



**CITY COMMISSION MEETING AGENDA
DECEMBER 11, 2017
7:30 PM**



Municipal Building, 151 Martin, Birmingham, MI 48009

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BIRMINGHAM CITY COMMISSION AGENDA
DECEMBER 11, 2017
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Andrew M. Harris, 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:

- County Commissioner Shelly Goodman Taub
- Bicentennial Museum Exhibit
- Carroll DeWeese – World Para Athletics International Officials Panel
- Remember that the Santa House will be open for visitors in the pavilion area in Shain Park, and that carriage rides will be offered through town on select days through December 24th. Visit www.enjoybirmingham.com for the Santa House and carriage ride schedules.
- The public review period for all interested parties to review the draft 2018 Parks and Recreation Master Plan for the City of Birmingham is underway now. Copies of the draft plan are available for review in all city offices and on www.bhamgov.org/ParksRecPlan.
- City offices will be closed on Friday, December 22nd, Friday, December 29th, 2017 and Monday, January 1st, 2018. The locked dropbox may be used for all payments during that time, and can be accessed in the Municipal Building parking lot (entrance on Henrietta).

Appointments:

- A. Interview for Historic District Commission
 - 1. Adam Charles
 - B. Appointment to the Historic District Commission
 - 1. To appoint _____, to the Historic District Commission as a regular member to serve the remainder of a three-year term to expire September 25, 2018.
 - C. Appointment of Commission Member as BYA liaison
 - 1. Resolution appointing _____ as a liaison member of the Birmingham Youth Assistance General Citizens Committee
- OR**
- Resolution taking no action
 - D. Administration of Oath of Office to Appointees

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 meeting minutes of December 4, 2017.
- B. Approval of warrant list, including Automated Clearing House payments, dated 12/6/17 in the amount of \$393,575.66.
- C. Resolution setting Monday, January 22, 2018 at 7:30 PM for a public hearing to consider an application for a Special Land Use Permit Amendment and Final Site Plan for First Presbyterian Church at 1669 W. Maple.
- D. Resolution authorizing the IT department to purchase the Traps Anti Virus subscription renewal from CDWG. The purchase price not to exceed \$6,864.00. Funds are available in the IT Computer Software fund account # 636-228.000-742.0000.
- E. Resolution authorizing the IT department to purchase the Security subscription renewal for the Palo Alto Firewall from Amerinet. The purchase price not to exceed \$12,857.60. Funds are available in the IT Network Upgrade fund account # 636-228.000-973.0400.
- F. Resolution approving the service agreement extension with Highway Maintenance & Construction, Inc. for cape seal maintenance services related to the 2018 summer cape seal program – contingent upon the results of the related public hearing of necessity and confirmation of the special assessment roll – in amounts not to exceed the per-unit pricing as submitted and as follows: single chip seal \$1.70/sq. yd., double-chip seal \$3.13/sq. yd., slurry seal \$2.61/sq. yd., street preparation \$395/ton, and manhole adjustment \$550/each; further, directing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of proper insurances.
- G. Resolution approving the service agreement with Agroscaping, Inc. of Swartz Creek, MI for the purchase and installation of permeable pavers at the intersection of Lincoln and Pierce streets in an amount not to exceed \$8250.00 from the Local Streets Fund, Contract Maintenance account #203-449.003-937.0400.

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

- A. Public Hearing to consider a Special Land Use Permit Amendment and Final Site plan - 210 S. Old Woodward – Vinoteca
 - 1. Resolution approving a Special Land Use Permit Amendment and Final Site Plan for Vinoteca at 210 S. Old Woodward to allow for a name and concept change from the previous restaurant as recommended by the Planning Board on November 8, 2017. (complete resolution in agenda packet)
- B. Public Hearing to consider a Special Land Use Permit Amendment and Final Site Plan - 220 Restaurant at 220 E. Merrill
 - 1. Resolution approving a Special Land Use Permit Amendment and Final Site Plan for 220 Restaurant at 220 E. Merrill to utilize the lower level of the building as an extension of the 220 Restaurant. (complete resolution in agenda packet)
- C. Resolution accepting the Donation Agreement between the City of Birmingham and the Birmingham Little League in the amount of \$303,000 for improvements as it relates to Fields #2 and #3 at Kenning Park. Further, authorizing the City Manager to execute the Donation Agreement on behalf of the City.
- D. Resolution receiving the 2018 proposed budget from the 48th Judicial District Court; and further, approving the budget as submitted.
- E. Resolution approving the recommendations of the Public Arts Board and Parks and Recreation Board to accept a 5 year loan of the sculpture, Windswept, by Gary Kulak, and approving the proposed location for installation in the triangular open space in Barnum Park;

AND

Resolution approving the Access and Maintenance Agreement with Gary Kulak and further directing the Mayor and City Clerk to sign the agreement on behalf of the City;

OR

Resolution declining the 5 year loan of the sculpture, Windswept, by Gary Kulak.

- F. Resolution amending the Schedule of Fees, Charges, Bonds and Insurance, City Clerk's section, and Community Development Department section, as stated in the report.

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

X. REPORTS

- A. Commissioner Reports
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
- 1. PSD Special Assessment, 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 [\(248\) 530-1880](tel:248-530-1880) por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).



NOTICE OF INTENTION TO APPOINT TO HISTORIC DISTRICT COMMISSION

At the regular meeting of Monday, August 14, 2017 the Birmingham City Commission intends to appoint two regular members to the Historic District Commission to serve three-year terms to expire September 25, 2020, and one regular member to serve the remainder of a three-year term to expire September 25, 2018.

Padraic Mullin did not attend the August 14, 2017 meeting, and the Clerk's Office was unsuccessful in contacting him. Doug Burley and Keith Deyer were appointed to the two regular, full terms, to expire September 25, 2020. The remainder of a three-year term to expire September 25, 2018 was left vacant.

The function and duty of the Historic District Commission is to advise the City Commission with respect to the proper development of the city with primary emphasis upon the city's established historic districts, sites, properties and historic resources. The Commission is also authorized to recommend for the guidance of the City Commission amendments to the City Code relating to the control and development of lands within historic districts.

Applicant(s) Presented For City Commission Consideration:

Applicant Name	Criteria/Qualifications
Adams James Charles 1539 Bennaville	<ul style="list-style-type: none">• A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation.• Must be a resident Builder

Mr. Charles currently serves as an alternate member of the Historic District Commission. If appointed as a regular member, he will need to resign from the alternate position.

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

SUGGESTED ACTION:

To appoint _____, to the Historic District Commission as a regular member to serve the remainder of a three-year term to expire September 25, 2018.



HISTORIC DISTRICT COMMISSION

Ordinance #1880

Terms: 3 years

Members: A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. Two members shall be appointed from a list submitted by duly organized local historic preservation organizations. If available, one member shall be an architect who has two years of architectural experience or who is duly registered in the State of Michigan.

Duties: The function and duty of the Historic District Commission is to advise the City Commission with respect to the proper development of the city with primary emphasis upon the city's established historic districts, sites, properties and historic resources. The Commission is also authorized to recommend for the guidance of the City Commission amendments to the City Code relating to the control and development of lands within historic districts.

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
Burley	Doug	(248) 761-9905 <i>doug.burley@outlook.com</i>	8/14/2017	9/25/2020
Chapnick	Josh	(248) 881-6571 <i>josh.chapnick@gmail.com</i>	2/27/2017 Student Representative	12/31/2017
Charles	Adam	(248) 672-3486 <i>mradamcharles@gmail.com</i>	11/21/2016 Alternate	9/25/2019
Deyer	Keith	(248) 642-6390 <i>kwdeyer@comcast.net</i>	9/25/2006	9/25/2020
Dukas	Natalia	(248) 885-8535 <i>nataliadukas@yahoo.com</i>	9/9/2013	9/25/2019

Last Name Home Address	First Name	Home Business E-Mail	Appointed	Term Expires
Fuller 255 Pierce	Dulce	(248) 245-4000 <i>d@woodwardandmaple.com</i>	10/27/2016 Alternate	9/25/2019
Henke 724 South Bates	John	(248) 789-1640 <i>jwhenke@aol.com</i>	9/25/2006 historical preservation organization member	9/25/2018
Pfaff 2150 Northlawn	Griffin	(248) 514-3324 <i>fintpfaff@yahoo.com</i>	2/27/2017 Student Representative	12/31/2017
Trapnell 660 Smith Ave	Thomas	(313) 568-6712 <i>ttrapnell@dykema.com</i>	4/27/2015	9/25/2018
Vacant				9/25/2018
Willoughby 667 Greenwood	Michael	(248) 760-8903 <i>mwilloughby@mwa-architects.com</i>	3/22/2010 architect	9/25/2019

Board/Committee:

Historic District

Year: 2017

MEMBER NAME	1/4	1/18	2/1	2/15	3/1	3/15	4/5	4/19	5/3	5/17		Total Mtgs. Att.	Total Absent	Percent Attend
REGULAR MEMBERS														
Mark Coir	NM	NM	P	A	P	NM	NM	P	P	NM		4	1	80%
Keith W. Deyer	NM	NM	P	P	A	NM	NM	A	A	NM		2	3	40%
Natalia Dukas	NM	NM	P	P	P	NM	NM	P	P	NM		5	0	100%
John Henke III	NM	NM	P	P	P	NM	NM	P	A	NM		4	1	80%
Thomas Trapnell	NM	NM	P	P	A	NM	NM	P	P	NM		4	1	80%
Shelli Weisberg	NM	NM	A	A	P	NM	NM	P	P	NM		3	2	60%
Michael Willoughby	NM	NM	P	P	P	NM	NM	P	P	NM		5	0	100%
Josh Chapnick (student rep.)	NM	NM	P	P	P	NM	NM	P	P	NM		5	0	100%
Griffin Pfaff (student rep.)	NM	NM	P	P	P	NM	NM	P	P	NM		5	0	100%
ALTERNATES														
Dulce Fuller	NM	P	A	A	A	NM	NM	A				1	4	20%
Adam Charles	NM	A	A	P	A	NM	NM	P	PA			2	3	40%
Members in attendance	0	1	8	8	7	0	0	9	7	0				

CITY BOARD/COMMITTEE ATTENDANCE RECORD

Board/Committee:

Historic District

Year: 2017

MEMBER NAME	6/7	6/21	7/5	7/19	8/2	8/16	9/6	10/18	11/1	11/15	12/6	Total Mtgs. Att.	Total Absent	Percent Attend
REGULAR MEMBERS														
Mark Coir	NM	A	NM	P	NM	A	X	X	X	x	x	1	2	33%
Doug Burley								P		P	NM			
Keith W. Deyer	NM	P	NM	P	NM	A	NM	A	NM	P	NM	3	2	60%
Natalia Dukas	NM	P	NM	A	NM	A	NM	A	NM	A	NM	1	4	20%
John Henke III	NM	P	NM	P	NM	P	NM	P	NM	A	NM	4	1	80%
Thomas Trapnell	NM	A	NM	P	NM	P	NM	P	NM	A	NM	3	2	60%
Shelli Weisberg	NM	P	NM	P	NM	P	X	X	X	X	X	3	0	100%
Michael Willoughby	NM	P	NM	P	NM	P	NM	P	NM	P	NM	5	0	100%
Josh Chapnick (student rep.)	NM	A	NM	A	NM	A	NM	A	NM	A	NM	0	5	0%
Griffin Pfaff (student rep.)	NM	A	NM	A	NM	A	NM	A	NM	A	NM	0	5	0%
ALTERNATES														
Dulce Fuller	NM	P	NM	P	NM	A	NM	A	NM	P	NM	3	2	60%
Adam Charles	NM	A	NM	P	NM	P	NM	A	NM	P	NM	3	2	60%
Members in attendance	0	6	0	8	0	5	0	4	0	5				

0

KEY:

P = Present

NM = No Meeting

Department Head Signature

RECEIVED BY

NOV 15 2017

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

APPLICATION FOR CITY BOARD OR COMMITTEE

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

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

(Please print clearly)

Board/Committee of Interest Historic District Commission

Specific Category/Vacancy on Board _____

Name Adam James Charles

Phone 248-672-3486

Residential Address 1539 Bennaville

Email mradamcharles@gmail.com

Residential City, Zip Birmingham, MI

Length of Residence 3.5 years

Business Address 33694 Woodward Ave.

Occupation Builder

Business City, Zip Birmingham, MI

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied TO
use my experience in construction to serve my community.

List your related employment experience I currently serve as an alternate on this board.

List your related community activities Served on the board of Building Trade Appeals.

List your related educational experience Bachelor's degree in Construction Management,

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

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

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

Adam J. Charles
Signature of Applicant

11/15/2017
Date

RECEIVED BY

NOV 15 2017

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

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(Please print clearly)

Board/Committee of Interest Historic District Commission

Specific Category/Vacancy on Board _____

Name Adam James Charles

Phone 248-672-3486

Residential Address 1539 Bennaville

Email mradamcharles@gmail.com

Residential City, Zip Birmingham, MI

Length of Residence 3.5 years

Business Address 33694 Woodward Ave.

Occupation Builder

Business City, Zip Birmingham, MI

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied TO
use my experience in construction to serve my community.

List your related employment experience I currently serve as an alternate on this board.

List your related community activities Served on the board of Building Trade Appeals.

List your related educational experience Bachelor's degree in Construction Management,

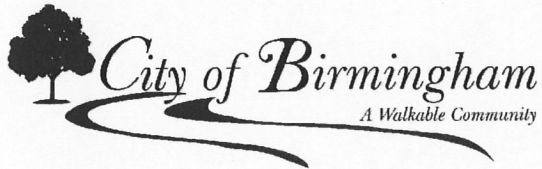
To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: NO

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

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

Adam J. Charles
Signature of Applicant

11/15/2017
Date



MEMORANDUM

Office of the City Manager

DATE: December 5, 2017

TO: Joseph A. Valentine, City Manager

FROM: Joellen Haines, Assistant to the City Manager

SUBJECT: Appointment of City Commissioner as Liaison to the Birmingham Youth Assistance (BYA) General Citizens Committee (GCC).

The City Manager's Office received the attached letter dated November 21, 2017 requesting the Birmingham City Commission appoint one its members to serve as a liaison member on the Birmingham Youth Assistance (BYA) General Citizens Committee (GCC). The Commission has studied the relationships for commission appointments to outside agencies and has adopted an opinion from the Ethics Board governing such appointments. See the enclosed documents.

The BYA is requesting a non-voting liaison member to share information with the city about their organization.

The following resolution has been prepared regarding appointment of a city commissioner as a liaison to the Birmingham Youth Assistance General Citizens Committee.

SUGGESTED RESOLUTION:

To appoint _____ as a liaison member of the Birmingham Youth Assistance General Citizens Committee,
OR

To take no action.



Birmingham Youth Assistance

2436 West Lincoln, Ste. F102
Birmingham, MI 48009
(248) 203-4300 FAX: (248) 203-4301
office@birminghamyouthassistance.org
www.birminghamyouthassistance.org

Co-Chairperson

Shelley Goodman Taub

Co-Chairperson

Jill Reichenbach Fill

Vice Chairperson

David Wind

Secretary

Christine Gannon

Treasurer

Richard Stasys

Past Chairperson

Reuben Myers

Caseworker

Cathy Womack

Members

Andrew G. Acho

Judith Adelman

Roy Bishop

Caitlin Buscemi

Det. Lee Davis

Mary Jo Dawson

Russ Facione

Jill Reichenbach Fill

Christine Gannon

Jason Gross

Ann Nazareth Manning

Reuben Myers

Dr. Daniel Nerad

Det. Mike Romanowski

Vicki Sower

Richard Stasys

Shelley Goodman Taub

David Walker

David Wind

Adrienne Young

Advisory Members

Sheriff Michael Bouchard

Jason Clinkscale

A. Randolph Judd

Susan and Dave Rogers

Rachel Rotger

November 21, 2017

Joseph A. Valentine

City Manager

City of Birmingham

151 Martin Street

Birmingham, MI 48009

Dear Mr. Valentine,

Birmingham Youth Assistance respectfully requests the Birmingham City Commission appoint one of its members to serve as a liaison member on the Birmingham Youth Assistance (BYA) General Citizens Committee (GCC).

The BYA Board has reviewed the City of Birmingham Board of Ethics Advisory Opinion 2016-03 and understands the City Commissioner appointment to the GCC will need to be mindful of the parameters provided in the Advisory Opinion.

Thank you for your help with this appointment.

Jill Fill, BYA Co-Chair

Shelley Goodman Taub, BYA Co-Chair

BIRMINGHAM

NOV 27 2017

CITY MANAGER'S OFFICE

We are BYA! You are BYA!

Sponsored by:

Birmingham Board of Education * Birmingham City Commissioners * Oakland County Circuit Court-Family Division
Village of Beverly Hills * Village of Bingham Farms * Village of Franklin

Principal Funding by Oakland County Board of Commissioners

EXCERPT
BIRMINGHAM CITY COMMISSION MINUTES
SEPTEMBER 25, 2017
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

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

V. UNFINISHED BUSINESS

09-259-17 ADOPTION OF BOARD OF ETHICS ADVISORY OPINION 2016-03

City Manager Valentine provided an overview of the issue:

- There was previous discussion on incorporating the Board of Ethics' opinion setting forth guidelines for Commissioners' appointments to non-profit organizations.
- Based on the Commission's conversation, it was best to incorporate the entire opinion by adoption of the Commission.

City Manager Valentine confirmed for Commissioner Hoff that Commissioners could serve as non-voting liaisons to non-profit boards if so appointed by the Commission, and explained that in addition to non-voting liaisons Commissioners could be appointed as voting members or non-voting members to non-profit boards.

City Manager Valentine continued that there are implications for each type of appointment as laid out in the advisory opinion, and that his understanding of the Commission's intention was to pursue the non-voting liaison position in order to avoid the potential conflicts of interest attendant to the other roles.

City Manager Valentine confirmed for Commissioner Hoff that:

- Future Commissions can choose to appoint Commissioners as non-voting liaisons to boards, but the adoption of the Board of Ethics' opinion in its entirety will allow the Commission leeway to make other types appointments as well.
- Per his understanding, this Commission seems to prefer non-voting liaison appointments.

Commissioner Bordman suggested that incorporating the entire advisory opinion:

- Allows future Commissions to provide future non-profits seeking appointments with the entire opinion so as to explain how the Commission may be choosing a particular appointment type; and
- Allows future Commissioners the same thorough understanding of the decision-making process around appointments as this current Commission has; and
- Provides the greatest amount of leeway to future Commissions.

Mayor Nickita added that while incorporating the entire advisory opinion does provide future Commissions with leeway, the current Commission's practice will also set precedent that will be considered by future Commissions.

Commissioner Bordman explained that:

- The NEXT board voted to change its bylaws to make its future Commissioner appointments non-voting liaison positions; and
- This opinion was shared with the other communities present at the most recent NEXT board meeting, which may help those communities in their decision-making process around similar types of appointments.

MOTION: Motion by Commissioner Bordman, seconded by Commissioner DeWeese:
To adopt Advisory Opinion 2016-03 as guidance for Commissioners with respect to serving on community based organizations.

VOTE:	Yeas,	7
	Nays,	0
	Absent,	0

**CITY OF BIRMINGHAM
BOARD OF ETHICS MINUTES
DECEMBER 16, 2016 – 3:00 PM
151 MARTIN, BIRMINGHAM
CONFERENCE ROOM 202**

I. CALL TO ORDER

MOTION: Motion by Mr. Robb, seconded by Mr. Schrot:
To appoint Mr. Schrot as temporary Chairperson of the meeting.

