what should be included in the Redline Retail District. In the direction from the City Manager that the Planning Board received, there was a recommendation not to list the businesses that are not included. However, at the last meeting the Planning Board felt they wanted to leave in the list of exclusions for business to business services, medical, dental and/or mental health services. The thought was that this list clarifies which services are allowed and which services are not allowed when reading the ordinance.

Mr. Williams received information that the Red Line Retail District stops just before Oak on the east side of Woodward and goes all the way down to Lincoln. In response to Mr. Williams, Ms. Ecker noted the City does not have a listing of all vacancies, although the BSD does have a list of some vacancies as reported by brokers and property owners. Also, the City has a list of all of the Downtown businesses, but they are not categorized as retail or non-retail under the definitions in the Zoning Ordinance.

It was concluded that in order to categorize a business the City would need a letter from them indicating what their primary business is.

Mr. Boyle noted this is a very wide spread concern among other communities and not something that is specific to Birmingham. This board is attempting to try and find a way to continue to have activity on our City streets. Mr. Jeffares thought Birmingham has been incredibly successful for being able to still have its retail environment.

Chairman Clein brought out the fact that the 2016 Plan was drafted in 1996 and it is 21 years old now. If there is ever a reason a Master Plan should be updated it is this. It will be important to have a full discussion with all stakeholders about the nature of modern businesses in our community.

Mr. Williams stated it is a mistake to downplay the Master Plan in order to have piecemeal items before it on the Planning Board's Action List. On a priority basis the board will never get to it. The Master Plan should be moved up, but this board does not control that agenda. He feels the board is currently dealing with a problem that doesn't exist.

In response to a question from the board, Ms. Ecker explained that any existing use can continue as long as it is consistent and continuous and isn't stopped for more than six months.

Mr. Jeffares thought it is very remiss that the people in this building who could be of help as part of this process are not present. At this point several board members thought the list of businesses not included as Personal Services causes more trouble than it is worth.

Chairman Clein noted the following correspondence that has been received:

- Letter dated July 27, 2017 from Joseph A. Sweeney, Intercontinental, against the definition;
- Letter dated August 4, 2017 from Paul S. Magy, Clark Hill, concerned that the planned action will erode the City's tax base by restricting the use of first floor commercial in the Redline Retail District;
- Letter dated August 8, 2017 replying to Mr. Magy from Timothy J. Currier, Birmingham City Attorney, indicating that public meetings are the place for discourse;
- Letter dated August 9, 2017 from James Esshaki, Essco Development Co., against the proposed definition and citing several buildings that would be difficult if not impossible to fill with retail.

Motion by Mr. Williams Seconded by Mr. Koseck to receive and file the four letters.

Motion carried, 6-0.

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

At 8:43 p.m. Chairman Clein opened up public discussion on the definition before the board.

Mr. James Esshaki, Essco Development Co., questioned how medical services cannot be considered as Personal Services. Chairman Clein responded there is strong consideration to just eliminate that from the definition. Further Mr. Esshaki asked what landlords, after spending millions of dollars for their buildings, should do with their spaces when they cannot lease them. No retailer would come in and pay money for a secondary location where there is no traffic. In his mind this is a take.

Mr. Paul Terrace, 1288 Bird, said he is a host of *Tough Talk with Terrace,* which is a public access TV show. It is his intention to tape a show with a developer and a broker and invited anyone who supports this proposal to come on his show also.

Mr. Ted Alsos, Retired Regional Manager of Ford Motor Credit Co, said he resides at 401 S. Old Woodward, unit 806. He is president of the Condominiums of Birmingham Place Master Association and is appearing on behalf of the members of the association. He read a statement to the effect that their association is opposed to the proposed action to limit the uses in the Redline Retail District. They believe that restructuring the uses in Downtown Birmingham will result in increased numbers of vacant storefronts. As vacant storefronts increase, the appeal of Downtown Birmingham decreases and correspondingly decreases values for property owners in Downtown Birmingham, if not the entire City. They are concerned that reduction of the tax

base will fall on the residents. Lastly, the Association firmly believes that landlords need flexibility to cope with the changing market conditions for tenancy in Downtown Birmingham.

Mr. Michael Surnow, 320 Martin, co-founder of the Surnow Co. said that boards rely on experts and hire them all the time. The experts are right here - the landlord community -and they are all vehemently opposed to this action.

Mr. Richard Huddleston asked if there is a precise definition of the Redline Retail District in words in the Zoning Ordinance. Ms. Ecker answered that the ordinance refers to a map of the District, which can be found on the City's website.

Mr. Derick Hakow, 211 E. Merrill, Apt.504, noted that he appreciates the vibrancy of the Downtown Community. He loves the live, work, play mentality that the City has created and would not want to see that jeopardized by change.

Mr. Richard Sherer said he owns multiple properties in Birmingham. He read a couple of sentences from two magazines. Amazon has online sales six times higher than those of Walmart, Target, Best Buy, Nordstrom, Home Depot, Macy's, Kohl's and Cosco combined. The New York Times states that the retail sector looks quite vulnerable economically with the transition to e-commerce. However, health care has much better numbers. This is the direction things are going.

Ms. Jeanette Smith is VP of Core Partners who has a lot of clients and listings in Birmingham. She has been to all of these meetings and thinks there are a couple of points that are recurring:

- Incomplete data Other communities should be investigated for either successes or failures when they have enacted a change like this. It just feels premature to make a change at this time;
- She believes it is within the Planning Board's purview to decline to vote this and send it forward as well as to urge the City Commission to work on the Master Plan.

Mr. Paul Magi from Clark Hill, 151 S. Old Woodward Ave., Suite 200, and also a Birmingham resident at 708 Shirley, said he represents many of the people in the room this evening. They not only care about their buildings, but they really deeply care about the City. It seems that it would be appropriate for the board to say they are very interested in doing the right thing. However, before they do that they will make sure they have a full and complete understanding that there is in fact a problem to solve; that they have a study of this District that identifies all of the existing uses and the vacancies; an understanding of how long those vacancies may have occurred; what efforts have been made to re-tenant those spaces, and what the prospects are. Their recommendation should be to first determine if it is broken before it is fixed. If the board has to do something it seems what they could do is request that the important studies be done, including what the long-term impact might be on the City's tax base. This is an absolutely wonderful place and it is likely to continue that way without any kind of change.

Ms. Cheryl Daskas, a resident, property owner and successful retailer spoke. She said the reason people want to come to Birmingham is because of the vibrancy of the Downtown. If it all became offices people would not want to be here. That would affect the property values of the people who do live here. Every other business would shut down at 5 p.m. and at night Downtown will be dark and dreary. It is a shame the building owners don't want to work with someone who is experienced with bringing retailers into town. They would rather lease to office.

Mr. Dan Jacob, 361 E. Maple Rd., said he works with many national retailers every day. He doesn't think the landlords should be restricted. It is not like people are knocking on their doors. He understands the synergy of retail and that some of the retailers want that co-tenancy, but trends are changing and landlords are desperate. Malls pay their tenants for co-tenancies but for individual landlords it is hard to get that synergy.

Mr. Williams noted the BSD expert has not come to these meetings. He thought it would be difficult to take a percentage of how many sales a business has to individuals versus to contractors. What evidence will be required and how will it be policed.

Mr. Koseck wondered how medical/dental crept in as an exclusion and why some are suggesting that it be included. For simplicity purposes he is willing to move this forward and let the Commission do as they please, but he really would like to study it in greater detail.

Mr. Jeffares said that personally he does not like to walk by a storefront and see people hunched over in a cube and working on a PC. It would be horrible to have that everywhere. However, this process doesn't feel right to him for something that has this kind of magnitude - the first floor on the biggest chunk of Downtown. He doesn't feel that he has all of the necessary information to move this forward. He still thinks it is something for a Master Plan and he would prioritize that as number one on the Action List.

Ms. Whipple-Boyce indicated she doesn't like the definition for a couple of different reasons. She doesn't believe that medical/dental and mental health services are an appropriate use for our first-floor retail. Also she does not see how it is possible to not allow a business to business service and be able to understand and keep track of that. She is in favor of a true retail situation in the Redline District and she thinks a lot of the Personal Services that are included in the definition are inappropriate. She hopes to have an opportunity to study the retail situation further through a Master Plan approach.

Mr. Williams indicated he does not like the definition for a variety of reasons. He thinks the board can vote no and send it up to the City Commission and that is what he intends to do.

Mr. Boyle proposed that the board vote tonight on a request to the City Commission that its conclusion is to delay any decision on retail zoning until the City completes its deliberations through a comprehensive Master Plan process.

Chairman Clein took that a step further and made the following motion:

Motion by Chairman Clein

Seconded by Mr. Williams that the Planning Board of the City of Birmingham acknowledges the importance of a vibrant, active Downtown with strong first-floor retail uses. However, tonight he moves that the Planning Board recommend that the City Commission does not adopt the definition of Personal Services as presented in the proposed amendment to Zoning Ordinance Article 9, section 9.02, Definitions, and further recommend that the City of Birmingham expedite an immediate update to our comprehensive City wide Master Plan in order to properly address this issue and those that surround it.