VOTE: Yeas, 2
 Nays, None
 Absent, 1 (Fierro-Share)

Acting Chairperson Schrot called the meeting to order at 3:10 PM.

II. ROLL CALL

Present: Mr. Robb
 Mr. Schrot
Absent: Ms. Fierro-Share
Administration: City Manager Valentine, City Attorney Currier, Acting Clerk Arft

III. APPROVAL OF MINUTES

A. Approval of minutes of February 12, 2016

MOTION: Motion by Robb, seconded by Schrot:
To approve the minutes of February 12, 2016.

VOTE: Yeas, 2
 Nays, None
 Absent, 1 (Fierro-Share)

IV. UNFINISHED BUSINESS

V. NEW BUSINESS

A. City Commission Referred Advisory Opinion Request 2016-03 dated October 27, 2016

City Manager Valentine explained the City Commission's request and provided background information from City Commission minutes of May 6, May 23 and October 27, 2016. The correspondence from Birmingham Youth Assistance was also provided. He explained that the commission had some reservation in regard to that request given the nature of potential conflicts that could arise from that relationship. The commission had discussion about what exactly was being requested of them as a commissioner or the expectations of them serving in this capacity as a commissioner. In this particular situation, it is the Birmingham Youth Assistance organization that presented the request. The conversation evolved into from any community-based organization that makes a request of the commission to serve in this type of capacity. What concerns should the commission have and how does that relate to any potential conflicts of interest where the requests come from organizations which may request funding from the city or put the commission in a position where they would be advocating on behalf of the

organization as a commissioner in regards to soliciting funds and things of that nature. A discussion included appointment as a voting member, a non-voting member, or a non-participatory information-sharing role, and there were differing views on that. There was discussion that perhaps this should be referred to the Ethics Board for an advisory opinion based on some specific questions. There were variations of those discussions, and the last meeting was October 27th at the commission level, and they were presented with three options to consider. The first one was to appoint someone as a voting member, the second one was to appoint as a non-voting member, and the third one was following up on their conversation about the advisory opinion to refer to Ethics board and get an opinion on the conflict of interest language. There was also a variation presented that the commission reviewed and thought it was too specific. Ultimately, direction was given to staff to filter through that conversation, and develop some questions based on the intent of the commission that could be presented to this board for clarification.

City Manager Valentine provided the questions to the members. He suggested that this meeting serve as an informational meeting to understand the background and intent, and review the questions for clarification in determining how to proceed.

Mr. Valentine confirmed for Mr. Robb that currently this applies to the board of Birmingham Youth Assistance and to the board of NEXT. Commissioner Bordman is currently a voting member of the NEXT board, and she has been recusing herself from discussions involving NEXT to try to avoid that conflict. Since there are two, and the commissioners felt there could be more in the future, it would be helpful to get clarification through an advisory opinion on how these board appointments relate to the conflict of interest language in the ethics ordinance and recommendation going forward on how to treat these specific questions with funding requests that go before them and for the benefit of making their determination in the future.

Mr. Robb provided background on his personal involvement on various boards, and discussed his fiduciary responsibilities to his employer as well as to the boards with which he is involved. Although he is not covered under an ethics ordinance in those situations, board members do have a fiduciary obligation to the organization.

Mr. Currier said one of the questions raised was, if being an elected official creates a higher fiduciary obligation than being appointed to a board. In other words, can one serve two masters, and if not, which one controls. Mr. Schrot said there is a distinction between commissioners and board members. In this respect, we are only dealing with commissioners. Mr. Schrot asked, as it relates to service on non-profit boards, is there a companion body of law that should be considered that impacts this issue, or a state ethics code that may relate as well. He thinks the board should have that information in order to address these questions.

Mr. Valentine clarified that the commission's intent was to have staff develop the questions for the board based on the conversations by the commission. He wanted the board to have the background of how this evolved, and what the considerations were to get to this point. He explained there has been quite a bit of conversation by the commissioners and several questions have been raised.

Mr. Schrot noted that the initial question seems to limit it to community-based organizations that rely on city funding, but he does not think it would be limited to those organizations or those issues, because requests could be other than economic.

Mr. Schrot noted it has been the practice of the commission to appoint commissioners to serve on the board of directors of certain community-based non-profit organizations. Mr. Valentine confirmed that is true for only those two organizations. He explained that historically, there has been a request from the boards. He explained that we have four new commissioners. He said Scott Moore had served with NEXT for perhaps a decade or more. Mr. Currier said Tom McDaniel served with Birmingham Youth Assistance for many years as well.

Mr. Schrot said he questions the practice of the appointments. Mr. Valentine said that the commissioners questioned it as well. Mr. Schrot noted that the board is not being asked to address that issue, but in the course of our discussions, the practice may need to be examined, because it may create problems for the individual who is appointed as a commissioner in wearing his or her city hat.

Mr. Valentine said that is why the commission wanted to take a broader approach, and ask whether it creates a conflict for any community-based organization in which the commission is asked to participate.

Mr. Robb asked who is appointing whom to what. Mr. Valentine said the city commission would appoint a commissioner to one of the boards. Mr. Robb said that is different. He explained there is a difference between being appointed personally while a commissioner. For example, if a commissioner chooses not to run for reelection and was the commission's appointee to BYA, does the seat on BYA become vacant upon the expiration of the term of office. Mr. Valentine said that in these cases, the representation came because of their role as a commissioner and being asked as a commissioner to serve in that capacity. Mr. Currier confirmed it is the city seat on the board. Mr. Robb and Mr. Schrot agreed there is a distinction.

Mr. Valentine said former commissioner McDaniel was the representative from the commission on the Birmingham Youth Assistance. When his term ended in November 2015 and new commissioners were elected, BYA asked Andrew Harris. Mr. Valentine was presented with that request, and he explained that it was the city commission's appointment and not the BYA's decision who is appointed.

Mr. Robb asked what is the basis for the decision to be made by the commission and not the community group. Mr. Valentine said if a commissioner is going to serve in his or her capacity as a commissioner, he or she must be appointed. These positions are all done at the approval of the commission. If someone is appointed to the MML or SEMCOG for example, that is done at the appointment of the commission. It is an official role, because the organization is asking for an official city commissioner to be in that role.

Mr. Robb said he is not sure the commissioner is in a conflict. He said there may be a political or broader question whether the city as the governmental entity, ought to have anyone who is some sort of official role in some other entity that transacts with the city.

Mr. Currier suggested we think of this as a city seat and the commission appoints someone to sit as a representative of the city. Traditionally, the commissioner would not participate in discussion of requests for funding at the board level, nor would they vote on it at the commission level. The question was asked is that a breach of fiduciary duty to the city being an elected official, and maybe a liaison and not a voting member at all is the correct approach.

Mr. Robb said the community organization has its own bylaws and those bylaws say who will be on the board, and the characteristics of that board member. He said maybe there is something in their bylaws that says there shall be one seat reserved for a city commissioner. Mr. Currier said historically that is the way it has happened, but this came into question for the first time other than simply disclose and recuse. The question became, is it even appropriate to be on the board and be a voting member.

Mr. Schrot said the appearance of impropriety is the problem, and in those discussions should there be a city seat, there probably should be discussion about the fact that that may result in the person being appointed having to recuse himself or herself from decision making and/or discussions on city matters that may relate to that non-profit because of public perception. And that would be whether or not it was a voting or non-voting position. That may include even the position of being a liaison, because if you are appointed by colleagues on the commission to be a liaison, that insulates one from the public perception a bit, but not entirely so. He continued that he thinks a commissioner has to be aware of that if they are even being considered for a position of appointment to a non-profit board. He was unaware of this practice, and in the course of the discussions, we need to consider whether or not that is appropriate. Other organizations may ask for a commissioner to serve on the board, now the city is arguably showing favoritism in providing manpower to certain non-profits and not others. As a general rule, it is better to be a non-decision making participant on the non-profit, because the commissioner is already charged with the duty of public service to the City of Birmingham, even before one begins engaging for a non-profit organization. That creates issues when one is already a member of a non-profit board, and then gets elected. It is a complex question.

Mr. Robb agreed, and said the city is arguably showing favoritism to certain organizations, but the commissioner is not. The commissioner is appointed by the city to be on the board and not for personal benefit. It may be a political question for the city. The commissioner is doing it for benefit of the city almost by definition because he or she has been appointed by the city to sit on that seat.

Mr. Valentine said then the question is the appointment, and is that appropriate in the context with the ethics ordinance. Mr. Robb said the ordinance talks about a person, not about the action of the city commission. The city commission can amend or repeal the ordinance at any time. The only thing that trumps is the city charter. If it is a question whether the city can do this, we have to look at the charter, or some statute.

Mr. Schrot agreed, but added his concern is the commission making the decision to fill the certain select non-profits. If a commission were to vote to appoint to a particular non-profit, is that violation of the ethics ordinance in any way. There would have to be some discussion as to why there is going to be an appointment to this non-profit vs. another. That is putting a commission in a difficult position because if he or she votes to appoint a commissioner to BYA, they have to justify that decision when another non-

profit comes along, and the commission refuses to appoint. Mr. Robb asked to whom they would justify it. Mr. Schrot said to the public in the election. Commissioners can act in a certain way, and whether or not that is approved by the public will be determined as to whether or not the commissioner is reelected or is recalled. Mr. Schrot thinks that in the course of our discussions, we have to be cognizant of the fact that the commissioners are aware that is not without risk or restriction that they would serve on a particular non-profit or that they would vote to provide a commissioner to a non-profit.

Mr. Currier said it is a broader question of whether a commissioner can be on any board, regardless of how he or she was appointed, that has dealings with the city, and then look at the details.

Mr. Schrot said we should look at that, and instinctively the answer is yes. To a certain extent, one level is the restriction by law, or otherwise by the ethics ordinance. Assuming not, the other extreme is to let the voters decide whether or not the conduct is appropriate. He said we have measures in the ethics ordinance for disclosure and for recusal. He thinks the commissioners are looking for better guidelines as to what they can and cannot do. Mr. Valentine agreed, and added that it is in relation to conflict of interest.

Mr. Valentine said if it is not prohibited by law, and it does not run afoul of the ethics ordinance to allow it, is there a conflict of interest or perceived conflict of interest as a result of it, and what are the considerations that should be given in that regard.

Mr. Schrot said that if someone were to say that there is no prohibition on serving, then one would get into a case by case basis as to whether or not it is a conflict of interest, and what are the measures for protection. He said the commissioner who may be on a non-profit has to recognize that he or she may be in a situation where they may be restricted as far as their participation in relation to the duties on behalf of the city and how is that going to be dealt with and received, because much of this will come down to judgment.

Mr. Schrot referred to an article from the Institute for Local Government titled "Commitment to Non-profit Causes and Public Service: Some Issues to Ponder", which he thinks is particularly good and will circulate it to everyone. It talks about issues and different scenarios including fundraising among others. We can provide some guidelines in this opinion regardless of what the questions may be. He was not aware of the practice of appointment. On the surface, it is pretty innocent and is benevolent.

Mr. Robb asked if the city commission approves a commissioner by a resolution after a commissioner has expressed some interest. He asked if the resolution stands legally on par with the ordinance. Mr. Currier said an ordinance is a legislative action that establishes law, and is not certain they are on the same par. A law is not changed when a resolution is passed.

Mr. Robb said he does not see conflict as to the particular fact here, realizing there may be a number of facts that are broader. This ordinance does not bar the city commissioner from appointing a commissioner to do city business by serving on a board.

Mr. Valentine said the commission knows that it can appoint. The question is should they, and what considerations should be given when and if it is done because of the conflict of interest.

Mr. Robb said there is no conflict of interest. He said the commissioner is essentially the city's agent. In response to Mr. Currier, Mr. Robb said if a commissioner, not appointed by the commission, is appointed by the organization, that commissioner is not doing city business. By virtue of the commissioner's position on the commission, he or she is important to the organization, and he or she has agreed to it, knowing he has an obligation to the city.

Mr. Valentine clarified that the seat is delineated by who the organization wants on their board. The organization can ask whomever they like to serve, and their idea is to appoint those who will have a positive influence on our organization, including the funding sources. Mr. Robb said the city recognizes that.

Mr. Schrot agrees with Mr. Robb that even though it may not be a city seat, it is a city action in making the appointment. He thinks that if the commissioner accepts the appointment, he or she has to be aware of the ramifications in relation to the ethics ordinance. The commissioner also has to be aware that if there is any business that the organization has before the city, he or she has to make a judgment as to whether or not he or she has to disclose or recuse himself or herself to the organization's board and to the city, so that the public is aware of that relationship.

Mr. Robb said the problem is the organization's problem, not a city's problem. The organization has a board member who has a higher fiduciary duty to the city. The organization has a board member who cannot be independent.

Mr. Schrot said if we take that approach unilaterally, we are exposing that commissioner to some risk which may not necessarily be an ethics violation, but the public may not know the commissioner was appointed to the non-profit by the city. The danger is political.

Mr. Valentine said the commission cannot take action on anything that is going to lock in a future commission, or that would impact anything in the future. In this case, it is a request from BYA for a commissioner to be appointed by the city. Typically, the resolution was to appoint the commissioner to the board. He asked if that is carte blanche for every issue that comes before that board to take a position on behalf of the city, without the city knowing what the issue is. Mr. Robb said it is. Mr. Currier said that is where reliance is on the appointee to come back to the city manager and commission for guidance. Mr. Valentine asked how much authority the commissioner actually has with the appointment. Mr. Robb said that without some restriction on the appointment, the commissioner has to vote because he is a board member. He has an obligation to that organization as well.

Mr. Schrot said the commissioner may have to say, without the distinction of being a voting member or a non-voting member, that he or she is a city commissioner and has some concern about being able to vote. This is risky for the commissioners, and when we deal with issues like appointment, it is risky for the city.

Mr. Schrot said is there a benefit to the city and to the individual commissioners to appoint a commissioner to a non-profit. Mr. Valentine said the organization obviously has a benefit by having a tie directly to a funding source. Mr. Schrot said there is a price to pay by the city by making that appointment, if nothing else it may restrict the appointment commissioner from participating in discussions and/or voting as it relates to the non-profit organization.

Mr. Robb said the appointed commissioner does also have a fiduciary duty to the non-profit board and that is a problem. It is a conflict on the board, not the city.

Mr. Robb said the safe answer is for the city to not appoint anyone to a non-profit board.

Mr. Schrot said it is the prudent action, and the rationale is that it creates a limitation on potential action by one of the city's decision-makers in relation to city business involving that non-profit. Mr. Schrot said the request could not only be financial, but for permitting for example.

Mr. Robb expressed concern about the board's jurisdiction.

Mr. Valentine asked if the influence of being a commissioner has any weight in the discussion requesting funds. He asked how does that play in if a commissioner, in his or her capacity as a board member, is asked for funds to support the organization.

Mr. Robb referred to the Section 2.324(10) of the Ethics ordinance which determines the existence of a conflict of interest, and said this situation does not pose a conflict according this section. He then referred to section 2.324(6) which discusses impairment of his or her independence of judgment or action in the performance of official duties. Mr. Robb sees a distinction between a commissioner being appointed by the city to a board, and a commissioner being appointed as a board member, but not by the commission. Section 2.324(4) discusses the influence factor.

Mr. Schrot said we need to determine whether or not the city intends to go forward with this practice of appointing. If it does, that is an entire discussion in and of itself, which is a major issue. If the city is not going to appoint, and the individual is going to act in his or her individual capacity, that is another question. Ideally, he said we should avoid this, rather than take all the time and effort to address this issue of the city appointing, we may want to draft a letter back asking for clarification as to what the commission's future practice would be.

Mr. Valentine said he envisions that the response would be tell us if it is a conflict or not, and then we can tell you if we are going to continue the practice or not.

Mr. Robb said this calls for a conversation with the commission. He does not see on this specific matter, a violation of the ordinance. He does see a potentially a political problem, a governmental process problem.

Mr. Valentine said this is what they struggled with as well. While some commissioners had interest in moving forward and thought the ordinance covered it with the opportunity to disclose and recuse, others thought that it was not sufficient, and the

commission should not do it. The idea was to ask for an advisory opinion interpreting the ordinance addressing these types of questions.

Mr. Schrot said it may beg the question as to whether or not a legal interpretation of the ordinance from the City Attorney is needed, as to when someone is appointed by the city, is the individual acting on behalf of the city and not as an individual. That would take some pressure and risk off of the commissioner.

Mr. Schrot said his concerns are over what laws may be applicable and may influence these issues. He referred to a section of the ILG article regarding fundraising, which says "using one's official position to, in essence, force donations to non-profits violates state and federal laws that prohibit extortion and protect the public's right to officials' honest services". He continued discussing the disclosure requirement. He does not know if disclosure requirements are a matter of law, and that may be beneficial to know because the law trumps ethics. Ethics is broader and more vague, and is a big net that catches people. Ethics violations can result in financial and/or penal consequences.

Mr. Robb recommends that the board identify any section of the ordinance that is implicated by the commission's questions initially, and then do a retrieval of whatever other literature is available on this topic that will help him and Mr. Schrot to come up with an opinion to give the commission, and see what statutes may apply. Mr. Schrot said the board may be reworking the ultimate issue(s) and not specifically answering the questions.

Mr. Schrot said that when asking the question "does a conflict of interest arise when a city commissioner is appointed by the commission to serve as a board member (voting or non-voting) for community-based organizations", it leads to the question, a conflict of interest by whom. Mr. Valentine said the conflict of interest is for the city commissioner. Mr. Schrot said that based on the discussions today, the answer is no. Mr. Robb agreed.

Mr. Schrot said that when the practice of appointment by the city commission occurs, what problems are being created for the commission by this appointment practice.

Mr. Valentine suggested the board should address the other questions because part of the conflict of interest is the issue of the solicitation of funds or donations arises.

Mr. Schrot agreed, but said that gets into the realm of whether the commissioner is acting at the behest of the city, or on his or her own behalf. Mr. Robb said it is absolutely on behalf of the city.

Mr. Valentine read paragraph 3 of the October 3, 2016 letter to him from Birmingham Youth Assistance which discusses the organization's fundraising activities and their expected level of involvement of the city appointee. He said there is a disconnect on that issue. There is some support for having someone serve, but there is lack of support for having people ask others for money. He said maybe that is the political decision, but that is really two points in the mind of the commission in terms of serving as the appointee, and actually being involved in fundraising. He said the BYA has described fundraising as voluntary, not necessary. If a commissioner does become involved in fundraising, under the ordinance, does a conflict develop as a result of that, given his or her role as a commissioner.

Mr. Robb said under his theory, no, because the city has already determined it is important to have a commissioner on that board knowing he or she may have to assist in fundraising for the organization. The commission has considered it beneficial to the city for the organization to be successful.

Mr. Valentine said that is the struggle. The commission is not comfortable making the appointment with that understanding.

Mr. Schrot and Mr. Robb both agreed the commission should not make the appointment.

Mr. Schrot said this gets to the fundamental question of whether or not the city should be appointing commissioners. He said the city can do so, but at its own risk, and puts their fellow commissioner at risk of a violation of law and of the ethics ordinance. The commissioner has to understand that there are restrictions on how he or she can be used by that organization. The fact that the organization is soliciting the city suggests that they are doing so for certain benefit, which is apparent. Whether or not the city wants to participate in that type of engagement, whether or not the city wants to be involved in a selection process as to which organizations it is going to support and which organizations it is going to reject, it can make that the decision. The city could decide it is going to do so on any basis. He said as far as he can see, it is not a good practice. He suggested trying to address the issue of the practice of appointment.

Mr. Schrot and Mr. Robb inquired about a time limit. Mr. Valentine said the first question was in April 2016, so time is not critical.

Mr. Schrot said the historical answer has been that the city wants to help. He commended the city commission for addressing this issue, and he understands why there are differences of opinion. He said when one spends time on this in looking at the appointment, that seems to be a much simpler issue that can and probably should be resolved. When an appointment is made, a commissioner is wearing the city's hat when serving on the non-profit board.

Mr. Schrot provided the IGL article to be distributed to everyone. He said Ethics ordinance Section 2-234(a)(4), (6), and (7) regarding conflict of interest, and subsection (b)(1) regarding disclosure are the most applicable ones.

Mr. Currier said it is also important to consider Section 2-323(2) and (3) regarding appearances. Mr. Robb suggested subsection (5) as well.

Mr. Schrot suggested it might be helpful to meet with the city commission to talk about the practice of appointment as an agenda item. Mr. Valentine suggested it would be helpful to have specific questions for them to prompt the discussion and get that feedback from them. Mr. Robb suggested the board do more research before meeting again as a board.

Mr. Valentine asked what additional research is needed to allow ample time to do so and prepare for the next meeting.

Mr. Robb suggested that one question is, assuming the city appointed someone to a board, and that commissioner is soliciting funds for the organization, is that a violation of the law. Mr. Schrot agreed the board needs to do more research.

Mr. Schrot asked if a commissioner is appointed to the BYA board by the city, when he or she speaks, are they speaking on behalf of the city. The second question is, does that individual provide an appearance of speaking on behalf of the city. He asked how is that impacted by the Ethics ordinance. He suggested that the individual cannot give the appearance of speaking on behalf of the city absent specific direction from the city commission, and in a matter of personal interest. His concern is that it may put that commissioner at risk.

Mr. Robb said the safest way is not do it, but suggested that is not good guidance. Mr. Currier suggested it may be good guidance.

Mr. Schrot suggested letting the individual decide whether or not he or she is going to be involved, rather than involving the city commission in the appointment to the organization. Mr. Schrot asked if the commissioner has some discretion in accepting the appointment. Mr. Valentine said no one has turned it down.

Mr. Robb suggested scheduling another meeting after he and Mr. Schrot have done more research. Suggested dates and time will be distributed by the Clerk's Office for some time during the second week of January.

Mr. Schrot suggested the board may be going off on a tangent when discussing the practice of appointment to the organization because that is a different question. He thinks some commissioners may want to preserve the practice. He would want to determine what the benefit is to the city by appointing a commissioner to an organization. Mr. Valentine suggested at a minimum it is for the sharing of information. The initiatives are driven by the organizations, not by the city. He thinks the commission should focus on the price the city has to pay for honoring the request.

Mr. Currier said this discussion has shown that there is major difference between a city appointment vs. an individual's appointment by the board. The clean answer is the city should not appoint, and if you are appointed by BYA, the commissioner is still governed by the Ethics ordinance. Mr. Robb said it is easier to deal with if he or she is appointed by BYA and not the commission.

Mr. Schrot suggested the board could say to be aware that there are legal and ethical restrictions and provide the potential issues. If an issue comes up that relates to the non-profit, the citizens that elected the commissioner see that they are deprived of the commissioner's representation. This can be a political issue. When the commission understands the negatives, they may not want to participate in the future.

Mr. Schrot asked if there is state law that regulates the commissioners. Mr. Currier noted the incompatibility of office statute, and the Home Rule Cities Act which contains required charter provisions and form of government. It deals with city structure. The commissioners are bound by the U.S. constitution, the state constitution, state law and the city charter. There is a state ethics law that applies only to state officials.

VI. PUBLIC COMMENT

VII. ADJOURN

MOTION: Motion by Robb, seconded by Schrot:

CITY OF BIRMINGHAM
BOARD OF ETHICS
ADVISORY OPINION 2016-03

DECISION

On October 27, 2017, the Birmingham City Commission adopted a resolution requesting the Birmingham Board of Ethics to issue an advisory opinion on the following question:

Is there a conflict of interest with City Commissioners serving as board members for community-based organizations that rely on the City for funding, and what actions should be followed if they wish to serve on boards that make requests to the City Commission?

QUESTION PRESENTED

The question presented seems simple, but the answer is not. Following two hearings to obtain and review relevant information, the Board of Ethics restates the question this way:

Is it a violation of the City of Birmingham's code of ethics for a member of the Birmingham City Commission to serve as a member of a board of directors of, or an advisory committee to, a community-based organization that solicits or receives funding from the city when the particular seat on that board or committee is reserved for a city commissioner and the City Commission by resolution appoints a particular commissioner to that seat?

SUMMARY OF ANSWER

The Board of Ethics answers the question in three parts.

(1) The Board of Ethics holds that a city commissioner's membership on the board of directors of a community-based organization at the request of that organization and upon the approval of the City Commission does not per se violate the code of ethics. But the Board also holds that:

- the commissioner is barred by the code of ethics from participating in that organization's consideration of a request to the city for funding, license, or other substantial support from the city,

- the commissioner is disqualified from participating in the city's consideration of any such request from that organization, and
- the commissioner's participation in fund-raising activity for the organization could result in a conflict of interest if the party from whom the gift is sought has business before the city.

(2) The Board of Ethics holds that a city commissioner's participation on an advisory committee of a community-based organization at the request of that organization and upon the approval of the City Commission does not per se violate the code of ethics. But the commissioner's participation in fund-raising activity for the organization could result in a conflict of interest if the party from whom the gift is sought has business before the city.

(3) The Board of Ethics finds that, even where no conflict of interest arises, the commissioner's participation on such a board of directors or advisory committee could be deemed imprudent or politically undesirable.

STATEMENT OF FACTS

The Board convened two public hearings on this matter to gather and discuss the facts. On December 16, 2016, City Manager Joseph Valentine and City Attorney Timothy Currier appeared and presented information to the Board. On February 6, 2017, City Commissioner Patty Bordman joined Messrs. Valentine and Currier to present additional information. The Board thanks Ms. Bordman, Mr. Valentine, and Mr. Currier for their efforts.

The organization known as NEXT-Your Place to Stay Active & Connected ("NEXT") is a registered assumed trade name for the Birmingham Area Seniors Coordinating Council ("BASCC"), a community-based organization founded decades ago to promote the welfare of senior citizens in our community. NEXT has traditionally reserved one or more seats on its board of directors for municipal representatives, in this case a Birmingham city commissioner. The custom is that NEXT asks the Birmingham City Commission to appoint a commissioner to that board seat. At the present time, Commissioner Patty Bordman is the city's municipal representative. She serves as a voting member of the NEXT board of directors. The Board of Ethics takes administrative notice that BASCC is a Michigan non-profit, directorship-based corporation, organized on a non-stock basis. (BASCC Articles of Incorporation (July 1, 1981)).

Similarly, Birmingham Youth Assistance ("BYA") is a long-standing community organization dedicated to promoting youth and reducing delinquency in the Birmingham community. As with NEXT, it is BYA's custom to request the City Commission to

appoint a commissioner to serve on its General Citizens Committee (“GCC”). That committee meets up to nine times a year. The city commissioner is expected to attend as many GCC meetings as possible, volunteer to participate in one or more BYA community outreach activities, and “support” BYA fund-raising activities. The BYA understands that the city commissioner might be faced with a conflict of interest and has stated that fund raising is an “optional” activity for a GCC member, yet it stresses how important fund raising is to the success of its mission. (BYA letter to Joe Valentine (October 3, 2016)). The Board of Ethics takes administrative notice that BYA is a Michigan non-profit, directorship-based corporation, organized on a non-stock basis. (BYA Articles of Incorporation (June 14, 1967)). As such, the GCC appears not to be the BYA’s governing board. The BYA has asked that the city appoint Commissioner Andrew Harris to its GCC.

City commissioner participation with NEXT and BYA is a long-standing city practice, viewed as beneficial both to the community organizations and the city. Among other benefits, the organizations receive input through official city channels on important matters and presumably derive prestige and connections from city commissioner participation in their activities. In turn, the city, which provides grant funding to NEXT and BYA, can be directly informed about their activities and needs and can monitor how the city’s appropriated funds are used. Former Commissioner Scott Moore served on the NEXT board for a decade or longer. Former Commissioner Tom McDaniel was the City Commission’s representative to BYA for many years until his term as commissioner ended in November 2015.

More recently, various city commissioners have properly expressed concern that participation with NEXT and BYA potentially presents a conflict of interest. At the outset, the Board of Ethics notes that NEXT and BYA, and not a particular commissioner, seek city commissioner participation on their boards. Requests from NEXT and BYA typically come directly to the city. Information provided at the hearings indicates that both organizations view these seats as a “city” seat. Mr. Valentine said that in these cases, the commissioners, through their public roles, are asked to serve with NEXT and BYA. Mr. Currier confirmed that the commissioners are appointed to a “city seat” on the respective boards, and the appointment is made by the city, not by the organizations. Thus, procedurally, the City Commission votes on a resolution determining which commissioner takes the NEXT or BYA seat, thereby authorizing that commissioner to participate in their respective activities.

Due to their concerns about a potential conflict of interest, city commissioners have discussed the role a commissioner might play on the NEXT board of directors or the BYA committee. Those discussions have included whether the commissioner should be a voting member, a non-voting member, or merely a liaison, and whether or to what extent a commissioner could raise funds or do other things to support either organization. During the Board hearing, both Mr. Valentine and Mr. Currier pointed out that, traditionally, the commissioner sitting on the NEXT board or BYA committee would

neither participate in discussing requests for city funding at the organization level nor vote on such requests at the City Commission level. The Board received information, however, that in the past a city commissioner might occasionally have voted in a NEXT meeting about a funding request to the city but then did not participate in the City Commission's consideration of that request.

JURISDICTION

Several factors make this case complicated. A commissioner's role with these community organizations is potentially very broad. But that role is expressly authorized by the City Commission. And the case involves not just compliance with the code of ethics, which is within the jurisdiction of the Board, but also questions of political conduct which are not within our jurisdiction. Thus, while the Board of Ethics endeavors to help the City Commission and all city officials and employees meet the requirements of the code of ethics, the Board must remain mindful of its jurisdiction. The code provides:

When there is a question or a complaint as to the **applicability of any provision of this code to a particular situation**, that question or complaint shall be directed to the board of ethics. It shall then be the function of the board of ethics to conduct hearings and/or issue an advisory opinion, as applicable.

Birmingham City Code § 2-325(b) (emphasis added).

Chapter 2 of the applicable procedural rules gives added jurisdictional guidance:

The rules of this chapter apply to the situation where a city official or employee, the City Commission, or another city commission, board or committee, as defined in the Code of Ethics ("the requesting party"), **requests an advisory opinion as to whether the requesting party's conduct or anticipated conduct, or that of a city official, employee, commission, board or committee under the requesting party's authority, conforms to the Code of Ethics.** The party whose conduct is sought to be reviewed, if it is someone other than the requesting party, is called the "subject party."

Board of Ethics Procedural Rules, Chapter 2, Preamble (emphasis added). After the requesting party initiates the request for the advisory opinion, the duty of the Board of Ethics is defined but limited:

The board **will determine whether the conduct or anticipated conduct of the requesting party or the subject party, as the case may be, conforms to the Code of Ethics.** The board will make its decision upon a vote of a majority of the board based upon the evidence in the record and controlling law. The board will

issue its decision in the form of a written opinion advisory opinion. The advisory opinion, and any dissenting or concurring opinion, will be stated in writing. Once they are issued, the opinions are final.

Id. Rule 215 (emphasis added).

In this instance, the City Commission has requested guidance on whether it is in a conflict of interest, or is placing its commissioners in a conflict of interest, by authorizing commissioners to sit on the NEXT board or the BYA committee. Based on the language of the code of ethics and the procedural rules, the Board of Ethics finds that it has jurisdiction to determine whether commissioner participation on the board or a committee of a community-based organization as set forth in the question presented violates the code.

The Board of Ethics also notes, however, that it lacks jurisdiction to offer a binding opinion on the propriety or wisdom of that participation. The code of ethics and Board precedent establish that the Board deals in cases, not abstract propositions. Nevertheless, the Board serves as an educational resource for the city and thus offers observations it hopes will guide the City Commission and individual commissioners.

APPLICATION OF THE CODE OF ETHICS

At its core, the city's code of ethics is a conflict of interest ordinance. Its foundational premise is that "public office and employment are public trusts. For government to operate properly, each city official, employee, or advisor must earn and honor the public trust by integrity and conduct." Birmingham Code of Ethics § 2-230. Thus, all city officials and employees must avoid conflicts between their private interests and the public interest. *Id.* They must be independent, impartial, and responsible to the people. *Id.* They must make governmental decisions and policy in proper channel governmental channels, and they may not use public office for personal gain. *Id.*

Through the code, the city intends that "city officials and employees avoid any action . . . which might result in or create the appearance of:

- (1) Using public employment or office for private gain;
- (2) Giving or accepting preferential treatment, including the use of city property or information, to or from any organization or person;
- (3) Losing complete independence or impartiality of action;
- (4) Making a city decision outside official channels; or
- (5) Affecting adversely the confidence of the public or the integrity of the city government.

Id. § 2-323.

A key question relevant to this opinion was raised several times in the Board's hearing: if there is a conflict of interest, whose conflict is it? Notably, the code's conflict of interest provisions pertain to the conduct of city officials and employees, not to the city as a governmental entity. A "city official" or "employee" is defined to include:

a person elected, appointed or otherwise serving in any capacity with the city in any position established by the City Charter or by city ordinance which involves the exercise of a public power, trust or duty. The term includes all officials and employees of the city, whether or not they receive compensation, including consultants and persons who serve on advisory boards and commissions.

Id. § 2-322 (emphasis added). The City Commission, being a governmental body, is not "a person" within the meaning of the code of ethics. Thus, its conduct as a body is not regulated by the code.

The code of ethics has specific conflict of interest provisions, of which an important one is that "no official or employee of the city shall engage in or accept employment or render services for any private or public interest when that employment or service is incompatible or in conflict with the discharge of his or her official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of his or her official duties." *Id.* § 2-324(a)(6).

Specifically, a conflict of interest exists if:

- a. The city official or employee has any financial or personal interest, beyond ownership of his or her place of residence, in the outcome of a matter currently before that city official or employee, or is associated as owner, member, partner, officer, employee, broker or stockholder in an enterprise that will be affected by the outcome of such matter, and such interest is or may be adverse to the public interest in the proper performance of said official's or employee's governmental duties, or;
- b. The city official or employee has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity, or;
- c. The public official has any other prohibited interest as defined by state statutes relating to conflicts of interest.

Id. § 2-324(a)(10).

DISCUSSION OF POTENTIAL CONFLICTS OF INTEREST

There is No Per Se Conflict of Interest

Under the code of ethics, the City Commission's appointment of a city commissioner to the NEXT board of directors or the BYA committee does not in and of itself result in a conflict of interest.

The Board of Ethics notes first that the City Commission itself makes the appointments through governmental action that assigns to the commissioner a governmental duty. It does not necessarily result in a conflict of interest because, by definition, it is not "adverse to the public interest in the proper performance of said official's or employee's governmental duties." *Id.* § 2-324(a)(10)(a). Likewise, the appointment does not necessarily result in "service [that] is incompatible or in conflict with the discharge of [a commissioner's] official duties" or in "employment [that] may tend to impair his or her independence of judgment or action in the performance of his or her official duties." *Id.* § 2-324(a)(6). It hardly need be questioned that the City Commission has the authority to prescribe certain duties of its members, although as will be seen below that authority is not unlimited.

Moreover, there is no showing on this record that the commissioner has reason to believe that he or she will derive a monetary gain or suffer a monetary loss by reason of his or her official activity. *Id.* § 2-324(a)(10)(b). And the Board of Ethics is aware of no other legal prohibition on this appointment. *Id.* § 2-324(10)(c).

Accordingly, under these facts, a commissioner serving in the role of a NEXT board or BYA committee member is not, solely by virtue of that appointment, in a conflict of interest situation within the meaning of the code of ethics. What matters is what the commissioner does in that role.

But a Potential Conflict of Interest Exists

That said, the Board of Ethics finds that such an appointment could result in incompatible service resulting in a prohibited conflict of interest, especially if the appointment is to an organization's board of directors. In fact, the Board notes an important legal distinction between a city commissioner's service as a member of the NEXT board and a member of the BYA committee.

The BYA GCC is merely an advisory committee whose members owe to BYA whatever duty it establishes. A city commissioner's appointment by the City Commission to the BYA committee is not "incompatible or in conflict with the discharge of his or her official duties," because the City Commission's authorizing resolution determines the appointment to be compatible. While the independence of judgment of a commissioner who joined a volunteer advisory board on his or her own volition could be called into question, under the present facts the City Commission is

fully informed of the relationship between the commissioner and the BYA and its potential effect on the commissioner's city duties, one of which is defined by City Commission resolution to be membership on the BYA committee. As merely an advisory committee, the GCC does not control the BYA or set its policy.

By contrast, a city commissioner's service on the NEXT board of directors creates a substantial potential for a conflict of interest because the board of directors is NEXT's corporate governing body. Under Michigan law, directors of a corporation owe the corporation a fiduciary duty. *Wagner Electric Corp. v. Hydraulic Brake Co.*, 269 Mich. 560, 564; 257 N.W. 884 (1934). Directors must act in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner they reasonably believe to be in the best interests of the corporation. MCL § 450.2541.

Because of that fiduciary duty, a city commissioner who participated in the corporation's consideration of a request for funding, license, or other special benefit from the city would be in a conflict between his or her "private interests and the public interest," Birmingham Code of Ethics § 2-230, and for being "associated as owner, member, partner, officer, employee, broker or stockholder in an enterprise that will be affected by the outcome of such matter." *Id.* § 2-324(a)(10)(a). Clearly, a commissioner's independence of judgment or action in the performance of his or her official duties could be impaired or called into question by participating as a fiduciary in matters before the corporation's board.

The code of ethics also provides that "[n]o official or employee of the city shall participate, as an agent or representative of the city, in the negotiation or execution of contracts, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision, relating to any business entity in which he or she has, directly or indirectly, a financial or personal interest." *Id.* § 2-324(a)(7). Under this provision, a commissioner serving on the NEXT board of directors would be disqualified from voting on a City Commission resolution to appropriate funds, grant a license, or provide special services or consideration to NEXT.

The fact that the City Commission appoints its commissioner to the NEXT board does not cure the conflict. Although the appointment certainly constitutes city business and becomes one of the appointed commissioner's official duties, the appointment imposes upon the commissioner competing, irreconcilable fiduciary duties on matters that involve both NEXT and the city. The code of ethics is an ordinance that takes precedence over City Commission resolutions. Absent an amendment to the code, the City Commission cannot by resolution authorize a commissioner or anyone else to conduct city business in a way that violates the code's conflict of interest prohibitions. To do so would "be adverse to the public interest in the proper performance of said official's or employee's governmental duties."

Of course, a city commissioner's service as a member of the NEXT board of directors or the BYA committee would include tasks and duties unrelated to business with the city, which thus would not necessarily result in a conflict of interest. Accordingly, membership on that board or committee is not a conflict of interest per se, and our holding is distinguishable from our earlier decision involving Ralph L. Seger, Complaint No. 2004-02 (June 8, 2004). In the *Seger* case, the respondent, then a member of the city's general investment committee and Barnum steering committee, was also a fiduciary in an organization—a fund to prosecute litigation against the city—whose sole purpose was adverse to the city. The Board held that the respondent could serve in one capacity or the other but not both. The code of ethics does not require city commissioners serving on the NEXT board or BYA committee to make that election.