Mr. Koseck summarized that this motion suggests the Master Plan be taken off the back burner and brought to the front so that the Planning Board can bring in people with much more of a global expertise and unbiased opinions. The Chairman explained that his point is to address not only the definition but to address the limits of the Redline Retail as well as residential neighborhoods, the Triangle and Rail Districts, along with the parking implications.

Mr. Williams explained one of the reasons he felt the impetus to move towards a Master Plan was the experience with O-1, O-2, TZ-1, TZ-2, TZ-3 where they tried to grapple with transition areas affecting residents and commercial property owners in transition areas. What the board learned was that they didn't have a Master Plan and it took them seven years from the time they started talking about it until they reached a final conclusion on all of the pieces. They took their time, did it right, and didn't move on an interim solution. What they learned was that piecemeal solutions are a bad idea. That is why he thinks this City needs a Master Plan. He would like to hear from all property owners and would also like the residents to speak up.

No one from the public had comments on the motion at 9:24 p.m.

Motion carried, 6-0.

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

The Chairman closed the public hearing at 9:30 p.m. and board members took a short recess.



Jana Ecker <jecker@bhamgov.org>

Fwd: First Floor Space should remain traditional retail

1 message

Joe Valentine <jvalentine@bhamgov.org> To: Jana Ecker <Jecker@bhamgov.org> Wed, Aug 23, 2017 at 11:06 AM

Please share accordingly.

------ Forwarded message ------From: **Joe Valentine** <jvalentine@bhamgov.org> Date: Wed, Aug 23, 2017 at 11:06 AM Subject: Re: First Floor Space should remain traditional retail To: James Remski <info@rsol.us>

Mr. and Mrs. Remski,

Thank you for your email message sharing your perspective on retail spaces in the downtown. I will share them with those that are deliberating on this issue so they can be considered in their deliberations.

Best Regards, Joe Valentine

On Wed, Aug 23, 2017 at 7:40 AM, James Remski <info@rsol.us> wrote:

Mr. Valentine,

As 29 year residents of Birmingham, our family has enjoyed living in Birmingham and all it has to offer. My children attended Birmingham Public Schools for their entire academic career: we have seen our neighborhoods flourish; and we have witnessed an evolution in the shopping district.

Our great neighborhoods, our highly ranked schools, and our vibrant downtown community all make Birmingham truly special and a model for other communities around the country.

As the city debates "retail/service" language, we would like to share our strong opinion with you that first floor space in the PSD should remain pure retail. We feel that there should be an understanding that local and national retailers have committed their business to a *retail shopping district*. We should acknowledge and respect the commitments retailers have made to our downtown district and support them in any way possible. It is our feeling that supporting these retailers would mean that we ask landlords to lease first floor space to traditional retailers and ask other non-retail/service based businesses to lease space other than first floor space.

Jim and Kathy Remski

Kathy Remski remski@me.com

Joseph A. Valentine City Manager City of Birmingham 151 Martin Street Birmingham, MI 48009 (248) 530-1809 Office Direct

8/23/2017

(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.

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City Commission Minutes September 25, 2017

SET PUBLIC HEARING TO CONSIDER ADDING DEFINITION OF PERSONAL SERVICES TO ZONING ORDINANCE

Commissioner Sherman said he would like to see the list the Planning Board made in their consideration of the definition of personal services before the Commission schedules a public hearing.

City Manager Valentine confirmed for Commissioner Sherman that the Planning Board's first meeting in November would be November 8, and that the Commission should ask to receive the Planning Board's list and notes by November 9 at the latest.

Commissioner Sherman clarified he does not want the Planning Board to hold another public hearing; rather, he wants the list the Planning Board had been working on to be provided to the Commission. Commissioner Sherman explained to City Planner Ecker that he would like the list to be inclusive of the uses the Planning Board did and did not consider including in their definition of personal services.

Commissioner Bordman echoed Commissioner Sherman's comments, and added that in all the personal research she had conducted on personal services definitions in different communities, illustrative lists of uses were included. Commissioner Bordman continued that when the Planning Board provides the Commission with its list, it should also include pros and cons for including or excluding each use.

Commissioner DeWeese stated:

• He was similarly bothered by the lack of real-world examples, and this lack could lead to uncertainty in interpretation of the ordinance.

• He would like to see how all the businesses currently operating in the red-line retail district would be categorized, even with the understanding that those businesses are grandfathered in, so as to be able to refine how the definitions and uses should be applied.

• He is not comfortable moving forward with a definition without a more concrete sense of this information.

Mayor Nickita summarized that he was hearing the Commissioners call for more specific examples and information from the Planning Board.

Commissioner Hoff pointed out:

• The Planning Board was originally hesitant in providing a list because every use would have exceptions.

• Other approaches might be more consistent with the Commission's desire to promote vibrant, active businesses in the City's retail areas.

• Giving the Planning Board sufficient leeway to explore other approaches might be beneficial.

Mayor Nickita stated that the Commission seemed to be addressing two related issues: use issues and application issues. Citing Lululemon as an example, Mayor Nickita explained that if

they, as a retail business, decided to put an office desk in one of their windows, that would be both a use and an application issue.

Commissioner Hoff echoed Mayor Nickita's point, saying that Lululemon was a good example because they have frequent customers and less dynamic windows, which brings up difficulties with this ordinance and its application.

Commissioner Sherman reiterated that the topic before the Commission was whether to set a public hearing on the public services definition, or to send the topic back to the Planning Board with a request for further information.

Mayor Pro Tem Harris stated:

• This topic has been discussed in at least three joint sessions.

• He believes the Planning Board fulfilled the Commission's request to provide a definition for public services.

• The Commission now has a number of options, including:

o Rejecting the definition;

o Accepting the definition; or

o Asking the Planning Board to generate a list of additional ways to create a vibrant and active downtown.

• He does not want to send the current definition back to the Planning Board for further elaboration.

Mayor Nickita:

• Agreed with Commissioner Hoff that asking for a list of uses may be complicated because exceptions will exist, but added that he also does not believe the Commission has been provided enough information by the Planning Board to move forward with crafting the ordinance.

• Preferred to receive a list from the Planning Board, even with the drawbacks of generating one, in order to address the issue of clarity around the ordinance's implementation.

Commissioner Hoff reminded the Commission that Chairman Scott Clein of the Planning Board called for further study of the definition before implementation, and that Chairman Clein did not likely intend that a list of uses would be sufficient substitute for that study.

Mayor Nickita replied that the Planning Board's recommendation of further study of the definition would be beneficial long-term, but would not resolve the short-term issue of current, appropriate implementation of the ordinance.

Commissioner DeWeese stated:

• His request for a list is in order to provide the Commission with concrete examples with which to work.

• He also agrees with Commissioner Hoff that the more pressing issue at hand is to figure out what rules or regulations should be applied to the first twenty feet of space in these types of zoning situations, and this is more than a use issue.

• There are some uses that may be technically prohibited, but would be more vibrant and interesting to passersby than other uses which are technically permitted but visually

lacking, and that acknowledging these potential contradictions will allow the Commission to achieve its ultimate goal of making streets livelier, independent of the master planning process.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Bordman: To send the issue of the definition of personal services back to the Planning Board for the purpose of providing the Commission with the list of uses discussed at the Joint City Commission/Planning Board meeting on September 18, 2017, have the Planning Board complete the list, including the rationale for each use's inclusion or exclusion, and submit the list by November 9 or earlier.

Commissioner Bordman asked to add "to provide rationale for including or excluding each use" to the motion.

Commissioner Sherman suggested the information may be in the Planning Board's minutes, and Commissioner Bordman replied she did not believe it was.

Mayor Nickita suggested that if this were to be added as an amendment, the request would need to be more specific. He added that requesting a pro and con list for every use considered may be cumbersome.

Commissioner Bordman said that maybe it would be more efficient to include pros and cons for categories instead of individual uses, and Mayor Nickita agreed.

Upon Mayor Nickita's request, City Clerk Mynsberge read the amendment proposed as: "You are sending this issue back to the Planning Board for the purpose of having them provide us with their list of uses discussed at the joint meeting, to have that list cleaned up, have it back to the Commission by November 8, and to include the rationale of the advantages and disadvantages for each category."

Mayor Nickita and City Manager Valentine agreed to change "cleaned up" to "completed".

Commissioner DeWeese stated:

• He would still like to have concrete examples of how the definition applies within Birmingham's redline retail district.

• The information could come from the Planning staff instead of the Planning Board.

City Manager Valentine suggested that Commissioner DeWeese's concerns could be addressed administratively.

Mayor Nickita concurred that a presentation on the topic would be useful.

Commissioner Hoff stated she was still concerned because the Planning Board did not endorse its own definition, and therefore a list of rationales to build on the unendorsed definition would not be beneficial.

Mayor Nickita requested that further Commission comments be related to the motion.

Commissioner Boutros stated:

• Ultimately, in requesting a list, the Commission is asking the Planning Board to commence a limited study without appropriate time or resources.

• He believes the Commission should either accept the currently provided definition or not, and more forward from there.

• He believes a list with sub-items would only further complicate the issue.