That said, the Board of Ethics holds that a city commissioner may not consistent with the code of ethics participate in consideration of any matter before the NEXT board of directors related to a matter that could come before the city of Birmingham or that could “result in or create the appearance of” using public employment or office for private gain, giving or accepting preferential treatment, or affecting adversely the confidence of the public or the integrity of the city government. Specifically, the code bars a commissioner from participating in NEXT's consideration of a request for funding, license, special services, or benefits from the city. The commissioner is likewise disqualified from participating in the city's consideration of any request from NEXT.

As noted above, the code of ethics does not prohibit a city commissioner from serving as a member of a community organization's advisory committee such as the BYA GCC. But a commissioner serving in that role must remain mindful of the potential for a conflict. He or she must be vigilant if any of the organization's business comes before the city and must make the judgment as to whether to disclose or recuse himself or herself in the matter before the city. Even if the risk of that conflict is less than the one facing a member of the NEXT board, that risk is real and depends on a variety of circumstances. An important one concerns fund raising.

Therefore, before the city considers whether to appoint a commissioner to the board or advisory committee, or as a liaison to or in any other capacity with, a community organization, the city is well advised to (1) examine the requirements of the requesting organization and (2) make the organization understand the constraints or restrictions placed on the city or the commissioner in his or her efforts on behalf of the organization.

Special Consideration of Fund-raising and Outreach Activity

A substantial potential conflict raised at the hearings on this case involves fund-raising and outreach activity by the commissioner on behalf of the community organization. Two provisions of the Code bear on this question.

First, “[n]o official or employee of the city shall directly or indirectly, solicit or accept **any gift** or loan of money, goods, services or other thing of value **for the benefit of any person or organization, other than the city, which tends to influence the manner in which the official or employee or any other official or employee performs his or her official duties.**” *Id.* § 2-324(a)(4) (emphasis added). In this case, the commissioner is assigned to the organization as part of his or her city duties. Thus any perceived attempt to secure advantages for NEXT or BYA by seeking funds from other sources is not unreasonable; rather, it is authorized by the City Commission. So long as the City Commission knows that fund raising or outreach could be a part of those duties, those activities are not a per se violation of the code of ethics.

Given the holdings above, a city commissioner who solicited gifts for NEXT would be disqualified from participating in City Commission consideration of any matter that involves NEXT; thus, participation on the NEXT board would not tend to influence the manner in which the commissioner performs his or her official duties with the city with respect to NEXT.

But that is not the end of the inquiry. A city commissioner who solicited gifts for NEXT or BYA would still need to remain vigilant about whether the solicitation presents a conflict with respect to the third party whose gift is being solicited. If that third party ends up having business before the city, the commissioner’s solicitation could result in a tendency to influence the manner in which the commissioner performs his or her official duties as to the third party.

Similarly, “[n]o official or employee of the city shall use, or attempt to use, **his or her official position to secure, request or grant unreasonably any special consideration**, privilege, exemption, advantage, contract **or preferential treatment for himself, herself, or others**, beyond that which is available to every other citizen.” *Id.* § 2-324(a)(8) (emphasis added). Again, to the extent that the city official solicited funds on behalf of NEXT or BYA from a person doing business with the city, that solicitation could be viewed as an attempt to secure a special consideration or preferential treatment for that person in violation of the code of ethics. Even were there no direct conflict, the solicitation could result in the “appearance of . . . giving or accepting preferential treatment,” “losing complete independence or impartiality of action,” or affecting adversely the confidence of the public or the integrity of the city government in violation of code of ethics. *Id.* § 2-323.

Finally, the Board notes that improper use of public office to secure donations to non-profit organizations can result in legal liability. For instance, the Michigan State Ethics Act contains a provision nearly identical to section 2-324(a)(4) of the city’s code of ethics cited on the preceding page:

A public officer or employee shall not solicit or accept a gift or loan of money, goods, services, or other thing of value for the benefit of a person or organization, other than the state, which tends to influence the manner in which the public officer or employee or another public officer or employee performs official duties.

MCL § 15.342(4). Violation of this statute, which applies to certain state officials but not those of the city of Birmingham, can result in a civil fine of \$500. *Id.* § 15.342(b)(3). In other jurisdictions, public officials' more egregious attempts to secure donations have resulted in prosecutions for extortion.

HOLDING AND CONCLUSION

The Board of Ethics holds on the facts presented that the code of ethics does not bar a city commissioner from serving, by the appointment of the City Commission, as a member of the NEXT board of directors or the Birmingham Youth Assistance General Citizens Committee. Because that service is part of the commissioner's duties on behalf of the city, there is no conflict of interest per se.

But because members of the NEXT board of directors have a fiduciary duty to NEXT, a city commissioner serving on that board may not participate in consideration of any matter potentially adverse to the city, especially a request for funding, license, or any special consideration from the city, and the commissioner further is disqualified from participating in City Commission consideration of any matter involving NEXT.

Furthermore, a commissioner raising funds from or performing outreach with a third party on behalf of those organizations must use care to ensure that his or her efforts do not result in a conflict with regard to any business the third party may have before the city.

FURTHER GUIDANCE

The Board of Ethics does not have jurisdiction to render a binding opinion on matters not involving compliance with the code of ethics. But in its educational role and having received and considered a number of questions on the topic during the hearings on this case, the Board offers the following thoughts to aid the City Commission in its governance.

(1) The Board's response to many of the issues presented above might be different if the city commissioner had joined the community organization board or committee on his or her own volition rather than by assignment by the City Commission. The code of ethics is clear that city officials and employees may not use their official position to obtain a benefit for themselves or others. But the Board declines to opine further on how the Code of Ethics might limit or affect the conduct of a commissioner in

that instance because the potential circumstances to be considered are so varied as to make the question unripe for current decision.

(2) The question was raised about whether the City Commission should ever appoint a commissioner to serve on the board or committee of a community organization. On one hand, appointment of a commissioner looks as if the city is favoring that organization over others. On the other hand, organizations like NEXT and BYA are important to the city and receive substantial support from it, while the city benefits from the oversight provided by the assigned commissioners, who in turn keep the city better informed on how its tax dollars are being spent.

The balance to be achieved is a political question we leave to the City Commission. But the decision in this case makes clear that such an appointment comes with costs to the city. The city could be subjected to criticism for playing favorites. The individual commissioner may be disqualified from acting on matters before the city that concern the organization, contrary to the job the people elected the commissioner to do. And the commissioner would always have to remain vigilant about the potential for a conflict.

(3) A related question was whether, assuming the City Commission assigns a commissioner to sit on the board or committee of a community organization, the commissioner should be a voting member, a non-voting member, or merely a liaison. The answer depends on the city's goal in having the commissioner serve on the organization's board or committee. If the city needs or wishes to exert an amount of formal control over the organization, a seat on its board of directors would not be unreasonable, understanding that the commissioner has a fiduciary responsibility to the corporation. But membership on a corporation's board of directors brings legal duties, responsibilities, and potential liabilities for the commissioner that the city might not want its commissioner to assume or undertake. And given the holding in this case, membership on the board also disqualifies the commissioner from participating in the organization's request for support from the city and from participating in the city's consideration and action on that request.

If on the other hand the city merely needs or wants to exchange information with the organization or monitor its activities, a lesser role such as non-voting membership or liaison might be more appropriate but just as beneficial to the city as would be a board membership. Whether such a role is acceptable to the community organization is a matter for its own judgment.

Further, if merely exchanging information is the goal, maybe no formal participation by a city commissioner is needed at all. Rather, the city could require the organization to report periodically to the City Commission or city staff as a condition of receiving its grant from the city.

Thus, on this issue, the Board of Ethics would counsel the city to use the least intrusive means to achieve its goal. Doing so minimizes the prospect for a conflict of interest. The safest, cleanest way to avoid conflicts is for city commissioners to have no formal role with any organization that comes before the city. That is a policy question for the city to address.

(4) For more reading on this general topic, the Board of Ethics refers the City Commission to an excellent article published in 2008 by the Institute for Local Government titled "Commitment to Non-profit Causes and Public Service: Some Issues to Ponder." This article discusses a number of the concerns and questions raised in this case, including the importance of public perception, the price the city pays for having its members serve on community boards or committees, fund-raising for nonprofits, special problems involving governmental-affiliated non-profit organizations, and political questions that can arise from the relationships between governments and community organizations. The article can be found on line at:

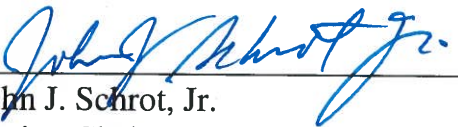
https://www.ca-ilg.org/sites/main/files/file-attachments/resources__Everyday_Ethics_AugOctDec08_0.pdf

The Board appends the article in full with the permission of the Institute for Local Government, 1400 K Street, Suite 205, Sacramento, California, 95814-3916.

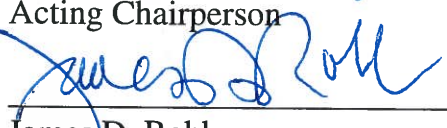
CONCLUSION

The Board of Ethics thanks the Birmingham City Commission for the opportunity to consult and comment on this important issue. The Board commends the commission and the city manager for raising it.

Approved:



John J. Schrot, Jr.
Acting Chairperson



James D. Robb
Member

Board member Sophie Fierro-Share did not participate in the consideration or decision of this case.



Everyday Ethics for Local Officials

Commitment to Nonprofit Causes and Public Service: Some Issues to Ponder

August, October, December 2008

QUESTION

I just completed my first campaign for public office and am happy to report that I won. One of the issues that came up in the campaign was my extensive involvement in nonprofits in our area. I am the executive director of one nonprofit and serve on the board of another. I volunteer for a third. I think my extensive community involvement is one reason I was elected, but what issues should I be alert to now that I'm an elected official? I don't want to make any missteps.

ANSWER

First, congratulations on your election and your commitment to your community. You must be aware of many issues now that you are an elected official. And there are several ways to slice the ethical issues facing an elected official involved in nonprofits.

You will have both ethical and legal considerations to weigh. This column addresses the ethical considerations as well as the legal considerations.

The Distinction Between the Law And Ethics

You can consider the law as a minimum standard of conduct for your behavior. The law determines what you *must* do. If you make a misstep regarding various ethics laws, you will likely face some kind of penalty. Some penalties are financial, and others can cost you your freedom in terms of jail time. Ethics laws are something you should take very seriously.

However, determining whether a given course of action complies with the law should not be the end of your analysis. The law creates a floor for conduct, not a ceiling. Just because a given course of action is *legal* doesn't mean it is ethical or that the public will perceive it as such.

And of course, for elected officials, there can be serious consequences for real or perceived ethical missteps - the public has the right to not return its elected officials to office during each election. In other situations, the public can remove a public official from office through a recall.

Making Ethical Decisions as a Public Official

The key thing to keep in mind regarding public service ethics is that the guiding principle for your decisions must be **what best serves the overall public interest in your community**. In some cases, the public's interest and the particular cause championed by one of the nonprofits you're involved with may align. In other cases, they will not.

Let's take a simple example. Nonprofit organizations invariably are short on resources. The issue may arise whether your public agency should provide funding to (or continue to fund) your nonprofit.

Putting aside legal issues associated with participating in such a decision, the ethical issue is whether **such funding is in the public's best interest as a whole**. Just as nonprofits typically are short on money, so are public agencies. It's not unusual for a community's needs to outstrip its resources. Elected officials play an important role in the budgeting process by deciding the most important uses for taxpayer dollars.

Let's say one of the nonprofit organizations in which you are involved is the local chamber of commerce. The mission of a chamber of commerce is typically to promote and enhance a community's economic vitality and support the interests of the business community. A good argument can be made that a healthy business environment benefits everyone in a community.

For More Information About These Issues

To learn more about legal and ethical issues discussed in this column, see the following related "Everyday Ethics" columns, online at www.ca-ilg.org/everydayethics:

- Extortion and honest services fraud, December 2006;
- Bias and fair process requirements in adjudicative decision-making, October 2006;
- Giving public funds to nonprofits, April 2005;
- First Amendment issues, June 2008; and

Where to seek advice on these issues and the limitations of such advice, June 2007.

However, if funds are scarce, funding the chamber of commerce may mean not funding important public services. A challenge you face as a decision-maker is how to weigh and evaluate such trade-offs. The key ethical issue you face is whether your loyalty to your nonprofit's interests conflicts with your duty of loyalty to the public's interests.

In your public service, the public must be convinced that you are putting their interests ahead of all others. This includes putting the public's interests ahead of those of the nonprofits with which you are affiliated (as well as your own personal financial interests, of course).

Be aware of the strong temptation to rationalize in these kinds of situations. Rationalizing involves starting with a conclusion and then essentially reasoning backwards from that conclusion.

In our example, you would start with the conclusion that supporting the chamber of commerce is in the public's interest and, therefore, it makes sense to budget money for that purpose. A less rationalizing approach is to begin with an analysis of the community's pressing needs and then allocate money to those. Strengthening the business environment may legitimately be one of those interests, but supporting the chamber may or may not be the best way for the agency to do that.

Rod Wood, city manager of Beverly Hills, explains the issue this way:

I believe participating in nonprofit organizations and their good works is beneficial for us all. However, I decline opportunities to sit on the boards of directors of nonprofits, and I encourage council members and executive staff to do likewise. This way, there is no conflict with our first duty and oath of office to the city. If someone does sit on a board and that organization has business before the city, I believe the appropriate course of action is to disclose the relationship and abstain from actions involving the organization.

Wood goes on to observe that people are very passionate about the nonprofits with which they are associated, and it's easy for other nonprofits to feel slighted if an organization in which a city official is involved receives some benefit from the city.

The Importance of Public Perception

Most members of the public will not know a public official's motivations and reasoning. This is where the issue of public perception is important to public servants. *It is important not only that public servants do the right thing, but also that the public perceives the right thing has been done.*

Why should you care about public perception? There are two very practical reasons. The first is that as a public official, you are a steward of the public's trust. The public's trust and confidence in both you and your agency are vital to your ability to lead and accomplish things in your community.

The second reason is that the public's perceptions will play a determining role in their decision to have you represent their interests. If you fall short of the public's expectations, you are not likely to keep your position as an elected official.

The hard truth about public perception is that the public will necessarily have incomplete information. They will not know what your considerations were in analyzing whether to fund the chamber of commerce. Moreover, for better or worse, the public tends to have a rather cynical attitude toward public officials' motivations. Frequently, the public concludes that public officials are motivated to act based on a desire to serve special interests instead of the public's interest.

It's important to note that, in the minds of many, "special interests" are not just limited to private, for-profit organizations. As the *New York Times* noted: "We still think of special interests as groups that have obtained a backdoor influence on law or policy, whether it's purchased by campaign contributions or bartered for political support."¹ The question for a local elected official to ponder is whether the public might reasonably conclude that the official's relationship with a nonprofit might be a form of "backdoor influence" on the agency's decision.

Another element of the public's analysis relates to perceptions of whether a public official can be loyal to the public's interests and the interests of a nonprofit organization with which the official is affiliated. It is always best to follow one lead, not two. And it's best for a public official and the public served to have the same focus --- the public's best interest.

What to Do?

If you find yourself in a situation in which you earnestly believe you can not put aside your loyalty to a nonprofit organization's cause and make a decision based on what serves the public's interest, then you should step aside from decision-making related to that organization.

Let's say, however, you earnestly believe that you can make a decision solely based on the public's interests. In such a situation, you are still well advised to consider stepping aside from the decision-making process if you believe the public might reasonably question whether your loyalty to a nonprofit organization is motivating your decision. Stepping aside will underscore your commitment to the public's trust and confidence in both your decision-making process and that of your agency.

If the situation is public, such as a vote on a request for funding, explain your decision in terms of those values:

Everyone knows that I am a strong supporter both of business in general and the chamber of commerce in particular. In fact, I am a member of the chamber's board of directors.

As a public official, I have a solemn duty to put the public's interest first in all of my decision-making. I put a high value on the public's trust in my decision-making. Because of my relationship with the chamber, I am going to abstain on this decision, so there is no question in the public's mind as to whether my decision is based on my loyalty to the public's interests or my loyalty to the chamber's interests.

Again, this is wholly separate from a legal analysis of whether, in certain situations, the law makes this decision for you and requires you to step aside from the decision-making process.

Too High a Price?

Some officials might reasonably feel that such an approach elevates form over substance --- that they were elected to office precisely because of their commitment to the causes espoused by their nonprofit organizations. They may believe that by not participating in the decisions that matter most to their organizations, they would be letting their supporters down.

In some communities, local officials are encouraged to resign their positions on nonprofit boards of directors when they take public office. This can reduce concerns that an official's decision is affected by conflicting organizational loyalties. In other situations, the official reaches the conclusion that whatever cause he or she is championing is so important that they go with that position and figure the voters will have the ultimate say on whether the official is doing the right thing. The middle ground is for public officials to disclose their affiliations with a nonprofit organization when voting on an issue affecting the nonprofit, so the public at least is aware of the relationship and can evaluate the official's actions accordingly.

Ultimately, the ethical issues are judgment questions for each official to resolve. There are, however, situations in which the law makes the call on what's OK for a public official. A number of laws govern a public official's actions with respect to nonprofit organizations, and that topic will be the focus of the next two "Everyday Ethics" columns.

More "Everyday Ethics" Articles On the Law

The February 2004 "Everyday Ethics" column addressed fund-raising issues for local officials. The February 2006 column talked about mass mailing restrictions, which can come up when public funds support an organization and that organization in turn produces mailed publications that feature an official's name or photo.

All past "Everyday Ethics" columns are online at www.ca-ilg.org/everydayethics.

Fundraising Caveats

In fundraising or similar situations, public officials must take extraordinary care to separate their roles as fundraisers or representatives of a nonprofit and as public officials. They must strive to ensure that people from whom they've solicited a contribution for a charitable cause understand that such a contribution will not favorably influence their decision on a separate matter. Using one's official position to, in essence, force donations to nonprofits violates state and federal laws that prohibit extortion² and protect the public's right to officials' honest services.³

It doesn't necessarily matter that a public official doesn't financially benefit from a donation to a nonprofit. A few members of a committee bidding for the right to host the Olympic Winter Games found this out the hard way when they were successfully prosecuted for bribing and providing gifts to members of the International Olympic Committee (IOC). The court held that the site committee need not have obtained personal gain from their actions, but only needed to intend to deprive the public of the IOC members' honest services.⁴

To create a degree of transparency in this area, the law says that the public has a right to know who is giving big money to charitable causes at a public official's request. Under the law, when contributions from a single person or entity reach \$5,000 over the course of a year, the official needs to write a memo to be kept with the agency's custodian of records explaining this information:

- Which organization or person contributed
- What amount (of \$5,000 or more) to
- Which cause, and
- When the money was given.

Some agencies have created a form to facilitate complete reporting. This disclosure needs to be made within 30 days of reaching the \$5,000 threshold.⁵

The disclosure requirement applies if the public official is the one who requests or suggests that the donor make the donation. It also applies if the request for a donation is made by letter and the public official's name appears on the solicitation (including as part of the letterhead). If the official's name appears on a grant application, even as part of a listing of the board of directors, the disclosure requirement applies.⁶ In fact, any time someone donates to a cause in "cooperation, consultation, coordination or concert with" a public official, the disclosure requirement applies.⁷

What does the disclosure accomplish? It is one piece of information that can enable the public or media to assess if there is any correlation between a donation and a public

official's decision. The goal is to avoid the perception or reality that someone receives special treatment by virtue of having donated to a public official's favorite causes.