Mayor Nickita reminded the Commission the motion on the table was to request further information from the Planning Board so as to clarify the ordinance, and that such a motion could be beneficial so the Commission does not continue to attempt performing work more appropriately carried out by the Planning Board. Mayor Nickita explained to Commissioner Hoff that the intent of the motion was to provide a list of categories that fall within the definition of personal use, and the rationale for the uses' inclusion or exclusion. In this way, the Commission hopes to gain information as to how the ordinance may be more clearly implemented.

Commissioner Hoff stated she believes the motion just delays the Commission's effort towards cultivating vibrant and active streets.

Mayor Nickita replied that, while he agrees the issue has already been more delayed than he expected, this motion would only delay the process by an additional month, with a public hearing at the end of November instead of the end of October. He continued that doing so has the benefit of being as informationally complete as possible.

VOTE: Yeas, 4

Nays, 3 (DeWeese, Harris, Hoff) Absent, 0



TIMOTHY J. CURRIER teurrier@bhlaw.us.com Telephone (248) 645-9400 Fax (248) 645-9344

September 28, 2017

Mr. Joseph A. Valentine, City Manager *City of Birmingham* 151 Martin Street, P.O. Box 3001 Birmingham, MI 48012-3001

Re: Future Use of the Properties in the Downtown Retail District

Dear Mr. Valentine:

Recently, both the City Commission and the Planning Board have been discussing a definition for "personal use" to be added to the Zoning Ordinance with respect to the first floor retail uses downtown. Much conversation has occurred which has left some with impressions that this would affect the current usage of the properties in that area. This requires a bit of explanation in order to hopefully assuage some of the concerns of the citizens.

If such a definition is adopted that would make certain types of office uses not permissible on the first floor retail area in downtown Birmingham, the existing office type uses would be considered pre-existing legal nonconforming uses. As long as the use does not change, they may continue there forever. By way of example, if an office use exists today, it may continue to be used as an office. Should that office use leave, and another office comes in within six (6) months, it may still continue as office space in accordance with Birmingham ordinances and state law. It would be considered pre-existing legal nonconforming. If a new business comes in that is not office use, but is traditional retail, then the grandfathering of the pre-existing legal nonconforming use is gone. Further, if a business leaves and remains vacant for a period of more than six (6) months, the pre-existing legal non-conforming use would also be lost.

The purpose of this letter is to attempt to assure those business that are there today that their rights will not be affected by any addition of a definition of personal service. This is only for future uses of the property pursuant to the circumstances described above.

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

A Professional Corporation Established in 1903

DRAFT Planning Board Minutes October 25, 2017

STUDY SESSION Personal Services Definition

Mr. Share recused himself because he represents a property owner in the Redline Retail District.

Ms. Lazar recused herself because of a familial relationship with a property owner in the Redline Retail District.

Chairman Clein recalled the Planning Board has held several public hearings on the definition of Personal Services, and provided a definition to the City Commission along with a recommendation as to what to do with the definition. The City Commission has asked for support and clarification to help them understand this board's thinking as to why the language was drafted as it was, and for the purpose of having the Planning Board provide the City Commission with their list of uses and categories they think are in or out. The board is not revising the definition, but simply providing clarification and supplemental information to the Commission at their request.

Ms. Ecker said that during the City Commission meeting on September 25, 2017, the Commission expressed concern that the Planning Board had not considered enough sample definitions of personal services in other communities. Based on the concern expressed that more definitions were not discussed, the five sample definitions that were previously shown as options in previous agenda packets are provided, along with 12 additional definitions from other communities to supplement the ones originally selected.

Mr. Williams' view was that the board should send forward all 17 definitions to the City Commission. They all contain sub-categories of lists which may or may not be helpful to the Commission. Ms. Ecker said that staff has gone through categories of uses and put together a list of uses that could be considered personal services, as well as the ones the board has specifically talked about. The City Commission asked for them to be categorized, along with their pros and cons. The two last columns will say "Does the proposed definition include this use in Redline Retail District," and "Does the proposed definition not include this use in Redline Retail District."

Definition of Personal Services

An establishment that is open to the general public and engaged primarily in providing services directly to individual consumers including, but not limited to personal care services, services for the care of apparel and other personal items; but not including business-to-business services, medical, dental, and/or mental health services.

Chairman Clein said the City Commission is unclear on what that definition would allow and they have asked the Planning Board to help them understand how it views the definition. Mr. Williams said the better approach is to give the Commission the 17 communities and give them the list of categories, what the uses are, what the pros are, and what the cons are. The board has not reached consensus on whether a use is within the Personal Services definition or out.

After much deliberation, the board reached mostly unanimity on which uses should be excluded within the Definition of Personal Services:

<u>Uses</u>

Comments

•	Dental Office Medical Office	
•	Physical Therapy	 More a medical use, therefore not personal service
٠	Marketing Services	- Not a personal service
٠	Professional Consulting Services	- Not a personal service
•	Website/Media Services *	 May be both personal and professional service
•	Insurance Services*	 May be both personal and professional service
•	Self-Service Laundry*	- Personal service but may be inappropriate

• Eliminate the Last Two Columns as to whether the Definition includes the use in the Redline Retail District and add a Comment Column which is only filled in on a few uses

* Lack of unanimity because of concerns that it is more office use than actual Personal Service

Move Printing and Copying to Business Services and include it.

Mr. Williams said in hindsight it would have been a better approach to come up with a more generic definition with specific examples and maybe general caveat language for the Building Official, which is what some municipalities have done. Everyone agreed with that comment. Chairman Clein added that the board has put forth its best effort by summarizing concerns, complexity, and providing more detail. Now the City Commission can decide what measure to take.

There were no comments from members of the public at 10:20 p.m.

City of T	Birmingham	MEMORANDUM
		Planning Division
DATE:	November 1, 2017	
TO:	Planning Board	
FROM:	Jana L. Ecker, Planning Director	
SUBJECT:	Personal Services Definitions	

On September 25, 2017, the City Commission considered setting a public hearing to create a definition for personal services in the Downtown Birmingham Overlay District. After much discussion, the City Commission did not set a public hearing date to consider the matter, but asked for the matter to be returned to the Planning Board for the purpose of having the Planning Board provide the City Commission with their list of uses discussed at the joint meeting, and to have that list completed and back to the Commission by November 8, 2017. Further, the City Commission requested that the list include the rationale of the advantages and disadvantages for each category of use. Please see attached minutes. As there was no such list previously created, the Planning Division has prepared a sample list of potential personal service uses along with the pros and cons for potentially allowing such uses in the Redline Retail District for the Planning Board's review. Please find the list attached. The Planning Board should review the types of services included, and determine if any others should be added and be prepared to discuss the potential pros and cons of allowing such uses in the Redline Retail District.

During the City Commission meeting on September 25, 2017, the City Commission expressed concern that the Planning Board had not considered enough sample definitions of personal services in other communities. Planning staff indicated that a number of sample definitions were selected from the research completed to provide the Planning Board with multiple options to consider for Birmingham. Based on the concern expressed that more definitions were not discussed, please find below the 5 sample definitions that were previously provided as options in previous agenda packets (*), along with 12 additional definitions from other communities to supplement the ones originally selected as possible options.

• Bremerton, WA*

 Personal Service Business means an establishment engaged primarily in providing services involving the care of a person or apparel, such as: show repairs, laundry and dry cleaning, beauty and barber shops, clothing/costume rental, tanning, other personal grooming facilities and domestic assistance services. This does not include massage parlors, health care services, exercise establishments, nor funeral services.

• Menlo Park, CA*

o Personal Services: "Personal Services" means barber shops, beauty salons,

launderettes, dry cleaning, shoe repair and other similar service businesses.

- Palo Alto, CA*
 - "Personal Service" means a use providing services of a personal convenience nature, and cleaning, repair or sales incidental thereto, including:
 - Beauty Shops, nail salons, day spas, and barbershops;
 - Self-service laundry and cleaning services; laundry and cleaning pick-up stations where all cleaning or servicing for the particular station is done elsewhere; and laundry and cleaning stations where the cleaning or servicing for the particular station is done on site, utilizing equipment meeting any applicable Bay Area Air Quality Management District requirements, so long as no cleaning for any other station is done at the same site, provided that the amount of hazardous materials stored does not at any time exceed the threshold which would require a permit under Title 17 (Hazardous Material Storage) of this code;
 - Repair and fitting of clothes, shoes, and personal accessories;
 - Quick printing and copying services where printing or copying for the particular shop is done on site, so long as no processing for any other shop is done on the same site; and
 - Art, dance or music studios intended for an individual or small group of persons in a class.

• San Ramon, CA*

- Personal Services: Establishments providing non-medical services to individuals as a primary use. Examples of these uses include:
 - Barber and beauty shops
 - Clothing rental
 - Dry cleaning/laundry pickup stores with limited equipment (no on site plant)
 - Home electronics and small appliance repair
 - Laundromats (self-service laundry)
 - Locksmiths
 - Massage (licensed, therapeutic, non-sexual)
 - Pert grooming with no boarding
 - Shoe repair shops
 - Tailors
 - Tanning salons

These uses may also include accessory retail sales of products related to the services provided

- Personal Services Restricted: Personal services that may tend to have a blighting and/or deteriorating effect upon surrounding areas which may need to be dispersed to minimize adverse impacts. Examples of these uses include:
 - Check cashing stores
 - Fortune tellers

- Palm and card readers
- Pawnshops
- Psychics
- Spas and hot tubs for hourly rental
- Tattoo and body piercing services

• Santa Rosa, CA*

- Personal Services: Establishments providing non-medical services to individuals as a primary use. Examples of these uses include:
 - Barber and beauty shops
 - Clothing rental
 - Dry cleaning pickup stores with limited equipment
 - Home electronics and small appliance repair
 - Laundromats (self-service laundries)
 - Locksmiths
 - Per grooming with no boarding
 - Shoe repair shops
 - Tailors
 - Tanning salons

These uses may also include accessory retail sales of products related to the services provided.

- Personal Services Restricted: Personal services that may tend to have a potentially offensive effect upon surrounding areas and which may need to be dispersed to minimize their adverse effects. Examples of these uses include:
 - Check cashing stores
 - Fortune tellers
 - Palm and card readers
 - Psychics
 - Soup kitchens
 - Spas and hot tubs for hourly rental
 - Tattoo and body piercing services

• Delano, MN

- Personal Service. Personal services shall include the following: barber shops, beauty salon, electrolysis, manicurist, tanning parlor, physical therapy, therapeutic massage, and tattooing.
- Guelph, CA
 - "Personal Service Establishment" means any premises in which is provided services, including, but is not limited to activities, facilities, or treatments for the improvement of a person's physical or psychological health or appearance such as, but not limited to Hair Salons, Tattoo Parlors, Tanning salons, Spas, Electrolysis, Piercing and Aesthetician Salon.

Manistee, MI

 PERSONAL SERVICE ESTABLISHMENT: An establishment engaged in providing services involving the care of a person or his or her personal goods or apparel, including linen supply, beauty shops, barbershops, shoe repair, health clubs and similar facilities.

• New Orleans, LA

 Personal Service Establishment: An establishment primarily engaged in the provision of frequent or recurrent services of a personal nature. Typical uses include, but are not limited to, beauty salons and spas, barbershops, tanning salons, massage establishments, commercial copy shops, animal grooming, show repair, personal item repair shops, laundromats, dry cleaners and tailors. Personal service establishments do not include any adult uses.

• North Las Vegas, NV

 Personal Services: The provision of services generally involving the care of a person or a person's possessions. Personal services may include, but are not limited to, laundry and dry cleaning services, barber shops, beauty salons, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.

• Pasadena, CA

- Personal Services: An establishment providing non-medical services to individuals as a primary use. Examples of these uses include:
 - Barber shops
 - Beauty salons
 - Clothing rental
 - Day/health spa
 - Dry cleaning pick-up stores
 - Fortunetellers, psychics and similar services
 - Hair salons
 - Home electronics and small appliance repair
 - Laundromats (self-service laundries)
 - Nail salons
 - Spas and hot tubs for rent
 - Shoe repair shops
 - Tanning salons
 - Tailors
- Personal Services Restricted: A personal service establishment that may tend to have a blighting and/or deteriorating effect on surrounding areas and that may need to be dispersed from other similar uses to minimize its adverse impacts, including;
 - Check-cashing services
 - Tattooing, piercing, and similar services

• Porterville, CA

 Personal Services: Provisions of recurrently needed services of a personal nature. The classification includes barber and beauty shops, tattoo parlors, seamstresses, tailors, dry cleaning agents (excluding large scale bulk cleaning plants), shoe repair shops, self-service laundries, photocopying and photo finishing services, and travel agencies.

• Romulus, MI

 Personal Service Establishment: A use that performs services on the premises, such as barber and beauty shops; watch, radio, television, clothing and shoe repair shops; tailor photographic studios; locksmiths; and similar establishments requiring some minor retail activity.

• Victoria, CA

• "Personal service" means the use of a building or portion thereof to provide professional grooming services to a person including but not limited to hairstylists, aestheticians and spa services.

• West Bloomfield, MI

 Personal service establishment means and business operated primarily to render services to persons, including but not limited to a barber shop, health spa, beauty salon, repair store, photographic studio, laundry, laundromat, dry cleaning drop-off and pick-up service for off-site dry cleaning only, tailor, dressmaker, personal trainer, caterer, or express mail/courier, or similar personal services. Retail sales of items related to the services being provided is permitted only as an accessory use.

• West Hollywood, CA

- Personal Service: Defined as establishments providing non-medical services as a primary use, including (but not limited to): barber and beauty shops, tanning salons, tattoo parlors, spas, and psychic readers.
- Wylie, TX
 - Personal service use means a facility for the sale of personal services. Personal service uses include, but are not limited to a barber/beauty shop, shoe repair, a tailor, an instructional arts studio, a photographic studio, a handcrafted art work studio, a travel bureau, and duplicating shop.

On October 25, 2017, the Planning Board reviewed the draft chart of potential personal service uses prepared by the Planning Division staff, and made modifications to the pros and cons of each use. In addition, the Planning Board requested that the last two columns be removed and a comments column be added to note where there was not a unanimous opinion of the entire Planning Board. The requested changes have been made, and a column was added to provide examples of existing businesses located in the City that would fall under each category.

On October 30, 2017, the City Commission set a public hearing date for November 13, 2017 to consider the proposed definition of personal services that was forwarded by the Planning Board on August 9, 2017.

Suggested Action:

Review and amend the attached list of potential personal service uses and the pros and cons of allowing each of these uses and forward the completed list to the City Commission for their review at the public hearing on November 13, 2017.

ORDINANCE NO._____

THE CITY OF BIRMINGHAM ORDAINS:

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

TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS, TO ADD A DEFINITION FOR PERSONAL SERVICES, TO ADD A DEFINITION FOR PERSONAL SERVICES.

Personal Services: An establishment that is open to the general public and engaged primarily in providing services directly to individual consumers, including, but not limited to, personal care services, services for the care of apparel and other personal items, but not including business to business services, medical, dental and/or mental health services.

ORDAINED this _____ day of _____, 2017 to become effective 7 days after publication.

Mark Nickita, Mayor

Cherilynn Mynsberge, City Clerk

Category	Uses	Pros	Cons	Comments	Current Examples
Apparel Services	Dry Cleaners	High demand for residents, quick pick up	Possibly poor window presence		Douglas Cleaners
**	Self Service laundry	Possible 24/7 presence on the street, potential for product sale	Parking, long service periods, possibly poor window presence	Personal service, but may be inappropriate	Birmingham Laundromat
	Tailor	Complementary to clothing retailers, products could be sold	Possibly poor window presence		Birmingham Tailor
	Seamstresses	Complementary to clothing retailers, products could be sold	Possibly poor window presence		Alterations by Alice
	Shoe Repair	Complementary to shoe retailers, products could be sold	Possibly poor window presence		Frank's Shoe Service
	Clothing Rental	Product based service, good window presence	Unique niche, low foot traffic		The Tux Shop on Woodward
Arts/Music Services	Dance Studio	May have high activity seen in windows, may sell products to consumers	Parking demand		Birmingham Tango
	Art Restoration	Can be part of an art shop with products for sale	Small niche, low walk in traffic		
	Music School	Service for residents, may sell products	Special noise cancelling measures for office or residential uses above		Axis Music Academy, Detroit Guitar
	Portrait/Photography Studios	May sell products, good window presence	Appointment based, low foot traffic		Seeger Studios, Kate Neville Photography
Beauty Services	Barber Shop	May have activity seen in windows, may sell products	Parking demand		The Barber Pole, Merrillwood Barber & Styling
	Hair Salon	May have activity seen in windows, may sell products	Parking demand		6 Salon, Red Salon
	Nail Salon	Quick service makes for many customers in and out, may sell products	Parking demand		Birmingham Nails
	Tanning	Quick service makes for many customers in and out, may sell products	Poor window presence, products are limited		
	Day Spas	May sell product	Parking demand		Margot's, Be Well Lifestyle Center
	Massage Parlors	May sell product	Possibly poor window presence		Margot's

Business Services	Express Mail/Courier	High volume capability, may sell products, provide service to residents	Increased truck/delivery and parking volume, possibly poor window presence		Former UPS store
*	Marketing Services	Provide service to local businesses	Possibly poor window presence, parking needs for employees, low foot traffic, primarily business- business services	Not a personal service	McCann Detroit, Brogan & Partners
	Printing/Copying services	Quick customer turnover, potential for product sales, provide services to local residents and businesses	Possibly poor window presence		Fedex Kinkos
*	Professional Consulting Services (lawyers, engineers, architects etc.	Provide service to local residents and businesses	Possibly poor window presence, parking needs for employees, low foot traffic, primarily business- business services	Not a personal service	MA Engineering, Mayer Morganroth
**	Website / Media Services	Provide service to local residents and businesses	Possibly poor window presence, parking needs for employees, low foot traffic, primarily business- business services	May be both personal and professional service	Cactus Media, Shift Digital
Financial Services	Banking	High volume necessity, could service many residents			Comerica Bank
**	Insurance Services		Possibly poor window presence, low foot traffic	May be both personal and professional service	Schechter Wealth
Health/Fitness Services	Yoga Studio	May have high activity seen in windows, may sell products to consumers	Parking demand		Yoga Shelter, Center for Yoga
*	Pysical Therapy	Provide service to local residents, may sell products to consumers	Appointment only, parking	More a medical use, thus not a personal service	Be Well Lifestyle Center
	Fitness Classes	May have high activity seen in windows, may sell products to consumers	Parking demand		Powerhouse Gym, Birmingham Barre Studio
Repair Services	Computer Repair	Could service many residents, may sell products	Poor window presence, low demand possible		Birmingham Geek, Dynamic Solutions
	Phone Repair	High demand, may sell products to supplement services	Possibly poor window presence		Batteries Plus Bulbs
	Small Appliance Repair	Unique service	Possibly poor window presence, low foot traffic		
	Jewlery/Watch Repair	Can exist as part of a jewlery store with retail products for sale	Small niche/demand, possibly poor window presence, low foot traffic		Universal Jewelry & Watch Repair, Darakjian Jewelry

	Electronics Repair	Unique service	Possibly poor window presence, low foot traffic	Batteries Plus Bulbs
Other Services	Real Estate Services	High foot traffic	Don't sell items available in storefront, parking needs for employees	Hall & Hunter, Max Brook, Signature Sotheby's
	Travel Agencies	Service to local residents and businesses, good window presence	Parking demand	Departure Travel Management, Jennings Travel Co.