As an ethical matter, it's best to avoid asking for donations from those who have matters pending with one's agency (or soon will). This way, the would-be donor does not feel like the decision to donate will affect how the official acts on the donor's pending matter. This relates to the ethical value of fairness. It also avoids any claims by a donor that a public official is trying to secure such contributions in exchange for a favorable decision.

Seeking donations from agency employees presents similar ethical issues. Employees may feel they can't say "no" without a risk that it could affect their employment. This is why the law prohibits public officials from seeking campaign contributions from employees.⁸ The same principle of fairness suggests that public officials voluntarily refrain from asking employees to contribute to the officials' favorite causes.

Reporting Meals, Travel, Gifts and Expense Reimbursement

Most board members and volunteers for nonprofit organizations are unpaid. However, the nonprofit may pay for travel expenses and food or make other gestures that show appreciation to those who serve the nonprofit. A question under the ethics laws is whether these gestures should be treated as gifts, income or neither.

If the nonprofit is a 501(c)(3) organization, the issue is whether the public official has provided services or something else to the organization, such as a speech or participation on a panel. If the public official provided services of equal or greater value to the 501(c)(3), then travel reimbursement is not reportable and not subject to a value limit.⁹ If the public official has not provided services, then reimbursement of travel expenses from the 501(c)(3) is reportable but not subject to the value limit, as long as the travel is reasonably related to a governmental purpose or issue of public policy.¹⁰

For nonprofit organizations that are not 501(c)(3) eligible, the issue is whether travel expenses, meals and other gestures from the nonprofit are a form of compensation to the nonprofit's leadership or volunteers. If so, then their value should be reported as income on an official's Statement of Economic Interests, particularly if the value totals \$500 or more.¹¹ For these gestures to qualify as income (as opposed to gifts), an official needs to be able to demonstrate that he or she provided services equal to or greater than the value of the reimbursements, meals and other gestures.¹² (Note that reimbursement for travel or meals is not reportable as income for purposes of state and federal tax laws.)

If no services were provided for the gestures, then the gestures' value is reportable as a gift if they total \$50 or more in a calendar year.¹³ The same is true if the payments are for purely social or recreational activities paid for by the nonprofit.¹⁴ The value of the gestures cannot total more than the annual gift limit (\$420 for 2009-10).¹⁵ The exception is a gesture that is a personalized item (like a plaque) whose value doesn't exceed \$250. Such personalized items do not need to be reported as either a gift or income.¹⁶

Agency Financial Transactions With the Nonprofit

There may be times when the nonprofit has business with the agency. The nonprofit may want to lease agency property or perform services for the agency. It may be seeking a donation to support its operations or an event (see "For Whom the Whistle Blows," April 2005, *Western City*, on legal requirements related to making donations to nonprofits, online at www.westerncity.com). It's important to note that there are two different laws an attorney will need to analyze for a public official if one of these situations exists.

1. One is a prohibition against public officials having certain kinds of interests in contracts involving their agency. Attorneys call this a "1090" issue, which refers to the section of the Government Code where the prohibition appears. The prohibition applies to public officials having a financial interest in a contract, but it is important to keep in mind that the definition of "financial interest" is very broad, and so is the definition of "contract."
2. The other is the Political Reform Act's provisions that require public officials to step aside from decisions and the decision-making process if they have a financial interest in the decision. As with the prohibitions relating to contracts, the definition of "financial interest" is broad, and the analysis of how the prohibition applies is quite complex.

The complexity of the analysis required under both laws makes it advisable to consult with your agency counsel as early as possible about these issues.

Section 1090 and Contract Issues

Let's look more closely at the rules related to contracts and nonprofits. When a member of a decision-making body has a financial interest in a contract, the contract cannot occur¹⁷ --- that's the rule. Nonprofits present special issues because they are not owned by anyone and no one reaps a profit in connection with their activities. As a result, public officials may think that this proscription does not apply.

The ban does apply though, because nonprofits are sources of income and provide other benefits to a variety of individuals, as discussed in the October column. Those benefits --- as well as the close relationship a public official may have with a nonprofit --- can cause the public to question whether a public official is putting the general public's interests first in a given situation.

What is a public official to do if he or she has the kinds of financial ties covered by the law with a nonprofit? Typically, the official must disclose the relationship and not participate in any decision-making related to the nonprofit.

The decision-making process is not limited to the final vote on a matter. The public official needs to step aside from all phases leading up to the contract's approval, including

preliminary discussions, negotiations, compromises and planning.¹⁸ If the official doesn't and attempts to influence his or her colleagues, the official and the agency lose the benefit of the exception that allows the contract to be entered into.¹⁹ This requirement assures the public that no preferential treatment is occurring because of a nonprofit's connection with one or more public officials.

The official must step aside in situations that involve:

- **A Nonprofit Officer** --- When an elected official is an officer of the nonprofit (for example, president) and the agency wishes to support the nonprofit;²⁰ and
- **A Nonprofit Employee** --- When an elected official or his or her spouse or partner works for the nonprofit, and the agency wishes to support the nonprofit.²¹

Note, however, that the official does *not* have to step aside if: 1) he or she is a non-compensated officer of a tax-exempt organization; and 2) one of the nonprofit's purposes is to support the functions of his or her public agency.²² Also, just being a non-salaried member of the nonprofit doesn't require a public official to step aside from the decision-making process, all other things being equal.²³ (For both of these exceptions to apply, the relationship needs to be disclosed in the agency's official records.) If, however, there is a question about whether the official's relationship biases his decision, he should speak with agency counsel about bias issues.

Note that if the financial arrangement pre-dates the official's service on the decision-making body, there is no problem as long as there is no change or renewal of the arrangement.²⁴ As an example, the attorney general said that a city could continue to lease property to a nonprofit organization even though a newly elected council member is a paid executive director for the nonprofit.²⁵

What about being a member of a nonprofit's board of directors? Attorneys disagree on the best interpretation of the statutory language. The attorney general believes that being a board member is akin to being an officer, which means board members must step aside from the decision-making process when it comes to agency financial relationships with their nonprofits.²⁶ Some attorneys believe that the concept of being an "officer" of a nonprofit is limited to those positions specified as "officers" under state law related to nonprofits.²⁷

The question in this situation is: On which side do you want to err? If the official participates in decision-making related to the contract, the contract may be void.²⁸ There are other penalties for purposeful failure to disclose one's status, including loss of office.²⁹ To be safe, nonprofit board members may want to disclose and step aside from the decision-making process until the appellate courts provide guidance on this point.

About Those Agency-Affiliated Nonprofits

In some situations, public agencies will create nonprofit organizations to support a worthwhile objective. Because of the close tie to the public agency's interests, public officials sometimes sit on the nonprofit's governing board. These situations can create complex legal and ethical issues because the agency's and nonprofit's interests are so closely intertwined.

For example, what if an agency decides to use its authority when approving a lease, permit or other entitlement to require a contribution to the agency's nonprofit? The idea can make complete sense, as apparently was the case in one Northern California city. The nonprofit supported the operation of a national park. Most of the buildings and land within the park are owned and maintained by the city. One of the responsibilities of board members is fundraising.

The city's holdings in the park apparently included land that a company sought to lease for aggregate mining. The lease required environmental review. The council member/board member had the idea that one of the mitigation measures for the mining operation could include a \$250,000 contribution to the nonprofit to support the operations of the park. The company apparently agreed to do so, and the council member/board member asked staff to include the commitment in the conditions for project approval.

When asked if the council member/board member could participate in the decision-making relating to the lease, the attorney general said he could. This was largely because the nonprofit was so closely affiliated with the city and therefore the council member did not have a direct or indirect financial interest in the lease.³⁴ The special statutory provisions for nonprofits formed to support public agency objectives played a strong role in the attorney general's analysis.

How might an official handle such a situation to minimize questions about the dual role an elected official/board member might be playing? One is to consult with the management and legal staff about the contribution idea. Agency attorneys can analyze whether the law permits an agency to ask for this kind of gesture in this situation. For example, if this were a situation not involving city land, the city's requirements would need to satisfy the laws relating to permissible exactions.³⁵ Management staff can work with planning staff and get their input on the concept.

Getting buy-in on the merits of the approach (in an open meeting, of course) is another option. That helps make the idea to support the nonprofit's activities the agency's idea, as opposed to the individual elected official's idea.

Political Reform Act and Financial Interest Issues

The previous installment of this column analyzed the issue of travel reimbursement and other things an official might receive from a nonprofit. Such gifts or income can be the basis for having to disqualify oneself from participating in public agency decisions involving the nonprofit. A threshold issue is whether the official has received reportable income of \$500 or more or reportable gifts of \$390 (\$420 in 2009-10) or more within the 12 months preceding the decision. If so, the next series of questions to be analyzed by either the Fair Political Practices Commission (FPPC) or agency counsel is whether it is reasonably foreseeable that a public official's decision would have a material financial effect on the nonprofit.³⁰

Another situation of potential concern is an official doing business with a nonprofit --- for example, when the nonprofit is a customer or client of a business in which a public official is involved. In such a case, a public official is well advised to speak with either the FPPC or agency counsel about whether the disqualification requirements of the Political Reform Act apply.

For example, the FPPC recently advised one public official not to participate in a decision on funding a nonprofit organization when his consulting firm provided services to the nonprofit. The FPPC did the analysis required under the Political Reform Act. Key issues were whether the official had received income of \$500 or more from the nonprofit during the 12-month period before the decision and whether the financial effect of the decision met the materiality standards under the act.³¹ The FPPC also strongly advised the official to get advice from the attorney general on how the prohibitions against having an interest in contracts apply.³²

Bias Issues

In situations where an official is applying an agency's policies to a specific situation (for example, in a permit or entitlement situation), one must be aware of the potential for bias. Bias is a common-law or judge-made law, concept. The issue to be concerned with is whether one's participation in a decision will subject the decision to invalidation.

For example, a planning commissioner ghost-wrote an article in a community newsletter that was critical of a project that ultimately came before the planning commission. When the project was turned down, the project proponent challenged the outspoken commissioner's participation in the decision. The theory was that the commissioner had prejudged the merits of the application before the public hearing and couldn't fairly determine whether the project satisfied the city's requirements.³³ The appellate court agreed and set aside the decision.

When a decision-maker is applying existing policies to a specific situation, the decision-maker is acting more like a judge. In legal jargon, the official is acting in a quasi-judicial capacity. When one acts in this capacity, certain fair process requirements apply that

don't apply when a decision-maker is enacting those policies in the first place (and acting in a legislative capacity).

When an official is affiliated with a nonprofit organization that has strongly held views on a matter, the official should consult with agency counsel about whether the official will be acting in a quasi-judicial capacity. If so, the official should ask him or herself if he or she can truly be fair in applying the policies to the specific situation. If not, stepping aside satisfies one's legal and ethical obligations.

Even if an official feels he or she can be fair, another step in analyzing bias is consideration of whether the applicant and others will *perceive* the official as fair. Has the official made statements that suggest that the official has pre-judged the matter? Is there evidence that could be presented to a court to suggest bias? If so, it may be wise to step aside from the decision-making process.

For more information on bias and fair process requirements in adjudicative decision-making, see the "Everyday Ethics" column from October 2006 (online at www.westerncity.com).

Conclusion

When considering all the good and worthy things nonprofits contribute to a community, it can be very tempting to just think about those worthy ends and not think about the means used to achieve those ends. Some officials may even believe that the ends justify the means.

It's important to know that ethics laws make it very clear that the means by which a public official pursues worthwhile ends do matter. Using improper means can result in fines, jail time and other penalties, including the loss of one's standing in the community.

And of course, the laws just create the minimum standards for determining proper means. Merely satisfying the minimum requirements of the law may not satisfy either one's own or one's constituents' standards for what is appropriate. Dr. Martin Luther King Jr. encouraged everyone striving to make the world a better place to use means that are as pure as the end one seeks --- in other words, worthy ends never justify questionable means.

This piece originally ran in *Western City Magazine* and is a service of the Institute for Local Government (ILG) Ethics Project, which offers resources on public service ethics for local officials. For more information, visit www.ca-ilg.org/trust.

The following people contributed ideas and legal analysis for this column: Tom Butt, city council member, City of Richmond; Rob Ewing, city attorney, Danville; Roy A. Hanley, city attorney, Solvang and King City, Hanley and Fleishman; David Hirsch, city attorney, Simi Valley; Selma J. Mann, assistant city attorney, Anaheim; Michelle Sheidenberger, deputy city attorney, Roseville; Larissa Seto, assistant city attorney, Pleasanton; and Daniel G. Sodergren, assistant city attorney, Tracy.

Endnotes:

¹ Nunberg, Geoffrey, "The Language Lobby: The Lost Vocabulary of Disinterested Politics" *New York Times* at *NYTimes.com* (Sept. 14, 2003) (accessed May 12, 2008).

² See Cal. Penal Code § 518; 18 U.S.C. § 1951.

³ *U.S. v. Kemp*, 379 F. Supp. 2d 690, 697-98 (E.D. Penn. 2005), *aff'd* 500 F.3d 257 (3d Cir. 2007), *cert. denied*, 128 S. Ct. 1329 (2008).

⁴ *U.S. v. Welch*, 327 F.3d 1081 (10th Cir. 2003); *U.S. v. Silvano*, 812 F.2d 754, 760 (1st Cir. 1987). *Cf. U.S. v. Bloom*, 149 F.3d 649 (7th Cir. 1998) (finding personal gain necessary).

⁵ Cal. Gov't Code § 82015(b)(2)(B)(iii).

⁶ Cal. Code Regs. § 18225.7(a) ("Made at the behest of" means made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.")

⁷ Sundberg Opinion , FPPC Advice A-05-087 (May 27, 2005).

⁸ Cal. Gov't Code § 3205.

⁹ Cal. Gov't Code §§ 82030(b)(2). See FPPC, Limitations and Restrictions on Gifts, Honoraria,

Travel and Loans: A Fact Sheet for Local Officials (January 2007) at 7. (<http://www.fppc.ca.gov/factsheets/giftlocal.pdf>). See also Benninghoven Advice Letter, FPPC No. I-93-298. (October 15, 1993); Kidwell Advice Letter, FPPC No. A-00-103 (September 14, 2000) .

¹⁰ Cal. Gov't Code § 89506(a)(2). See FPPC imitations and Restrictions on Gifts, Honoraria, Travel and Loans: A Fact Sheet for Local Officials (January 2007) at 8.

(<http://www.fppc.ca.gov/factsheets/giftlocal.pdf>). *See also* Benninghoven Advice Letter, FPPC No. I-93-298. (October 15, 1993); Kidwell Advice Letter, FPPC No. A-00-103 (September 14, 2000).

¹¹ Benninghoven Advice Letter, FPPC No. I-98-177 (November 12, 1998); Benninghoven Advice Letter, FPPC No. I-93-298. (October 15, 1993).

¹² Cal. Gov't Code § 82028(a).

¹³ Cal. Gov't Code § 87207(a)(1).

¹⁴ Kidwell Advice Letter, FPPC No. A-00-103 (September 14, 2000).

¹⁵ 2 Cal. Code Regs. § 18940.2; Cal. Gov't Code § 89503.

¹⁶ 2 Cal. Code Regs. § 18942 (a)(6).

¹⁷ Cal. Gov't Code § 1090.

¹⁸ *See Stigall v. City of Taft*, 58 Cal. 2d 565, 569-71, 25 Cal. App. 441, 443-44 (1962).

¹⁹ *See* Cal. Gov't Code § 1091(c) ("This section is not applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract.")

²⁰ Cal. Gov't Code § 1091(b)(1); *see also* 89 Cal. Op. Att'y Gen. 258 (2006).

²¹ Cal. Gov't Code § 1091(b)(1); *see also* 89 Cal. Op. Att'y Gen. 258 (2006); 85 Cal. Op. Att'y Gen. 76 (2002).

²² Cal. Gov't Code § 1091.5(a)(8) (a noninterest includes "That of a noncompensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the body or board or to which the body or board has a legal obligation to give particular consideration, and provided further that this interest is noted in its official records"; an officer is "noncompensated" even if he or she receives expense reimbursements).

²³ Cal. Gov't Code § 1091.5(a)(7) (defining nonprofit membership as a non-interest). *See also* Attorney General Conflicts of Interest (2004) at 90 ("...this office believes that the reference to "members" [in section 1091(b)(1)] refers to persons who constitute the membership of an organization rather than to person who serve as members of the Board of Directors of such organizations.")

²⁴ *See City of Imperial Beach v. Bailey*, 103 Cal. App. 3d 191, 162 Cal. Rptr. 663 (4th Dist. 1980).

²⁵ 85 Cal. Op. Att'y Gen. 176 (2002).

²⁶ Cal. Gov't Code § 1091(b)(1). *See also* Attorney General Conflicts of Interest (2004) at 90 ("...this office believes that the reference to "members" [in section 1091(b)(1)] refers to persons who constitute the membership of an organization rather than to person who serve as members of the Board of Directors of such organizations.")

²⁷ Cal. Gov't Code §§ 1091(d)(specifying that willful failure to comply with the remote interest requirements is punishable under section 1097), 1097 (specifying that violations are "punishable by a fine

of not more than one thousand dollars (\$1,000), or by imprisonment in the state prison, and is forever disqualified from holding any office in this state").

²⁸ See Cal. Gov't Code § 1091(c) ("This section is not applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract.")

²⁹ Cal. Gov't Code §§ 1091(d) ("The willful failure of an officer to disclose the fact of his or her interest is a contract pursuant to this section is punishable as provided in Section 1097"), 1097 ("Every officer . . . who willfully violates any of such laws, is punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the state prison, and is forever disqualified from holding any office in this state.").

³⁰ See Cal. Gov't Code § 87100 and following; 2 Cal. Code Regs. § 87200 and following. See also Pavlovich Advice Letter, FPPC No. A-94-391 (January 05, 1995).

³¹ See Mattas Opinion, FPPC Advice A-08-035 (April 08, 2008).

³² See Mattas Opinion, at n. 2.

³³ *Nasha L.L.C. v. City of Los Angeles*, 125 Cal. App. 4th 470, 483-842, 22 Cal. Rptr. 3d 772, 780-81 (2d Dist. 2004).

³⁴ See 88 Cal. Op. Att'y Gen. 32 (2005).

³⁵ The Institute offers resources on these issues at http://www.ca-ilg.org/index.jsp?displaytype=§ion=land&zone=ilsg&sub_sec=land_property&tert=land_property_fees.

To adjourn the meeting.

VOTE: Yeas, 2
 Nays, None
 Absent, 1 (Fierro-Share)

The meeting was adjourned at 5:15 PM.

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Minutes from Oct. 27, 2016 City Commission meeting

Absent, 1 (DeWeese)

Ms. Slanga was appointed. Mr. Rontal was not appointed.

The Commission discussed the board positions. It was noted that one of the criteria is a member with experience or expertise in visual or hearing impairment.

MOTION: Motion by Sherman:

To appoint Daniel Rontal, 926 Bird, as the mobility expertise member, to the Multi-Modal Transportation Board to serve a three-year term to expire March 24, 2017.

VOTE: Yeas, 6
Absent, 1 (DeWeese)

Mr. Rontal was appointed.