*Unanimous opinion of sitting Planning Board members	** Opinions were not unanimous among the sitting Planning Board
that these are NOT personal services	members as to whether these uses are personal services and/or are
that these are NOT personal services	appropriate uses



1410 South Telegraph Road
Bloomfield Hills, MI 48302
(248) 456-8150
24-Hour Crisis Line 800-231-1127
commongroundhelps.org

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October 31, 2017

Birmingham City Commission City of Birmingham 151 Martin Street Birmingham, MI 48012

Dear City Commissioners,

On behalf of my colleagues and the people we serve, I want to thank you for your decision not to approve the Hot Works Art Show for next year. Common Ground values the partnership we have established with Birmingham over the past 43 years and look forward to continuing what has become a community tradition. This event taking place just a few weeks prior to our event would surely have diminished our attendance and our ability to raise money.

Your stewardship of city resources and support for benefactors such as Common Ground, demonstrate why Birmingham is such an attractive destination in metro Detroit. Thank you again for your support.

Sincerely,

etter Rae

Heather Rae President/CEO













NOTICE OF INTENTION TO APPOINT TO BOARD OF REVIEW

At the regular meeting of Monday, December 4, 2017, the Birmingham City Commission intends to appoint two (2) regular members and one (1) alternate member to serve three-year terms to expire December 31, 2020. Applicants must be property owners and electors of the City of Birmingham.

The Board of Review, consisting of two panels of three local citizens who must be property owners and electors, is appointed by the City Commission for three-year terms. Although a general knowledge of the City is very helpful, more important are good judgment and the ability to listen carefully to all sides of an issue before making a decision. Approximately three weeks in March are scheduled for taxpayers to protest their assessments and one day each in July and December for correcting clerical errors and mutual mistakes of fact. Two training sessions in February are also required.

Interested citizens may submit an application available at the Clerk's office or online at <u>www.bhamgov.org/boardopportunities</u>. Applications must be submitted to the City Clerk's office on or before noon on Wednesday, November 29, 2017. These documents will appear in the public agenda for the regular meeting at which time the City Commission will interview applicants and may make nominations and vote on appointments.

Board members are paid \$110 per diem.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Members must be property owners and electors (registered voters) of the City of Birmingham.	11/29/17	12/04/17

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

R10A1



NOTICE OF INTENTION TO APPOINT TO BIRMINGHAM TRIANGLE DISTRICT CORRIDOR IMPROVEMENT AUTHORITY

At the regular meeting of Monday, December 4, 2017 the Birmingham City Commission intends to appoint one member to the Birmingham Triangle District Corridor Improvement Authority to a four-year term expiring December 15, 2021.

Members shall be appointed by the Mayor, subject to approval by the City Commission.

Not less than a majority of the members shall be persons having an ownership or business interest in property located in the Development Area. Not less than 1 of the members shall be a resident of the Development Area, or of an area within 1/2 mile of any part of the Development Area.

The authority shall operate to correct and prevent deterioration in business districts, to redevelop the City's commercial corridors and promote economic growth, pursuant to Act 280 of the Public Acts of Michigan, 2005, as amended.

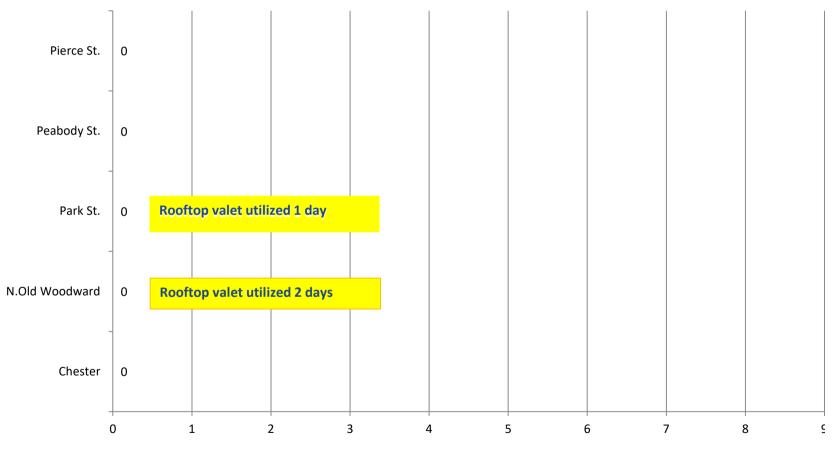
Interested parties may recommend others or themselves for these positions by submitting a form available from the city clerk's office. Applications must be submitted to the city clerk's office on or before noon on Wednesday, August 9, 2017. Applications will appear in the public agenda at which time the commission will discuss recommendations, and may make nominations and vote on appointments.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
A person having an ownership or business interest in property located in the Development Area.		12/14/17