10-318-16 APPOINTMENT TO THE DESIGN REVIEW BOARD & HISTORIC DISTRICT COMMISSION

MOTION: Motion by Boutros:

To appoint Dulce Fuller, 255 Pierce, as an alternate member, to serve a three-year term on the Design Review Board & Historic District Commission - to expire September 25, 2019.

VOTE: Yeas, 6
Absent, 1 (DeWeese)

The Clerk administered the oath to the appointed board members.

10-319-16 REQUEST FOR ADVISORY OPINION FROM THE BOARD OF ETHICS

Mayor Hoff explained that the Commission has the option of appointing a member to the Birmingham Youth Assistance General Citizens Committee as a voting or non-voting member or to refer the following question to the Board of Ethics: "Is there a conflict of interest with City Commissioners serving as board members for community-based organizations that rely on the City for funding, and what actions should be followed if they wish to serve on boards that make requests to the City Commission?" The Commission agreed that this item should be considered by the Board of Ethics.

MOTION: Motion by Sherman, seconded by Nickita:

To refer this to the Board of Ethics and to ask staff look at the alternate language and the language in the agenda to try to craft exactly what we are looking for as the alternate language may be too specific and miss the generalities that may apply to other boards that Commissioners are appointed to. The language in the agenda may be a little too broad. In addition, to include a copy of the correspondence from the Birmingham Youth Assistance and the City Commission minutes which include previous discussions on this item.

Commissioner Harris noted that, in his experience, the issue posed to the Board of Ethics was verbatim the issue that the Board addressed in response to an Advisory Opinion request. He questioned if the Board of Ethics has the flexibility to investigate the issue and frame it as there could be circumstances not covered by this language.

Commissioner Sherman noted that his motion was to have staff take a look at not only the alternate language that was prepared, but also the language that was in the agenda and arrive at some middle ground that does address a specific set of questions that we are asking that really apply to all the outside agencies where Commissioners are board members.

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

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.

10-320-16 APPROVAL OF CONSENT AGENDA

The following item was removed from the consent agenda:

- Item A (Minutes of October 10, 2016) by Commissioner Bordman

Commissioner Sherman thanked Ms. Peabody for her service on the Advisory Parking Committee.

Commissioner Bordman disclosed that she sits on the Next Board and took no part in advising Next regarding Item F.

MOTION: Motion by Nickita, seconded by Bordman:

To approve the consent agenda as follows:

- B. Approval of warrant list, including Automated Clearing House payments, of October 12, 2016 in the amount of \$820,896.63.
- C. Approval of warrant list, including Automated Clearing House payments, of October 19, 2016 in the amount of \$1,502,574.38.
- D. Resolution authorizing the purchase of one Microsoft Surface Hub and associated mounting kit from CDW-G for a total cost of \$9,368.61 from account #101-371.000-971.0100.
- E. Resolution approving the contract for the Pembroke Park Lawn Repair project to Homefield Turf and Athletic, Inc. in the amount not to exceed \$12,500.00 from the Capital Projects Fund, account #401-751.001-981.0100. Further, authorizing the Mayor and City Clerk to sign the agreement on behalf of the City.
- F. Resolution awarding the 2016-2017 Public Services contract totaling \$18,584 for Minor Home Repair, Yard Services and Senior Outreach Services to NEXT under the Community Development Block Grant Program; and further, authorizing the Mayor to sign the contract on behalf of the City.
- G. Resolution accepting the resignation of Susan Peabody from the Advisory Parking Committee, thanking Ms. Peabody for her service, and directing the Clerk to begin the process to fill the vacancy.
- H. Resolution confirming the City Manager's emergency expenditure to engage the services of Rid A Leak to waterproofing the outside wall at the Detective Bureau at the lower level of City Hall with the expenditure in the amount not to exceed \$7,200.00. Cost will be charged to the City Hall And Grounds other contractual services account # 101-265.001-811.0000.



MEMORANDUM

Office of the City Manager

DATE: October 27, 2016

TO: Joseph A. Valentine, City Manager

FROM: Joellen Haines, Assistant to the City Manager

SUBJECT: BYA Expectations of City Commissioner Appointee

At the May 9, 2016 City Commission meeting, there was a resolution to determine the appointment of a city commissioner to the Birmingham Youth Assistance (BYA) Committee. As a result of the discussion, there was a request for more information from the BYA regarding the volunteer requirements of a BYA board member. Subsequently, the City Manager's Office received the attached email on May 12, 2016 with the requested information.

At the May 23, 2016 City Commission meeting, the Commission determined that more information was needed to understand the capacity of the Commission's role, and to determine if the appointment should be as a voting or non-voting member. Attached is the October 3, 2016 letter from the BYA clarifying their expectations of a city commission appointee.

The Commission also discussed at the May 23, 2016 meeting, having the Ethics Board provide an advisory opinion regarding a potential conflict of interest with City Commissioners serving as board members for community-based organizations that rely on city funding. If the Commission wishes to pursue this, an additional resolution has been prepared

Three resolutions have been prepared regarding appointment of a city commissioner to the BYA.

SUGGESTED RESOLUTION:

To appoint _____ as a voting member of the Birmingham Youth Assistance General Citizens Committee,
OR

To appoint _____ as a non-voting member of the Birmingham Youth Assistance General Citizens Committee,
OR

To refer the following question to the Board of Ethics:

"Is there a conflict of interest with City Commissioners serving as board members for community-based organizations that rely on the City for funding, and what actions should be followed if they wish to serve on boards that make requests to the City Commission?"



Birmingham Youth Assistance

2436 West Lincoln, Ste. F102
Birmingham, MI 48009
(248) 203-4300 FAX: (248) 203-4301
office@birminghamyouthassistance.org
www.birminghamyouthassistance.org

October 3, 2016

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Connie Jaroh
A. Randolph Judd
David Rogers
Susan Rogers
Rachel Rotger
Anne Van Dyke

Mr. Joe Valentine, Manager
City of Birmingham
151 Martin
Birmingham, MI 48009

Dear Joe,

This letter will hopefully clarify BYA's expectations of a City Commissioner appointee to our General Citizens Committee (the GCC). There are three points to be made:

1. We hope that the Commissioner would attend as many of the nine GCC meetings per year as possible. The meetings, which are held at 8am on the second Thursday of months during which Birmingham schools are in session, generally last one hour.
2. As with all GCC members, we would hope that the appointed Commissioner would volunteer to participate in one or more of the many community outreach activities which BYA undertakes. We fully understand that such participation depends on the Commissioner's personal interests, available time and any potential conflict-of-interest considerations.
3. Consistent with the above point, we hope that the appointed Commissioner would support our fundraising activities. As with other BYA activities, such support is optional. However, we believe that fundraising is both a responsibility and a benefit to the community and it helps to publicize the work that BYA does.

We hope that this provides you and the Commission with the necessary information to proceed with the requested appointment.

Sincerely,


Reuben Myers
BYA Chair


Richard Stasys
BYA Treasurer

RM:RS:dmr

BIRMINGHAM

OCT 07 2016

CITY MANAGER'S OFFICE

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City Commission Meeting Minutes May 23, 2016

In response to a question from Commissioner Sherman regarding the billing issue lawsuits, Mr. Nash explained that they are working with a group to get legislation to address this issue. City Manager Valentine pointed out that a solution is in the works and there is comprehensive effort underway to try to address multiple issues related to that challenge.

05-163-16 APPOINTMENT TO THE GREENWOOD CEMETERY ADVISORY BOARD

MOTION: Motion by DeWeese, seconded by Boutros:

To appoint Margaret Suter, 1795 Yosemite, to the Greenwood Cemetery Advisory Board to serve the remainder of a three-year term to expire July 6, 2016.

VOTE: Yeas, 7
 Absent, None

05-164-16 APPOINTMENT OF THE CITY COMMISSIONER MEMBER TO THE BIRMINGHAM YOUTH ASSISTANCE GENERAL CITIZENS COMMITTEE

The Commission discussed the option of serving as a voting or non-voting member on the Birmingham Youth Assistance General Citizens Committee.

The Commission discussed the potential conflict and recusal of a non-voting member and a voting member on the Committee. It was noted that there is an inherent conflict and the Commission should only act as liaisons on these boards. It was also noted that by making a Commissioner a non-voting member it still allows the Commissioner to give perspective and influence. It was stated that the Commissioner should not be advocating for the board, he/she should be looking out for the City.

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

Commissioner Harris noted that the City has an ethics ordinance in place with criteria for when a Commissioner should recuse him/herself. Commissioner Nickita noted that part of the duties is to be a fundraiser advocate for the group. He questioned if that was an appropriate position for a Commissioner.

MOTION: Motion by DeWeese, seconded by Nickita:

To appoint a representative as a liaison to the Birmingham Youth Assistance General Citizens Committee.

The Commission continued to discuss whether a liaison or a board member makes more sense. Commissioner Harris suggested a request for an advisory opinion be submitted to the Board of Ethics. City Attorney Currier explained that Section 2-324(b)(1) of the Ethics Ordinance reads that "No Official or employee of the City shall participate as an agent or representative of the City in approving, disapproving, voting abstaining from voting, recommending or otherwise acting upon any matter in which he or she has directly or indirectly a financial or personal interest".

VOTE: Yeas, 2 (Hoff, DeWeese)

Nays, 5
Absent, None

Mayor Pro Tem Nickita stated that the best way to address this issue is to gain more insight from multiple organizations and return to the Commission to make a determination. He noted that the Board of Ethics would want to know the answers to the same questions posed by the Commission. More information is needed to understand the capacity of the Commissions role and then the role of voting or non-voting can be determined.

The Clerk administered the oath to the appointed Greenwood Cemetery Advisory Board member.

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.

05-165-16 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item B (Minutes of May 9, 2016) by Commissioner Bordman
- Item J (Special Event Request Lung Run) by Commissioner Bordman
- Item H (Set Public Hearing for 404 Park) by Commissioner Sherman

MOTION: Motion by DeWeese, seconded by Bordman:

To approve the consent agenda as follows:

- A. Approval of City Commission budget minutes of April 16, 2016.
- C. Approval of warrant list, including Automated Clearing House payments, of May 11, 2016 in the amount of \$454,136.78.
- D. Approval of warrant list, including Automated Clearing House payments, of May 18, 2016 in the amount of \$1,263,561.32.
- E. Resolution appointing City Engineer Paul T. O'Meara, as representative, and Austin Fletcher, Assistant City Engineer, as alternate representative, for the City of Birmingham, on the Southeastern Oakland County Water Authority Board of Trustees for the period starting July 1, 2016.
- F. Resolution appointing Joseph Valentine as the representative and Lauren Wood as the alternate representative for the City of Birmingham on the Southeast Oakland County Resource Recovery Authority Board of Trustees for the period starting July 1, 2016.
- G. Resolution setting Monday, June 27, 2016 for a public hearing to consider approval of the Revised Final Site Plan and Temporary Special Land Use Permit Amendment of one year for 835 & 909 Haynes – Lavery Porsche.
- I. Resolution approving a request submitted by Woodward Camera requesting permission to place one tent in the parking area in front of 33501 Woodward Ave on August 20, 2016, contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.
- K. Resolution authorizing the City to enter into a contract with Great Lakes Fireworks, LLC for providing a fireworks display on July 3, 2016 (July 5 rain date) at Lincoln Hills for the sum of \$15,000.00, and further authorizing the administration to secure the necessary insurance. This would be contingent upon the vendor meeting all state and local laws, City requirements, and insurance requirements.



MEMORANDUM

Office of the City Manager

DATE: May 19, 2016

TO: Joseph A. Valentine, City Manager

FROM: Joellen Haines, Assistant to the City Manager

SUBJECT: Follow-up on volunteer requirements pursuant to appointment of City Commissioner to the Birmingham Youth Assistance (BYA) General Citizens Committee

At the May 9, 2016 City Commission meeting, there was a resolution to determine the appointment of a city commissioner to the Birmingham Youth Assistance (BYA) Committee. As a result of the discussion, there was a request for more information from the BYA regarding the volunteer requirements of a BYA board member. Subsequently, the City Manager's Office received an email on May 12, 2016 with the requested information (see attached email).

The involvement of a Commissioner with the BYA committee may at some point pose a conflict given the nature of the decisions that come before the City Commission. To avoid a potential conflict of interest, the Commissioner would have to recuse him or herself from voting on matters relating to the BYA if he or she was appointed a voting member of the BYA General Citizens Committee, or if the Commissioner was appointed as a non-voting member of the committee, the Commissioner would identify him or herself as a non-voting member of the BYA General Citizens Committee, and decide accordingly to recuse or not recuse depending on the topic.

Two resolutions have been prepared to offer the options listed above.

SUGGESTED RESOLUTION:

To appoint _____ as a voting member of the Birmingham Youth Assistance General Citizens Committee, or

To appoint _____ as a non-voting member of the Birmingham Youth Assistance General Citizens Committee.



Joe Valentine <jvalentine@bhamgov.org>

City Commissioner volunteer for BYA

Birmingham Youth Assistance <office@birminghamyouthassistance.org>

Thu, May 12, 2016 at 1:45 PM

To: Joe Valentine <jvalentine@bhamgov.org>

Cc: Chris Gannon <cgannon104@gmail.com>, Dick Stasys <rstasys@hotmail.com>, Jill Fill <jf02bps@birmingham.k12.mi.us>, Nikki Keller <kellerfox@gmail.com>, Reuben Myers <myersreuben@yahoo.com>, Shelley Taub <shelleytaub@comcast.net>

Hi Joe,

Sorry I haven't gotten back to you but I wanted to make sure that I had all correct information to give to you to take back to the commission for their next meeting. Our committee meets once a month, September thru June. Our meetings are usually scheduled for the second Thursday of the month (sometimes due to holidays and school vacations it may fall on a different Thursday). The meetings usually last about an hour, sometimes less. We meet in the BPS Administration Building next to Groves High School on 13 Mile & Cranbrook. Meetings start at 8:00 a.m.

As to additional service, we do ask they join one of our event committees. The commitment hours for that can vary depending on which committee it is.

The third thing that we ask is that our volunteers support our fundraising efforts, i.e. our RedRaisers.

Please let me know if you have any further questions.

Have a great weekend,
Diedra

[Quoted text hidden]

**05-136-16 APPOINTMENT TO THE
HOUSING BOARD OF APPEALS**

MOTION: Motion by Bordman:

To appoint Alexander Jerome, 1845 Hazel, to serve a three-year term on the Housing Board of Appeals to expire May 4, 2019.

MOTION: Motion by DeWeese:

To appoint Robert E. Taylor, Jr., 3693 W. Bloomfield, Bloomfield Hills, to serve a three-year term on the Housing Board of Appeals to expire May 4, 2019.

VOTE ON NOMINATION OF JEROME:

Yeas, 6

Absent, 1 (Sherman)

VOTE ON NOMINATION OF TAYLOR:

Yeas, 6

Absent, 1 (Sherman)

The Clerk administered the oath to the appointed board members.

**05-137-16 APPOINTMENT TO THE
BIRMINGHAM YOUTH ASSISTANCE
GENERAL CITIZENS COMMITTEE**

City Manager Valentine explained the option to appoint a City Commissioner as a voting member or a non-voting member.

The Commission requested additional information on what this position would encompass and agreed to postpone this decision until the next meeting.

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.

05-138-16 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item E (Little Free Library program "Book Box" designs) by Commissioner Bordman
- Item H (West Nile Virus Fund Reimbursement Program) by Commissioner Bordman
- Item A (Budget Session Minutes of April 16, 2016) by Mayor Hoff
- Item B (Minutes of April 25, 2016) by Mayor Hoff
- Item G (Historical Museum & Park Bell Project) by Mayor Hoff

MOTION: Motion by DeWeese, seconded by Boutros:

To approve the consent agenda as follows:

- C. Approval of warrant list, including Automated Clearing House payments, of April 27, 2016 in the amount of \$574,829.23.
- D. Approval of warrant list, including Automated Clearing House payments, of May 4, 2016 in the amount of \$316,104.85.
- F. Resolution approving the purchase of one (1) new 2016 Freightliner MT55 from Cannon Truck Equipment., using MI-Deal extendable purchasing pricing for a total expenditure



MEMORANDUM

Office of the City Manager

DATE: May 4, 2016

TO: Joseph A. Valentine, City Manager

FROM: Joellen Haines, Assistant to the City Manager

SUBJECT: Appointment of City Commissioner to the Birmingham Youth Assistance (BYA) General Citizens Committee

The City Manager's Office received a letter on April 11, 2016 from the Birmingham Youth Assistance (BYA) organization requesting that the City of Birmingham Commission appoint a representative for the Birmingham Youth Assistance (BYA) General Citizens Committee.

We recognize that the involvement of a Commissioner with this committee may at some point pose a conflict given the nature of the decisions that come before the City Commission. To avoid a potential conflict of interest, the Commissioner would have to recuse him or herself from voting on matters relating to the BYA if he or she was appointed a voting member of the BYA General Citizens Committee, or if the Commissioner was appointed as a non-voting member of the committee, the Commissioner would identify him or herself as a non-voting member of the BYA General Citizens Committee, and decide accordingly to recuse or not recuse depending on the topic.

Two resolutions have been prepared to offer the options listed above.

SUGGESTED RESOLUTION:

To appoint _____ as a voting member of the Birmingham Youth Assistance General Citizens Committee, or

To appoint _____ as a non-voting member of the Birmingham Youth Assistance General Citizens Committee.



Birmingham Youth Assistance

2436 West Lincoln, Ste. F102
Birmingham, MI 48009
(248) 203-4300 FAX: (248) 203-4301
office@birminghamyouthassistance.org
www.birminghamyouthassistance.org

Chairperson

Reuben Myers

Vice Chairperson

Shelley Taub

Secretary

Jill Reichenbach Fill

Treasurer

Richard Stasys

Past Chairperson

Christine Gannon

Caseworker

Nikki Keller

Members

Andrew G. Acho

Judith Adelman

Roy Bishop

Greg Burry

Det. Lee Davis

Mary Jo Dawson

Russ Facione

Jill Reichenbach Fill

Christine Gannon

Jason Gross

Det. Kate Long

Ann Nazareth Manning

Tom McDaniel

Reuben Myers

Dr. Daniel Nerad

Vicki Sower

Richard Stasys

Shelley Taub

James C. Van Dyke

David R. Walker

April 7, 2016

Mr. Joe Valentine, Manager

City of Birmingham

151 Martin

Birmingham, MI 48009

Dear Joe,

We are writing to request that the City of Birmingham Commission appoint a representative for the Birmingham Youth Assistance General Citizens Committee. Andy Harris has recently expressed an interest in BYA and we would be delighted to have him.

If that has changed, we would welcome whomever the Commission selects. As you know, we value our partnership with the city and we feel that by having an active member from the Commission on our board, we can work positively together and build on a great relationship.

If you or the commissioners have any questions, please contact our office at 249.203.4300 or by email office@birminghamyouthassistance.org.

Sincerely,

Reuben Myers
BYA Chair

RM:dmr

Advisory Members

Sheriff Michael Bouchard

Jason Clinkscale

Connie Jaroh

A. Randolph Judd

David Rogers

Susan Rogers

Rachel Rotger

Anne Van Dyke

BIRMINGHAM

APR 11 2016

CITY MANAGER'S OFFICE

We are BYA! You are BYA!

Sponsored by:

Birmingham Board of Education * Birmingham City Commissioners * Oakland County Circuit Court-Family Division
Village of Beverly Hills * Village of Bingham Farms * Village of Franklin

Principal Funding by Oakland County Board of Commissioners

BIRMINGHAM CITY COMMISSION MINUTES
DECEMBER 4, 2017
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Harris called the meeting to order at 7:30 p.m.

II. ROLL CALL

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

Administration: City Manager Valentine, City Attorney Currier, Planning Director Ecker, Finance Director/Treasurer Gerber, Operations Commander Grewe, City Clerk Mynsberge, City Engineer O'Meara

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

Commissioner Boutros' and Commissioner Hoff's birthdays were celebrated.

Mayor Harris announced:

- The Santa House will be open for visitors on select days through December 24th in the pavilion area in Shain Park. And you can enjoy the beauty of downtown Birmingham aglow for the holidays on a quaint carriage ride through town. The complimentary carriages are first-come first-served; carriages load at the corner of Henrietta & Merrill near Shain Park. Visit www.enjoybirmingham.com for the Santa House and carriage ride schedules.
- The City of Birmingham has scheduled a public review period for all interested parties to review the draft 2018 Parks and Recreation Master Plan for the City of Birmingham, Oakland County, Michigan which will be available for review and comment for 30 days beginning Monday, December 4, 2017 at the following locations during regular business hours: Birmingham Municipal Building, Birmingham Department of Public Services, Birmingham Ice Arena, and Birmingham Baldwin Public Library. The draft plan is also available for review on the following website: bhamgov.org/ParksRecPlan.

12-312-17

APPOINTMENTS TO THE AD HOC UNIMPROVED STREET STUDY COMMITTEE

Mayor Harris announced there were nine applicants for the committee and that eight of them were present.

Scott Seltzer was unable to be present, but Commissioners received his written statement of interest and qualifications.

Scott Moore, a resident living on the corner of an improved and an unimproved street, was present and was interviewed by the Commission.

The Commission received David Lurie's written withdrawal from consideration for the Committee.

Dominick Pulis, Michael Fenberg, Jeffrey Heldt, Julie Hollinshead, Christina McKenna, and John Rusche were present and were interviewed by the Commission as candidates for the three Committee seats to be filled by residents living on unimproved streets.

Robert Lavoie, a candidate for the seat to be filled by a resident with a background in road design and maintenance was not present, and the Commission was in general consensus to hold that position open until Mr. Lavoie could be present to be interviewed.

A majority of Commissioners were in favor of adjourning appointments to the Committee to allow additional residents to apply and to allow Mr. Seltzer and Mr. Lavoie to interview with the Commission. Several Commission Members wished to have more diverse areas of the City represented.

City Manager Valentine indicated staff will bring the appointments back at a time when additional applications from residents representing different areas of the City have been received. All applicants will be notified when appointments to the Committee will be considered by the Commission.

12-313-17 APPOINTMENTS TO THE BOARD OF REVIEW

Jill Stress, Guy Di Placido, and Lester Richey, all current members of the Board of Review, were present and were interviewed by the Commission.

MOTION: Motion by Commissioner Sherman:

To appoint Guy Di Placido to the Board of Review as a regular member to serve a three-year term to expire December 31, 2020.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

MOTION: Motion by Commissioner DeWeese:

To appoint Lester Richey to the Board of Review as a regular member to serve a three-year term to expire December 31, 2020.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

MOTION: Motion by Commissioner Boutros:

To appoint Jill Stress to the Board of Review as an alternate member to serve a three-year term to expire December 31, 2020.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

12-314-17 APPOINTMENT TO THE CABLECASTING BOARD

Donovan Shand was present and was interviewed by the Commission.

MOTION: Motion by Commissioner Hoff:

To appoint Donovan Shand to the Cablecasting Board as a regular member to serve the remainder of a term to expire March 30, 2020.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

The City Clerk administered the Oath of Office to the appointees.

IV. CONSENT AGENDA

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

12-315-17 APPROVAL OF CONSENT AGENDA

The following item was removed from the Consent Agenda:

- Commissioner Sherman: Item F, Special Event Permit for Birmingham Bloomfield Chamber – Village Fair in Shain Park Area, May 30-June 3, 2018

MOTION: Motion by Commissioner Boutros, seconded by Commissioner DeWeese:

To approve the Consent Agenda, with Item F removed.

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

A. Approval of City Commission minutes of November 20, 2017.

- B. Approval of warrant list, including Automated Clearing House payments dated 11/22/17, in the amount of \$965,041.92
- C. Approval of warrant list, including Automated Clearing House payments dated 11/29/17, of \$1,235,902.82
- D. Resolution accepting the resignation of Kristen Baiardi from the Board of Zoning Appeals, thanking her for her service, and directing the City Clerk to begin the process of filling the vacancy.
- E. Resolution approving a request submitted by the Memorial Day Committee to hold the Memorial Day Ceremony and aerial fly over on May 28, 2018 at 10:00AM, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

12-316-17 SPECIAL EVENT PERMIT FOR BIRMINGHAM BLOOMFIELD CHAMBER TO HOLD THE VILLAGE FAIR IN THE SHAIN PARK AREA, MAY 30-JUNE 3, 2018 (Item F)

Commissioner Sherman expressed concern with the number of cars needing to be accommodated for the Village Fair.

Joe Baldwin, President of Bloomfield Birmingham Chamber of Commerce, stated the parking concerns will be addressed by:

- One church on W. Maple permitting the use of their 500-car lot;
- Another church on W. Maple potentially also allowing the use of their lot; and,
- United Shore providing employees with access to other parking in the City.

Mr. Baldwin explained to:

- Commissioner Nickita that the current plan is similar to last year's parking plan, except that the plan was not implemented last year because of the delay on the Old Woodward project. This year the plan will be implemented.
- Commissioner Sherman that the estimated number of employees last year was lower than the actual number who attended, which contributed to space issues.
- Commissioner Hoff that United Shore is doing things internally to encourage their employees to park in the alternate lots rather than in the parking structures.
- The Commission that the Fair could be a good way to encourage people to visit downtown Birmingham businesses. The Chamber is working on a program to have local businesses give discounts to people wearing a wristband from the Fair.
- Commissioner DeWeese that off-site parking will be free and shuttles will be running.

Mr. Baldwin added that United Shore could limit the number of prepaid parking deck passes they give to their employees.

Commissioner Hoff suggested handing out the discount wristbands at the off-site parking in order to incentivize the lots' use. Mr. Baldwin expressed approval of the idea and said he would look into setting up information booths with the t-shirts and wristbands at the offsite lots.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Bordman:
To approve a request submitted by the Birmingham Bloomfield Chamber to hold the Village Fair in the Shain Park area, May 30–June 3, 2018, including the private party, contingent upon compliance with all permit and insurance requirements and payment of all fees and, further

pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

V. UNFINISHED BUSINESS

None.

VI. NEW BUSINESS

12-317-17 PUBLIC HEARING TO CONSIDER THE FINAL SITE PLAN AND SPECIAL LAND USE PERMIT FOR 33353 WOODWARD AVENUE – TIDE DRY CLEANERS

Mayor Harris opened the public hearing at 8:44 p.m.

From Senior Planner Baka's report to City Manager Valentine dated November 27, 2017:

The subject business is proposed to be located at 33353 Woodward Avenue in a new one-story 7,227 sq. ft. commercial/retail building and parking lot that is replacing the former Tuffy Automotive building on the west side of Woodward between Davis and Smith. The applicant is a drive-in 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 (SLUP) under Article 2, Section 2.31 (B2B – General Business). 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 parking area for service to patrons in vehicles will be located on the west elevation along the alley under a metal canopy attached to the back of the building outside of the west entrance.

The Planning Board recommended the SLUP for 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.

Planning Director Ecker explained to:

- Commissioner Boutros that the SLUP is required because of the drive-in service, and that the parking spaces are required because of the size of the building.
- Commissioner Hoff that the building is intended for multi-tenant use.

Shannon Marklin, a real estate manager for corporate Tide, stated that the canopy is an added convenience as protection from weather.

Ms. Marklin confirmed for Mayor Pro Tem Bordman:

- The company has 60 of these drive-ins across the United States;
- This drive-in would be the first Tide location in Michigan; and,
- Tide has also signed a lease for a drive-in in Shelby Township.

- The parking lot would allow customers to enter from both Woodward and Davis whether Tide occupies the end cap of the building or another business does.
- Transaction times average between thirty seconds and 2 minutes, and two cars could be helped at any given time.
- On-site dry-cleaning would only be for the Birmingham location. The Shelby Township location does its own dry-cleaning.
- A delivery van will be available to provide delivery service and will be parked at the operator's house every evening.
- According to a traffic study in Chicago, peak times yielded twelve cars per hour.

Planning Director Ecker confirmed for Commissioner Nickita that the canopy must be fully attached to the building, but the method of attachment will be approved administratively during the permitting process.

Commissioner Nickita expressed concern:

- That the Commission was not provided with information on the method of affixing the canopy since it is a required part of the proposal; and
- That there is not sufficient information in the site plan regarding proximity to residences, sidewalk connections, adjacent buildings, and the general neighborhood layout.

Duane Barbat, property owner, explained to Commissioner Nickita that:

- There is a parking lot barrier between the building and the closest residents; and
- The lot is not owned by Mr. Barbat; and,
- If the canopy is approved, drawings by a State of Michigan engineer will be submitted to the building department.

Commissioner Nickita expressed:

- Confidence in Mr. Barbat's plan based on his previous work in Birmingham; but
- That he still views this plan submission as incomplete.

Mr. Barbat replied that his company has not been asked to submit structural plans to the Commission before.

Mr. Barbat told Commissioner Hoff:

- There is no plan to prevent left-turn exits onto Davis.
- The proposal is for two covered spaces to be serviced by employees, the total lease to Tide is 3,000 sq. ft. contingent on the drive-in approval, and 2,000 sq. ft. will be dedicated to the cleaning plant, which may service other small operations in the future.

Planning Director Ecker noted that preventing left turns onto Davis was not a requirement put forth by the Planning Board for approval of the plan.

Ms. Marklin explained to:

- Commissioner Hoff that environmentally-friendly Green Earth solvent and Tide detergent would be used to process the dry-cleaning.

- Mayor Pro Tem Bordman that the only 24/7 parts of the business are a drop-box in the back and a kiosk in the front where a customer can pick up their dry-cleaning before or after hours with a code.

Mr. Ken Platt, a resident on Davis, submitted a communication to the Commission expressing opposition to the project.

Brian Fitzerman expressed his general approval of the plan, but added that he would like to see

- No left turn onto Davis;
- A STOP sign added to the exit onto Davis; and,
- The drop-box moved to the Woodward side, so as to not disturb the Davis-side residents late at night.

Ms. Marklin addressed Mr. Fitzerman's concerns by stating:

- There would be an additional drop-box on the Woodward side; and,
- Based on experience in other locations, if the drive-in spaces are occupied, customers will park and enter the store, so queuing cars should not be an issue.

Ms. Marklin told Commissioner Hoff there are usually two to three employees at a time, with five to seven employees working over the course of a day. Mr. Barbat added there is a side lot for employee parking, leaving sufficient parking for customers.

There being no further comment, Mayor Harris closed the public hearing at 9:20 p.m.

Commissioner DeWeese noted the no left turn sign could be placed in future if necessary.

Commissioner Hoff expressed concern for the residents, and stated that it is important in Birmingham to get the residents' buy-in and respect.

Mr. Barbat stated that he has attended two meetings only seen two residents and one letter.

Mary McCray (1332 Davis) stated that she is concerned with left turns onto Davis, and the potential need for overflow parking which might end up on Davis.

Commissioner Hoff expressed support for a no left turn sign in the parking lot.

Commissioner Nickita stated that he lives very close to this area, and that almost no other businesses have parking lot signage preventing certain exits. He continued that businesses busier than the proposed Tide dry-cleaner have not caused complaints of cut-through traffic, and that adding the parking lot signage lacks both precedent and necessity based on other examples.

MOTION: Motion by Commissioner DeWeese, seconded by Mayor Harris:

To approve the Final Site Plan and Special Land Use Permit to allow service to patrons in their vehicles at 33353 Woodward Avenue – Tide Dry Cleaners as recommended by the Planning Board on October 25, 2017. (*Resolution appended to these minutes as Attachment A.*)

VOTE: Yeas, 7

Nays, 0
Absent, 0

**12-318-17 PUBLIC HEARING TO CONSIDER THE FINAL SITE PLAN AND
SPECIAL LAND USE PERMIT AMENDMENT FOR 250 & 280 E.
MERRILL – SALE OF ROJO AND SIDECAR RESTAURANTS**

Mayor Harris opened the public hearing at 9:28 p.m.

Commissioner Sherman recused himself based on a conversation with the City Attorney.

Commissioner Nickita explained he has a personal connection to the issue as his son works at one of the restaurants, but noted the City Attorney did not see this as a conflict of interest.

The Commission concurred.

From Planning Director Ecker's report to City Manager Valentine dated November 27, 2017:

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 (SLUP) 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 SLUP 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. Because no changes are proposed to the layout, design, name or operation of the existing Rojo or Sidecar restaurants the City Attorney has directed this request for the transfer of ownership proceed directly to the City Commission for review.

Planning Director Ecker reiterated that there are no proposed changes to the restaurants, and the Commission usually fast-tracks these kinds of applications when a business with a SLUP changes hands.

Applicant Stephen Simon confirmed for Commissioner Boutros:

- Mr. Simon has been general manager at both Rojo and Sidecar since their respective inceptions;
- He has been in the industry for about 14 years; and,
- He is aware that any proposed changes must be brought before the Commission per the SLUP terms.

Mr. Simon told:

- Commissioner Hoff that he is only involved in Rojo's Birmingham location.
- Mayor Harris that Mr. Simon owns no other assets under Sidecar LLC.

There being no further comment, Mayor Harris closed the public hearing at 9:34 p.m.

MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Boutros:

1. To approve the Special Land Use Permit Amendment and Final Site Plan 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 (*Resolution appended to these minutes as Attachment B*);

AND

2. To authorize the Chief of Police to sign the MLCC Police Investigation Report (LC-1800) and approving 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 8009;

AND

3. To approve, pursuant to Birmingham City Ordinance, the Resolution authorizing the City Clerk to complete the Local Approval Notice 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.

VOTE: Yeas, 6
 Nays, 0
 Absent, 0
 Recused, 1

**12-319-17 PUBLIC HEARING TO CONSIDER 2018 PROGRAM YEAR
 COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION**

Mayor Harris opened the public hearing at 9:35 p.m.

Mayor Pro Tem Bordman let the public know that she is appointed by the Commission as a non-voting liaison to NEXT. Because she does not vote in NEXT matters, she does not believe there is a conflict of interest in her consideration of the NEXT request before the Commission.

The Commission concurred.

From Finance Director/Treasurer Gerber and Senior Accountant Burrick's report to City Manager Valentine dated November 22, 2017:

The purpose of the December 4, 2017 public hearing is to: receive citizen input regarding the 2018 Program Year Community Development Block Grant (CDBG) program; make a determination of eligible project(s) to be pursued; and determine the amount of funds to be allocated to each project.

The City of Birmingham has been given a planning allocation of \$32,020, which is the same as last year's original allocation. Funding requests from NEXT (formerly the Birmingham Area Seniors Coordinating Council (BASCC) have been received.

Under CDBG guidelines communities may only spend a maximum of 30% of their 2018 funding allocation on public service activities. Birmingham's 30% totals \$9,606 which is the amount requested by NEXT in the public services category. NEXT's request includes \$6,306 for yard services and \$3,300 for senior services to defray the expenses involved in the overall operations of NEXT's outreach program. It is recommended that funding for senior services and yard services be approved for this grant.

Mayor Harris called for comments from the public. There were no comments from the public.

Finance Director/Treasurer Gerber explained to:

- Mayor Pro Tem Bordman that the \$22,414 referenced in the report was allocated for minor repairs on privately owned homes.
- Commissioner DeWeese that the City could spend up to the \$22,414 grant amount on minor home repairs.
- Commissioner Hoff that the City owns the tennis bubble, so retrofitting the doors is the City's responsibility, not the lessee's.

There being no further comment, Mayor Harris closed the public hearing at 9:43 p.m.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Nickita:

To authorize the Finance Director/Treasurer to complete the 2018 Program Year Community Development Block Grant application and conflict of interest certification and to authorize the mayor to sign the application and conflict of interest certification and other documents resulting from this application on behalf of the City and submit them to Oakland County. The project(s) to be included in the application and the respective allocations of Community Development Block Grant Funds are as follows:

	APPROVED 2018
1. Public Services – Yard Services	\$ 6,306
2. Public Services – Senior Services	3,300
3. Remove Architectural Barriers – Retrofit tennis bubble entrance doors to comply with ADA standards	<u>22,414</u>
TOTAL	\$ 32,020

Mayor Harris called for comments from the public on the motion. There were no comments from the public.

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

12-320-17 SPECIAL EVENT REQUEST – KIDS HELPING KIDS WALK

From City Clerk Cherilynn Mynsberge's report to City Manager Valentine dated November 20, 2017:

This is a special event application submitted by the Community House and Variety, The Children's Charity requesting permission to hold Kids Helping Kids Walk. This is planned to offer 1 mile, 2 mile or 3 mile routes on sidewalks in the neighborhood of The Community House. The event is planned for Sunday, April 29, 2018. Set up is from 7:00

a.m. to 9:00 a.m. The event is scheduled to take place from 9:00 a.m. to 12:00 p.m.
Tear down is from 12:00 p.m. to 1:00 p.m.

Vice President of Philanthropy from the Community House, Jackie McIntosh, was available to answer questions.

Commissioner Sherman commented that in years past there have been issues with having enough volunteers and keeping walkers on the sidewalk.

Ms. McIntosh noted measures, including staggered start times, to keep participants out of the road.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese:
To approve a request from the Community House and Variety, The Children's Charity to hold the Kids Helping Kids Walk on Sunday, April 29, 2018 on the sidewalks of the Community House neighborhood streets, contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

12-231-17 GENERAL INVESTMENT POLICY REVISIONS

From Finance Director Gerber's report to City Manager Valentine dated November 22, 2017:

Investment of the City's public funds is restricted by Public Act 20 of 1943, as amended, and further by the City's General Investment Policy approved by the City Commission. The Policy incorporates the provisions of state law, further restricts the types of securities that can be purchased, places additional percentage limits on security types and issuers, and limits maturities. The City's non-discretionary investment advisor, Insight Investment, reviews the parameters set forth in the Policy from time to time and may make recommendations to revise the Policy when deemed prudent. The last revision to the policy was in October 2011.

The investment advisor has reviewed the Policy and is recommending several minor changes which would eliminate references to the General Investment Committee which is no longer in existence and revisions to the definitions of investments that the City may purchase. In addition, a change is proposed for Section 7.0 of the Policy and would permit the City's investment advisor to perform the due diligence for the City when compiling a listing of financial institutions that are approved for investment purposes. The revised language would permit the investment advisor to utilize the investment advisor's list of broker/dealers when executing transactions on behalf of the City. This would benefit the City by allowing the investment advisor access to a much larger group of approved broker dealers, resulting in the opportunity of securing higher yielding securities for the City. Several municipalities in Michigan have adopted the Insight Investment certification process and recommended broker/dealer language: Ann Arbor, Auburn Hills, Livonia and townships of Delta and West Bloomfield.

Mary Donovan from Insight Investment was available to answer questions.

Finance Director Gerber clarified for Commissioner Hoff:

- Steve Gasper solely focuses on retirement investments for Birmingham, while Ms. Donovan focuses on shorter-term investments.
- The General Investment Committee duplicated the duties Insight Investment performed for the City, so it was dissolved.