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

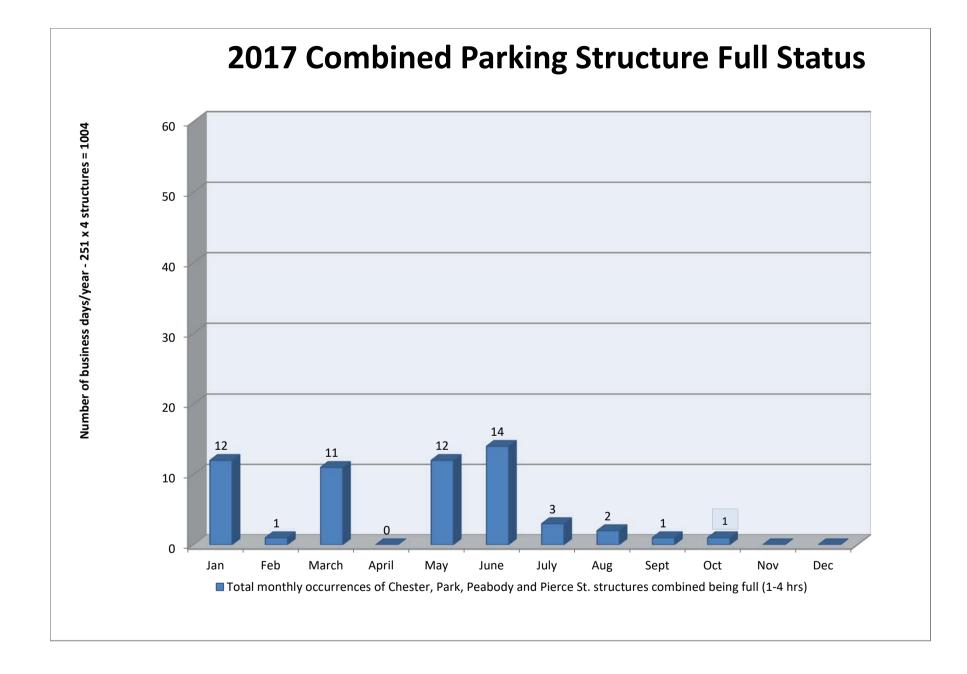
Parking Full Status by Structure

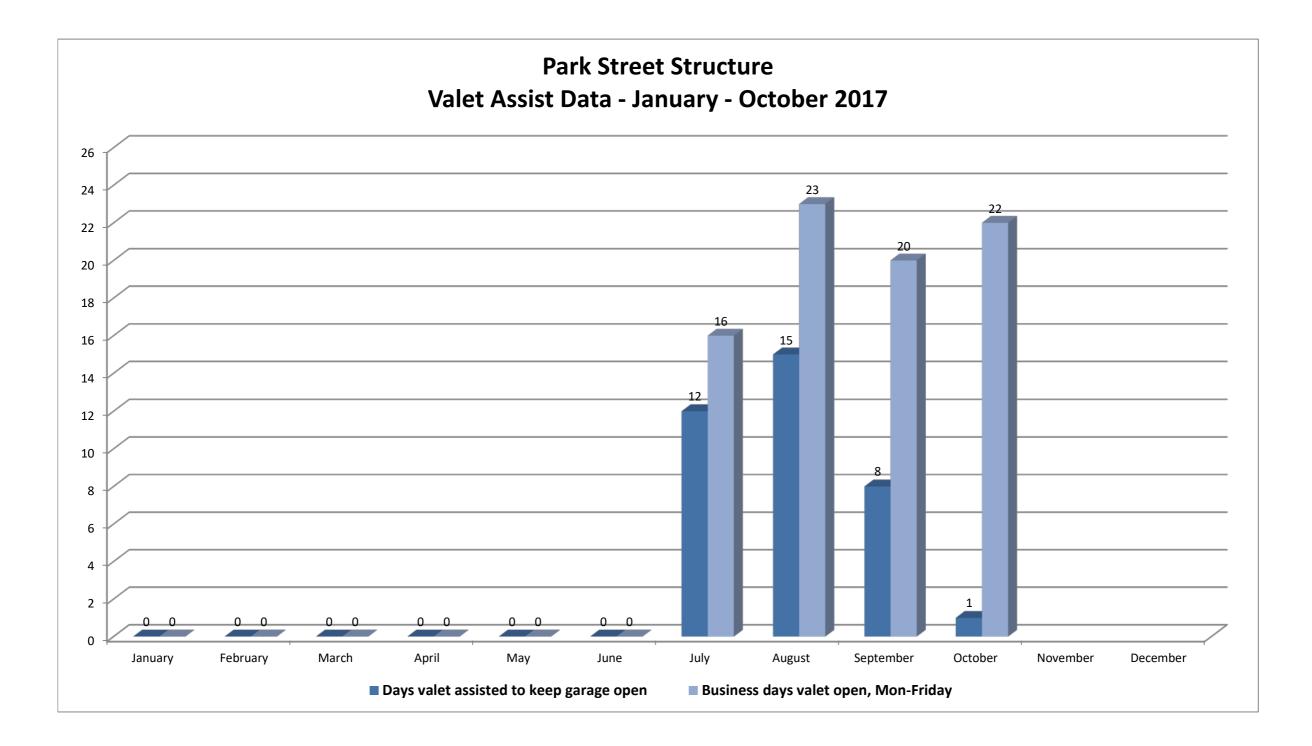
October 2017 Business Days Only (M-Friday)

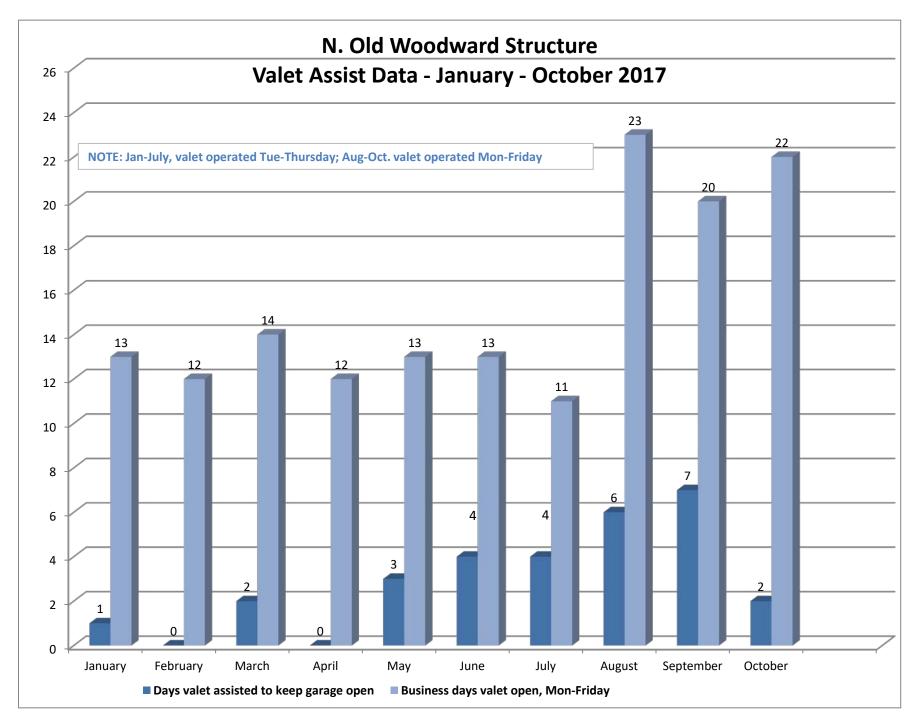


Total Occurrences by structure of being full 1-4 hrs

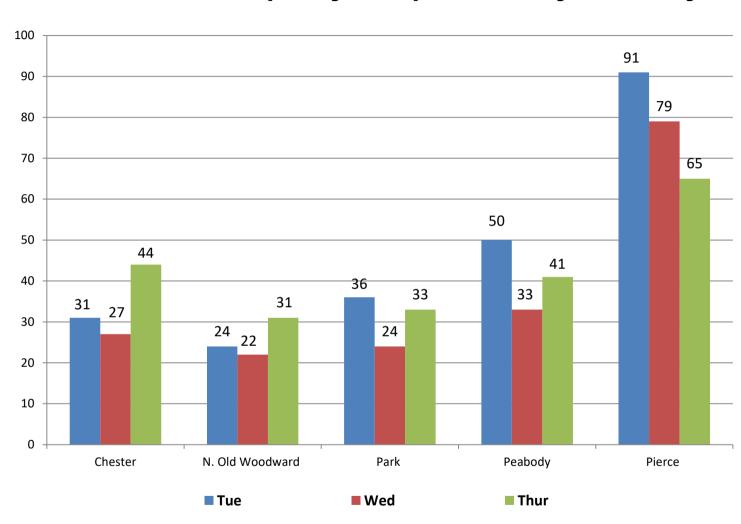
R10E1







Jan-July valet operated Tues-Thursday; August started Mon-Friday



Structure Occupancy at 1 pm Tuesday-Thursday

Pierce Street Structure

Garage full list

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
15		17	10	19	20	21
22	23	24	25	26	27	28
29	30	31				
		Notes: Structure did not fill.				

Peabody Street Structure

Garage full list

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18 FULL @ 11:09A OPEN @12:47p	19	20	21
22	23	24	25	26	27	28
29	30	31				
		Notes:	·			

Chester Street Structure

Garage full list

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
22	23	24	25	20	21	20
29	30	31				
		Notes:		1	1	
		Structure did not fill.				

Park Street Structure

Garage full list

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
	Garage not filled.					
8	9	10	11	12	13	14
	Garage not filled.					
15	16	17	18	19	20	21
	Garage not filled.	-				
22	23	24	25	26	27	28
22	Garage not filled.	Garage not filled.	Garage not filled.	Valet-1 car	Garage not filled.	20
29	30	31				
	Garage not filled.	Garage not filled.				
		Notes:				

N. Old Woodward Garage

Valet Counts

October 2017

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
	Garage not filled.	Garage not filled.	Garage not filled.	12 cars	Garage not filled.	
8	9	10	11	12	13	14
	Garage not filled.					
15	16	17	18	19	20	21
	Garage not filled.	Garage not filled.	2 cars	Garage not filled.	Garage not filled.	
22	23	24	25	26	27	28
	Garage not filled.					
29	30	31				
	Garage not filled.	Garage not filled.				
		Notes:				

	$\mathcal{C} \mathcal{P}$	• 1
TCu	of Du	rmingham
		A Walkable Community

MEMORANDUM

Finance Department

DATE:	November 3, 2017
то:	Joseph A. Valentine, City Manager
FROM:	Mark Gerber, Director of Finance/Treasurer
SUBJECT:	First Quarter Financial Reports

Background

Chapter 7, section 3(b) of the City charter requires the Director of Finance to report on the condition of the City quarterly. Quarterly reports are prepared for the first 3 quarters of the year with the annual audit serving as the 4th quarter report. Only the following funds are reported quarterly because by state law they require a budget: General Fund, Greenwood Cemetery Perpetual Care Fund, Major and Local Street Funds, Solid Waste Fund, Community Development Block Grant Fund, Law and Drug Enforcement Fund, Baldwin Public Library Fund, Principal Shopping District Fund, Brownfield Redevelopment Authority Fund, Triangle District Corridor Improvement Authority Fund, and the Debt Service Fund.

Overview

Attached is the first quarter 2017-2018 fiscal year financial reports. The reports compare budget to actual for the current fiscal year and the prior fiscal year for the same quarter. This allows comparisons between fiscal years as well as percentage of budget received/spent for the year. The budget categories used for each fund are the same ones approved by the Commission when they adopted the budget. Budget discussions that follow will focus on each fund individually.

At this point, 25% of the fiscal year has lapsed.

General Fund

Overall, the activity in the General Fund for fiscal year 2017-2018 is comparable to the prior fiscal. Revenues are approximately \$2,200,000 higher than last year as a result of an increase in property tax revenue. The increase in property tax revenue of approximately \$2,500,000 is primarily the result of property taxes formerly used for debt service of the combined sewer overflow facility bonds in FY 2016-2017 (these bonds were paid off in FY 2016-2017) now being used for General Fund purposes in FY 2017-2018. Licenses and Permits are down approximately \$300,000 from the previous year primarily as a result of a large \$200,000 permit fee received in the first quarter of 2016-2017 and slightly slower building permit activity. Transfers In represents repayment of loans made to the Lincoln Hills golf course for the new clubhouse.

Expenditures in total for the General Fund are approximately the same as the prior year. Engineering and Public Services is approximately \$277,000 less than the previous year primarily as a result of lower sidewalk expenditures through September 30th. Transfers Out is approximately \$300,000 higher than the previous year as a result of higher budgeted transfers to other funds and higher 48th District Court funding levels.

1

R10E2

Greenwood Cemetery Fund

Quarterly revenue from cemetery plot sales was not received until after September 30th. No expenditures have been made so far this fiscal year.

Major Street Fund

Total revenues are approximately \$335,000 more than the previous year. Intergovernmental is approximately \$195,000 higher as a result of receiving October 2017's payment in September 2017 and higher distributions to cities as a result of the new road funding bill. Transfers In increased approximately \$140,000 as a result of a budgeted increase in funding from the General Fund for this fund.

Overall expenditures are similar to the previous fiscal year. Administrative costs are higher as a result of the timing of payment of the audit bill. Payment was made in October in the previous year and in September in the current year.

Local Street Fund

Total revenues for the year are approximately \$88,000 less than the prior year as a result of a decrease in transfers from the General Fund (\$112,000) and receiving October 2017's payment from the state in September (\$40,000).

Total expenditures are approximately \$1,235,000 less than the prior year mainly as a result of timing of construction projects (\$1,300,000). Non-construction expenditures are similar to the previous fiscal year except for road maintenance which increased \$57,000 due to an increase in road patching work performed and administrative where the audit bill was paid in September this year and October the previous year.

Solid Waste Fund

Revenues are comparable to the prior fiscal year.

Expenditures are approximately \$60,000 less than the previous year. This is the result of one less payment being processed to SOCRRA in FY 2017-2018 than in FY 2016-2017 through September 30th.

Brownfield Redevelopment Authority Fund

Revenues are approximately \$88,000 higher compared to the prior as a result of an increase in the number of brownfield projects and increase in taxable values captured.

Expenditures are slightly higher in the current fiscal year through September 30th as a result of legal fees and payments to developers for reimbursement of environmental remediation costs.

Principal Shopping District

Total revenues and expenditures are comparable to the previous fiscal year.

Community Development Block Grant Fund

Revenue and expenditures are higher in the current year due to timing of invoices received from Next for senior services.

Triangle District Corridor Improvement Authority

Development opportunities are ongoing with private land owners and developers in the Triangle District.

Law and Drug Enforcement Fund

Revenue and expenditures are comparable to the previous fiscal year.

Baldwin Library

Revenue has increased approximately \$160,000. This is the result of an increase in the property tax revenue as a result of an increase in taxable value.

Expenditures are higher than the prior fiscal year as a result of an increase in salary and equipment costs as well as website design and installation costs in the new adult services room.

Debt Service Fund

Revenues and expenditures are slightly higher as a result of scheduled debt service costs for the year compared to the previous year. As a result of refinancing the debt, this fund is saving approximately \$130,000 compared to what it would have spent this fiscal year.

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT GENERAL FUND QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

	2017-2018			2016-2017			
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET	
	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED	
REVENUES:							
USE OF FUND BALANCE	483,050	-	0%	374,358	-	0%	
TAXES	23,591,500	23,562,127	100%	21,081,640	21,031,351	100%	
LICENSES AND PERMITS	3,134,260	540,650	17%	3,070,540	859,055	28%	
INTERGOVERNMENTAL	2,014,620	46,548	2%	2,078,000	55,732	3%	
CHARGES FOR SERVICES	2,873,130	639,227	22%	2,800,400	675,026	24%	
FINES AND FORFEITURES	1,744,940	100,313	6%	1,686,060	104,403	6%	
INTEREST AND RENT	294,290	46,975	16%	275,810	30,433	11%	
OTHER REVENUE	108,090	28,068	26%	240,740	25,425	11%	
TRANSFERS IN	100,000	25,000	25%			0%	
TOTAL REVENUES	34,343,880	24,988,908	73%	31,607,548	22,781,425	<u>72</u> %	
EXPENDITURES:							
GENERAL GOVERNMENT	5,503,600	1,017,099	18%	5,332,820	1,110,444	21%	
PUBLIC SAFETY	12,559,870	2,813,193	22%	12,813,418	2,858,030	22%	
COMMUNITY DEVELOPMENT	3,390,720	564,176	17%	2,596,980	541,908	21%	
ENGINEERING AND PUBLIC SERVICES	6,183,120	952,010	15%	4,714,330	1,228,719	26%	
TRANSFERS OUT	6,706,570	1,703,302	25%	6,150,000	1,402,452	23%	
TOTAL EXPENDITURES	34,343,880	7,049,780	<u>21</u> %	31,607,548	7,141,553	<u>23</u> %	

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT GREENWOOD CEMETERY FUND QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

		2017-2018			2016-2017	
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET
	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED
REVENUES:						
CHARGES FOR SERVICES	200,000	-	0%	360,000	-	0%
INTEREST AND RENT	11,600	2,474	21%	2,720	363	13%
TRANSFERS IN	20,000	20,000	100%			0%
TOTAL Revenues	231,600	22,474	10%	362,720	363	0%
EXPENDITURES:						
OTHER CONTRACTUAL SERVICE	20,000		0%			
TOTAL EXPENDITURES		-			-	

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT MAJOR STREETS QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

	2017-2018			2016-2017			
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET	
	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED	
REVENUES:	1 000 200		0%			0%	
USE OF FUND BALANCE	1,096,260	-	0%	965,986	-	0%	
INTERGOVERNMENTAL	1,397,260	436,882	31%	1,153,830	241,355	21%	
INTEREST AND RENT	8,100	3,617	45%	7,540	2,080	28%	
OTHER REVENUE	56,370	200	0%	401,360	-	0%	
TRANSFERS IN	2,100,000	525,000	25%	1,550,000	387,500	25%	
TOTAL REVENUES	4,657,990	965,699	<u>21</u> %	4,078,716	630,935	<u>15</u> %	
EXPENDITURES:							
ADMINISTRATIVE	18,200	6,355	35%	18,690	3,840	21%	
TRAFFIC CONTROLS & ENGINEERING	710,520	24,873	4%	382,990	26,706	7%	
CONSTRUCTION OF ROADS & BRIDGES	2,795,110	191,938	7%	2,622,686	149,260	6%	
MAINTENANCE OF ROADS & BRIDGES	377,140	58,483	16%	308,060	75,202	24%	
STREET CLEANING	173,690	46,937	27%	132,060	38,945	29%	
STREET TREES	241,870	45,981	19%	241,450	45,288	19%	
SNOW AND ICE REMOVAL	341,460	12,148	4%	372,780	12,752	3%	
TOTAL EXPENDITURES	4,657,990	386,715	8%	4,078,716	351,993	<u>9</u> %	

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT LOCAL STREETS QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

	2017-2018			2016-2017			
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET	
	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED	
REVENUES: USE OF FUND BALANCE	669,505		0%	202,694	-	0%	
INTERGOVERNMENTAL	513,498	- 177,579	35%	484.890	- 147.895	31%	
INTEREST AND RENT	36,330	2,624	7%	15,050	2,616	17%	
OTHER REVENUE		,	1%			3%	
	396,000	5,284		358,310	10,314		
TRANSFERS IN	2,200,000	550,000	25%	2,650,000	662,500	25%	
TOTAL REVENUES	3,815,333	735,487	<u>19</u> %	3,710,944	823,325	<u>22</u> %	
EXPENDITURES:							
ADMINISTRATIVE	25,600	8,205	32%	26,370	5,760	22%	
TRAFFIC CONTROLS & ENGINEERING	68,990	16,199	23%	64,570	17,221	27%	
CONSTRUCTION OF ROADS & BRIDGES	1,497,903	48,621	3%	2,096,544	1,350,555	64%	
MAINTENANCE OF ROADS & BRIDGES	1,294,160	221,281	17%	375,480	164,070	44%	
STREET CLEANING	240,940	43,284	18%	184,470	39,071	21%	
STREET TREES	498,640	120,510	24%	499,440	116,460	23%	
SNOW AND ICE REMOVAL	189,100	9,615	5%	204,640	9,759	5%	
TOTAL EXPENDITURES	3,815,333	467,715	<u>12</u> %	3,451,514	1,702,896	<u>49</u> %	

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT SOLID WASTE QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

	2017-2018			 2016-2017			
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET	
	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED	
REVENUES:							
USE OF FUND BALANCE	85,720	-	0%	10,310	-	0%	
TAXES	1,820,000	1,824,964	100%	1,820,000	1,824,498	100%	
INTERGOVERNMENTAL	4,500	-	0%	-	-	0%	
CHARGES FOR SERVICES	9,600	4,538	47%	22,400	5,702	25%	
INTEREST AND RENT	14,460	1,899	13%	10,040	1,320	13%	
OTHER REVENUE		25	0%		55	0%	
TOTAL REVENUES	1,934,280	1,831,426	<u>95</u> %	1,862,750	1,831,575	<u>98</u> %	
EXPENDITURES:							
PERSONNEL COSTS	152,320	19,057	13%	152,810	16,204	11%	
SUPPLIES	10,000	790	8%	8,500	1,587	19%	
OTHER CHARGES	1,761,960	268,381	15%	1,681,440	330,853	20%	
CAPITAL OUTLAY	10,000	663	7%	20,000		0%	
TOTAL EXPENDITURES	1,934,280	288,891	<u>15</u> %	1,862,750	348,644	<u>19</u> %	

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT BROWNFIELD REDEVELOPMENT FUND QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

		2017-2018			2016-2017	
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET
	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED
REVENUES:						
USE OF FUND BALANCE	-	-	0%	-	-	0%
TAXES	328,500	328,500	100%	243,230	243,230	100%
CHARGES FOR SERVICES	3,000	-	0%	3,000	1,500	50%
INTEREST AND RENT	1,130	370	33%	1,500	245	16%
OTHER REVENUE	20,600	4,488	22%	20,000	630	3%
TRANSFERS IN			0%			0%
TOTAL REVENUES	353,230	333,358	<u>94</u> %	267,730	245,605	<u>92</u> %
EXPENDITURES	220.460	12 520	40/	262 220	2 2 4 1	10/
EXPENDITURES	329,460	12,530	<u>4%</u>	263,230	3,341	<u>1%</u>

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT PRINCIPAL SHOPPING DISTRICT QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

	2017-2018			2016-2017			
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET	
	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED	
REVENUES:							
USE OF FUND BALANCE	204,140	-	0%	43,690	-	0%	
SPECIAL ASSESSMENTS	901,970	-	0%	887,800	-	0%	
INTEREST AND RENT	3,900	820	21%	8,020	760	9%	
OTHER REVENUE	190,000	88,812	47%	180,000	96,511	54%	
TOTAL REVENUES	1,300,010	89,632	<u>7</u> %	1,119,510	97,271	9%	
			—			—	
EXPENDITURES	1,300,010	256,320	<u>20%</u>	1,119,510	280,756	<u>25%</u>	

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT COMMUNITY DEVELOPMENT BLOCK GRANT QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

	2017-2018			2016-2017			
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET	
	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED	
INTERGOVERNMENTAL REVENUE	32,020	4,745	<u>15</u> %	31,340		<u>0</u> %	
EXPENDITURES	32,020	4,745	<u>15%</u>	31,340		<u>0%</u>	

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT TRIANGLE DISTRICT CORRIDOR IMPROVEMENT AUTHORITY QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

	2017-2018			2016-2017			
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET	
	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED	
REVENUES:							
USE OF FUND BALANCE	-	-	0%	-	-	0%	
PROPERTY TAXES	-	-	0%	90,000	-	0%	
INTEREST AND RENT	100	28	28%	520	22	4%	
TOTAL REVENUES	100	28	<u>28</u> %	90,520	22	<u>0</u> %	
EXPENDITURES			<u>0%</u>	20,000		<u>0%</u>	

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT LAW & DRUG ENFORCEMENT FUND QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

	2017-2018			2016-2017			
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET	
	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED	
REVENUES:							
USE OF FUND BALANCE	-	-	0%	-	-	0%	
FINES & FORFEITURES	35,000	-	0%	37,500	1,709	5%	
INTEREST AND RENT	1,020	176	17%	720	109	15%	
TOTAL REVENUES	36,020	176	0%	38,220	1,818	<u>5</u> %	
						_	
EXPENDITURES:							
PUBLIC SAFETY	-	-	0%	-	-	0%	
CAPITAL OUTLAY	5,950		0%	8,500		0%	
TOTAL EXPENDITURES	5,950	-	0%	8,500	-	0%	
			-			-	

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT BALDWIN LIBRARY QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

	2017-2018			2016-2017			
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET	
	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED	
REVENUES:							
USE OF FUND BALANCE	-	-	0%	1,210,260	-	0%	
TAXES	3,103,390	3,118,336	100%	2,936,970	2,951,377	100%	
INTERGOVERNMENTAL	978,610	-	0%	950,810	-	0%	
CHARGES FOR SERVICES	95,350	22,005	23%	96,240	25,774	27%	
INTEREST AND RENT	11,000	1,873	17%	16,500	2,449	15%	
OTHER REVENUE	-	-	0%	200,000	-	0%	
TOTAL REVENUES	4,188,350	3,142,214	<u>75</u> %	5,410,780	2,979,600	<u>55</u> %	
EXPENDITURES	3,483,320	788,130	<u>23%</u>	5,410,780	712,409	<u>13%</u>	

CITY OF BIRMINGHAM QUARTERLY BUDGET REPORT DEBT SERVICE FUND QUARTER ENDED: SEPTEMBER 30, 2017 AND SEPTEMBER 30, 2016 % OF FISCAL YEAR COMPLETED: 25%

		2017-2018			2016-2017	
	AMENDED	YEAR-TO-DATE	% OF BUDGET	AMENDED	YEAR-TO-DATE	% OF BUDGET
INTERGOVERNMENTAL	BUDGET	ACTUAL	USED	BUDGET	ACTUAL	USED
REVENUES:						
USE OF FUND BALANCE	-	-	0%	-	-	0%
TAXES	1,648,700	1,648,668	100%	1,626,220	1,625,793	100%
INTERGOVERNMENTAL	4,000	-	0%	4,000	-	0%
INTEREST AND RENT	2,990	1,179	39%	2,380	781	33%
TOTAL REVENUES	1,655,690	1,649,847	100%	1,632,600	1,626,574	100%
EXPENDITURES	1,650,950	1,492,950	<u>90%</u>	1,627,600	1,401,951	<u>86%</u>
	1,000,900	1,492,930	5070	1,027,000	1,401,931	00/0



RECEIVED BY NOV 7 2017 CITY CLERK'S OFFICE CITY OF BIRMINGHAM

November 2, 2017

Ms. Cherilynn Brown, Clerk City of Birmingham 151 Martin St. Birmingham, MI 48012-3001

Re: International Channel Package Launch

Dear Ms. Brown:

We are pleased to share another enhancement we are making to our Xfinity TV offerings.

Comcast will launch up to 42 international channels and up to 30 new international packages beginning on or around December 6, 2017. This launch will give customers access to more international content such as Bollywood movies, Brazilian telenovelas and Chinese news, to name a few.

Xfinity TV customers who would like to purchase these new international offerings will need the necessary equipment to access this cable programming, e.g. X1 or the Xfinity Beta App on Roku.

When these new international channels and packages launch, we will have a dedicated landing page - xfinity.com/moreinternational, which will provide additional information in early December.

As always, feel free to contact me directly at 734-254-1557 with any questions you may have.

Sincerely

Kyle **X**. Mazurek Manager of External Affairs Comcast, Heartland Region 41112 Concept Drive Plymouth, MI 48170

INFORMATION ONLY

STATE OF MICHIGAN BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION RECEIVED BY

NOTICE OF HEARING FOR THE ELECTRIC CUSTOMERS OF DTE ELECTRIC COMPANY CASE NO. U-18403

OCT 2 3 2017

CITY CLERK'S OFFICE

- DTE Electric Company requests Michigan Public Service Commission (Commission) for authority to implement a power supply cost recovery plan in its rate schedules for 2018 Metered Jurisdictional Sales of Electricity. DTE Electric is seeking Commission approval to include a maximum PSCR Factor of a negative 0.87 mills per kWh in PSCR customers' bills for the period January 1, 2018 through December 31, 2018.
- The information below describes how a person may participate in this case.
- You may call or write, DTE Electric Company, One Energy Plaza, Detroit, Michigan 48226-1279, (800) 477-4747 for a free copy of its application. Any person mayreview the application at the offices of DTE Electric Company.
- The first public hearing in this matter will be held:

DATE/TIME:	Tuesday, November 28, 2017, at 9:00 A.M. This hearing will be a prehearing conference to set future hearing dates and decide other procedural matters.
BEFORE:	Administrative Law Judge Suzanne D. Sonneborn
LOCATION:	Michigan Public Service Commission 7109 West Saginaw Highway Lansing, Michigan 48909
PARTICIPATION:	Any interested person may attend and participate. The hearing site is accessible, including handicapped parking. Persons needing any accommodation to participate should contact the Commission's Executive Secretary at (517) 284-8090 in advance to request mobility, visual, hearing or other assistance.

The Michigan Public Service Commission (Commission) will hold a hearing to consider DTE Electric Company's September 28, 2017 application for authority to implement a power supply cost recovery plan in its rate schedules for 2018 metered jurisdictional sales of electricity. DTE Electric is seeking Commission approval to include a maximum PSCR Factor of a negative 0.87 mills per kWh in PSCR customers' bills for the period January 1, 2018 through December 31, 2018. Also, to approve DTE Electric's request for Commission review and approval of the expense associated with DTE Electric's agreements with NEXUS Gas Transmission, which is a pipeline enterprise partly owned by a DTE Energy affiliate, to provide firm natural gas transportation for 30,000 Dth per day with an assumed in-service date of September 1, 2018, increasing to 75,000 Dth per day when DTE Electric has added a CCGT power plant.

INFORMATION ONLY