Commissioner DeWeese requested that the word “settlement” be defined in the Glossary.

Ms. Donovan explained to Mayor Harris:

- Allowing Insight Investments to utilize a broader list of broker dealers ensures that the City is getting the best execution value.
- The broker dealers Insight Investments would recommend are all part of a special list of broker dealers who serve clients in the public sector.
- These broker dealers are not employed by Insight Investments.
- Insight Investments does not benefit financially from the City's choice of broker dealer.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Sherman:

To approve the changes to the City's General Investment Policy as outlined by Insight Investment and recommended by Finance Director/Treasurer Gerber.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

12-232-17 MULTI-MODAL TRANSPORTATION CONSULTING SERVICES REQUEST FOR PROPOSALS – CONSULTANT RESPONSES

From the report to City Manager Valentine dated November 22, 2017 from Planning Director Ecker, Operations Commander Grewe and City Engineer O'Meara:

In 2014, the City issued a Request for Proposals (RFP) seeking traffic engineering services, supplemented with knowledge and understanding of designing and advising for multi-modal transportation concepts, particularly in an urban setting. In September 2014, the firm of Fleis and Vandenbrink (F&V) was selected as the City's traffic consultant, and has acted as a multi-modal transportation consultant to the Multi-Modal Transportation Board (MMTB) and the City Commission. However, this contract expired.

On July 24, 2017, the City Commission directed staff to issue an RFP to seek qualified consulting firms, and extended the previous contract with F&V for six months (through January 23, 2018). The RFP was issued to solicit multi-modal transportation consulting services to assist the MMTB and the City Commission in reviewing all transportation-related projects, and responses were due by 4:00 p.m. on October 6, 2017.

One response was submitted by the deadline. The proposal received was from MKSK, in partnership with F&V. The MKSK team proposes a team of urban designers, urban planners, multi-modal transportation specialists, landscape architects and transportation professionals to provide a comprehensive review of all transportation related projects in the City. The

MKSK team proposes a 90 day period of startup activities, including training and education for the MMTB, an audit of the Multi-Modal Transportation Plan, an assessment of the MMTB's current process and protocol, and the preparation of an annual work plan for the MMTB along with suggestions for improvements. The MKSK proposal also includes an hourly fee schedule for each of the professionals that are available to assist the City of Birmingham.

On October 19, 2017, the MMTB reviewed the RFP and the response from MKSK, in partnership with F&V, and voted unanimously to recommend that the City Commission enter into an agreement with the MKSK team to provide professional multi-modal transportation consulting services to the City for a three year term.

Shortly after October 19, 2017, Mr. Labadie left F&V and will no longer be a member of the MKSK team. Julie Kroll will be the project lead from F&V.

Commissioner Nickita asked Planning Director Ecker if she knew why there were not more responses to the RFP.

Planning Director Ecker expressed hesitance to restate what she had heard from consulting firms, but explained that through phone calls, an email, and general comments, she was given the impression that some of the firms feel that Birmingham is difficult to work with, and that the project requirements are onerous. One urban designer in particular said the requirements did not make sense to them.

Planning Director Ecker confirmed for Commissioner Hoff that:

- Greenway was interested in working with the City, but that they could not find a traffic engineering firm to partner with.
- The rates being quoted are industry-standard, and that City costs have gone up because of the amount of work.
- This is a three-year professional services contract, so it is open-ended in terms of hours.

Commissioner Hoff expressed concern at the length of the proposed contract, and Mayor Harris stated that there is a termination provision in the contract that lets the City out of the contract with ten days' notice.

Planning Director Ecker told Commissioner Nickita that the RFP was posted on MITN and that it was sent out to individual firms. She added that she could not recall sending the RFP to any firms without offices in the region.

Brad Strader from MKSK explained that:

- The City could either contract with MKSK, which would in turn subcontract with F&V, or contract with both directly.
- The MMTB has approved a two-way agreement between the City and MKSK.
- The fees before the Commission are MKSK fees, and F&V fees are already in F&V's contract.
- He performed training for Ann Arbor's Transportation Board earlier this year, and MKSK has presentations that could be modified to fit Birmingham MMTB topics.

- While project urban designer Joe Nickol is based in Cincinnati, he comes into the Metro Detroit area frequently for work.
- Mr. Shrader and Mr. Nickol will move forward with a context-sensitive approach, and Ms. Kroll will provide supplemental engineering considerations as needed.
- He would likely meet with the Commission first to get their priorities, come back to them with recommendations, and then proceed with the project in order to prevent superfluous visits to the Commission.

Commissioner Nickita stressed that Birmingham would be approving this proposal based on the understanding that Mr. Nickol will be heavily involved in the process.

Mr. Strader confirmed MKSK understands this is a priority for Birmingham, and MKSK is committed to meeting it.

Ms. Kroll, engineer from F&V, stated her excitement about the team for this project, and reported she has participated in every F&V project in Birmingham for the last 2 ½ years.

Commissioner Nickita said he is encouraged by the direction in which the process is going and expects the Commission to monitor the process closely since there are many moving parts.

Mayor Harris stated he would like both MKSK and F&V to be parties to the contract with the City.

MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Boutros:
To approve the recommendation of the Multi-Modal Transportation Board and enter into an agreement with the MKSK/Fleis & Vandenbrink team to provide professional multi-modal transportation consulting services to the City of Birmingham for a three year term, to be payable from account #202-449.007-804.0100. Further, to direct the Mayor and City Clerk to sign the agreement on behalf of the City.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

12-233-17 SOUTH ETON ROAD – MAPLE ROAD TO 14 MILE ROAD – MULTI-MODAL TRANSPORTATION BOARD RECOMMENDATIONS

From the report to City Manager Valentine dated November 22, 2017 from Planning Director Ecker, Operations Commander Grewe and City Engineer O'Meara:

In 2016, the City Commission appointed an Ad Hoc Rail District Committee to study the Rail District with respect to parking and traffic issues. A final report was received by the Commission in December of last year. Since several of the Committee's recommendations had to do with the commercial section of S. Eton Rd., the Multi-Modal Transportation Board (MMTB) first focused on the segment from Maple Rd. to Lincoln Ave. In August of this year the MMTB endorsed a series of recommendations for three portions of that segment: Maple Road to Yosemite Boulevard, Yosemite Boulevard to Villa Avenue and Villa Avenue to Lincoln Avenue.

With the grand opening of Whole Foods at 2100 E. Maple Road planned for October 2017, the City Commission focused on improvements suggested for the north block of S. Eton Road at Maple Road. No action has yet been taken.

Subsequently the MMTB studied the section of S. Eton Road from Lincoln Avenue to 14 Mile Road. After reviewing 12 different cross-sections designed to provide improved facilities for pedestrians and bicyclists, as well as reduced traffic speeds, a preferred cross-section was advertised by postcard and posted on the City's website. The preferred option proposed bump-outs at each intersection, as well as an 8 ft. wide bi-directional bike lane on the west side parkway, using the large green space that exists in the public right-of-way.

Following a public hearing at the MMTB's regular meeting of November 2, 2017, the MMTB approved a recommendation for the segment between Lincoln Avenue. and 14 Mile Road.

City Engineer O'Meara presented aerial photography as the background for the plans for the entire S. Eton Road corridor, and provided commentary on the discussions which influenced the final decisions of the MMTB.

City Engineer O'Meara presented the proposed construction sequence and costs:

Segment	Pedestrian Improvements	Bicycle Improvements
Maple to Yosemite (not including pedestrian island)	\$49,600	\$400
Yosemite to Villa	\$164,600	\$14,600
Villa to Lincoln	\$467,500	\$158,900
South of Lincoln to 14 Mile	\$554,200	\$275,900
TOTAL Maple to Lincoln	\$681,700	\$173,900
TOTAL South of Lincoln to 14 Mile	\$554,200	\$275,900
TOTAL Maple to 14 Mile	\$1,235,900	\$449,800

PROJECT GRAND TOTAL = \$1,685,700

City Engineer O'Meara continued, in order to assist in paying for this work, it is recommended that the City apply for federal funding through the Transportation Alternatives Program (TAP). The deadline to apply for funding is March 2018, with the City receiving notification if they were successful in July 2018. The City could then budget for its share of the project for fiscal year 2019/2020, and build the project as soon as late summer, 2019. The grant would pay for 80% of the construction costs. The City would be responsible for the remaining 20% match, as well as 100% of engineering and design costs. Using the numbers above, it is estimated that the City's share for the entire project would be \$499,000.

City Engineer O'Meara also commented that if the grant is not awarded, other than a special assessment for sidewalks between Yosemite Blvd. and Villa Ave., the only funding source for this project would be the Major Streets Fund. Currently, the Major Street Fund requires a contribution from the General Fund to pay for annual expenses, therefore, the General Fund would be the main source of funding for this project.

Planning Director Ecker offered summary comments.

City Engineer O'Meara explained to Mayor Pro Tem Bordman:

- Leaf removal will be handled by asking residents to put their leaves on the other street, since they are all corner houses, instead of into the bicycle path; and,
- In light snow, snow removal from the bicycle path will not be an issue, but in heavier snows it may be because the snow from the street will be pushed into the bicycle path.

Planning Director Ecker commented that snow could be removed from the bicycle path in these circumstances after priority areas in the city are plowed.

Planning Director Ecker explained to Mayor Pro Tem Bordman that 27 different types of separators were considered by the MMTB, and the proposed option was found to be the best balance between environmental aesthetics and utility.

Commissioner DeWeese pointed out that snow plowing equipment that could be used in the bicycle lanes would also be useful for Old Woodward after the upcoming construction is complete.

Commissioner Nickita stated:

- Areas in Ferndale and around Little Cesar's Arena have installed vertical white separators and other installations similar to the non-motorized options being considered for Birmingham; and,
- Birmingham could integrate some of the installations being seen in other Metro Detroit areas if the City wants to adhere to the emerging visual regional standard.

Commissioner Hoff stated if this proposal looked more like Lincoln, she would be more supportive of it. She stated:

- She supports the narrowing of Eton, the bump-outs, and the crosswalks.
- She does not support the green painting of the bicycle path.
- She is concerned about the potential difficulty for cars backing out of driveways on Eton.

Planning Director Ecker stated there is a larger buffer area and better sight lines on Eton with this proposal than there are now.

Commissioner DeWeese stated his support for the proposal.

Commissioner Nickita said:

- The proposal addresses many concerns regarding pedestrian and bicyclist safety that have emerged from this area over the last few years.
- If Birmingham continues to invest in its bicycle infrastructure, more people will utilize it.
- Birmingham may receive up to 80% of the costs for the project in TAP grant money.
- If Birmingham does not receive the grant money immediately for the project, the City could make some interim changes with paint in the style of what has been done in Ferndale and Downtown.

- Painting in the interim would allow the Commission to study the proposed changes further before physically implementing them, and then to pursue grant money on the basis of the study's conclusions.

Mayor Pro Tem Bordman voiced support for Commissioner Nickita's proposal to test some of the ideas with paint.

Mayor Harris agreed with Mayor Pro Tem Bordman.

City Engineer O'Meara and Planning Director Ecker confirmed for Mayor Harris that the TAP grant is approved either in toto or not at all. Planning Director Ecker offered that a similar proposal in Dearborn was funded previously.

Commissioner Boutros stated his support of Commissioner Nickita's proposal.

Commissioner DeWeese said he would like to see City Engineer O'Meara come back to the Commission in spring 2018 to present the options for testing the concepts with paint.

Commissioner Sherman stated that other materials are also welcome for creating a test case.

Commissioner Nickita pointed out the test case will need to be revisited if the City receives the TAP grant in 2018.

MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Bordman: To approve the recommendations of the Multi-Modal Transportation Board for S. Eton Rd. from Maple Rd. to 14 Mile Rd. for pedestrian and bicycle improvements throughout the corridor in concept, as outlined below:

A. Maple Rd. to Yosemite Blvd.:

1. Relocate the west side curb for the entire block from its current location to a point three feet closer to the center of the road, thereby allowing the west side sidewalk to be rebuilt at 8 feet wide.
2. Install an enhanced, larger sidewalk ramp area at the southeast corner of Maple Rd.
3. Install sharrows in both directions on the existing travel lanes.

AND

B. Yosemite Blvd. to Villa Ave.:

1. Relocate the curbs on both sides of the street to create a two-lane street with 15 foot travel lanes. Parking shall be removed from both sides of the street.
2. Install a 4 ft. wide parkway between the sidewalks and the new curb, and install new street trees, at a spacing of 40 ft. each.
3. Install 6.5 to 8 ft. wide sidewalks on both sides of the street.
4. Install sharrows in both directions on the existing travel lanes.

AND

C. Villa Ave. to Lincoln Ave.:

1. Remove parking on the west side of the street, to be replaced with an 8.5 ft. wide bi- directional bike lane and a 1.5 ft. buffer with raised markers.
2. Install a 3 ft. wide painted buffer between the northbound travel lane and the

- parking lane (on the east side of the street).
3. Install curbed bump-outs at marked pedestrian crosswalks on the east side of the street, at the intersections of Villa Ave., Hazel St., Palmer Ct., Bowers St., Holland Ave., Webster Ave., Cole Ave., and Lincoln Ave.
 4. Install green marked bicycle crossings on the western leg of the intersections of Villa Ave., Hazel St., Bowers St., Haynes St., Holland Ave., Webster Ave., Cole Ave., and Lincoln Ave.

AND

D. South of Lincoln Ave. to 14 Mile Rd.:

1. Install an 8 ft. wide on-street parking lane on the west side of the street, separated from traffic with a solid line, with 24-hour parking permitted;
2. Install a double yellow centerline for S. Eton Rd. to create two 10 ft. wide travel lanes (on the east side of the street) for vehicles;
3. Install an 8 ft. wide bi-directional bike lane 2 ft. from the back of curb on the west side of S. Eton Rd.;
4. Maintain a 2 ft. wide landscaped buffer between the on-street parking lane and the bike lane;
5. Install curb bump-outs and crosswalks at the intersections of Melton Rd., Humphrey Ave., Sheffield Rd., and Bradford Rd., as noted on the attached plan;
6. Install green marked bicycle crossings on the western leg of the intersections of Lincoln Ave., Melton Rd., Humphrey Ave., Sheffield Rd., and Bradford Rd., as noted on the attached plan.
7. The City shall assume responsibility for the maintenance of the 8 ft. bike lane.

AND

Further, to direct staff to apply for federal funding for these improvements through the Transportation Alternatives Program administered by the Michigan Dept. of Transportation, and report back to the Commission when status of the grant for the 2018 application has been determined.

AND

To proceed with a traffic study of the Maple Rd. intersection in the spring of 2018, with truck turning movements quantified, for further review by the Multi-Modal Transportation Board, and a final recommendation to the City Commission.

VOTE: Yeas, 6
 Nays, 1 (Hoff)
 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

12-234-17 COMMISSIONER REPORTS

The City Commission will appoint two resident members to the Public Arts Board on January 8, 2018, and will appoint one alternate member to the Board of Zoning Appeals on January 22, 2018.

12-235-17 COMMISSIONER COMMENTS

Commissioner Nickita reiterated the need for a more detailed site plan for the proposed Tide dry-cleaners, and stated he would like a mandate that site plans are sufficiently detailed in the future.

Planning Director Ecker stated the ordinance can be changed to require more details.

Commissioner Nickita requested that the Planning Board examine what details should be required in a site plan, and those findings should be added to the ordinance.

The Commission and City Manager Valentine concurred, and City Manager Valentine stated he would pass the direction onto the Planning Board.

Commissioner Nickita echoed Mayor Pro Tem Bordman's concerns about revising some of the crosswalks downtown. He stated he would like to see:

- The timing of crosswalks and lights revisited as Old Woodward is updated.
- Buttons removed from crosswalks in order to make the intersections more pedestrian friendly.

Mayor Pro Tem Bordman clarified her concerns stand, and the issue was broached with her via an article sent by a constituent.

The Commission concurred that the downtown core crosswalks should be reviewed. City Manager Valentine said he would have the MMTB take a look at the issue.

12-236-17 CITY STAFF REPORTS

The Commission received the Parking Utilization Report as submitted by City Engineer O'Meara.

XI. ADJOURN

Mayor Harris adjourned the meeting at 11:21 p.m.

J. Cherilynn Mynsberge, City Clerk

**TIDE DRY CLEANERS
33353 WOODWARD
SPECIAL LAND USE PERMIT
DRIVE-IN FACILITY
2017**

WHEREAS, Tide Dry Cleaners applied for a Special Land Use Permit to allow the construction of a garment service facility with a drive-in facility to service 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 for which the Special Land Use Permit is sought is located on the west side of Woodward between Davis and Smith;

WHEREAS, The land is zoned B2B, General Business, which permits a drive-in facility with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 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 applicant submitted an application for a Special Land Use Permit and Final Site Plan to operate a drive-in facility at Tide Dry Cleaners;

WHEREAS, The Planning Board on October 25th, 2017 reviewed the application for the Special Land Use Permit and Final Site Plan 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 agreed to comply 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 and Final Site Plan authorizing the addition of a drive-in facility 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, 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, 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, J. 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 4th, 2017.

J. Cherilynn Mynsberge, City Clerk

**12-318-17
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 on-premises 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 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.

J. Cherilynn Mynsberge, City Clerk

City of Birmingham
Warrant List Dated 12/06/2017

Meeting of 12/11/2017

Check Number	Early Release	Vendor #	Vendor	Amount
254671	*	000900	37TH DISTRICT COURT	600.00
254672	*	002397	43RD DISTRICT COURT	500.00
254673	*	000855	48TH DISTRICT COURT	100.00
254674	*	000855	48TH DISTRICT COURT	100.00
254675	*	000855	48TH DISTRICT COURT	425.00
254676	*	000855	48TH DISTRICT COURT	100.00
254677	*	000855	48TH DISTRICT COURT	100.00
254678	*	000855	48TH DISTRICT COURT	18.00
254679	*	000855	48TH DISTRICT COURT	726.00
254680	*	000855	48TH DISTRICT COURT	100.00
254681	*	000855	48TH DISTRICT COURT	500.00
254682	*	000855	48TH DISTRICT COURT	90.00
254683	*	000855	48TH DISTRICT COURT	750.00
254684	*	000855	48TH DISTRICT COURT	100.00
254685	*	000855	48TH DISTRICT COURT	387.00
254686	*	000855	48TH DISTRICT COURT	100.00
254687	*	000855	48TH DISTRICT COURT	375.00
254688		002284	ABEL ELECTRONICS INC	85.00
254689		005686	ADVANCED MARKETING PARTNERS INC	1,228.83
254690		007432	AIR COMPRESSOR ENERGY SYSTEMS, INC.	233.75
254691	*	006324	ALTA CONSTRUCTION EQUIPMENT LLC	11,395.00
254692		007033	APPLIED IMAGING	8,772.58
254693		000500	ARTECH PRINTING INC	236.00
254694	*	006759	AT&T	119.93
254695	*	006759	AT&T	153.92
254696	*	007216	AT&T	89.82
254698		007345	BEVERLY HILLS ACE	22.31
254699		008503	BIRDIE IMAGING SUPPLIES, INC	889.20
254700	*	000157	BOB ADAMS TOWING INC.	55.00
254701		004244	BOLYARD LUMBER	21.10
254702		003526	BOUND TREE MEDICAL, LLC	150.35
254703		003786	C & G PUBLISHING INC.	106.00
254704	*	MISC	CATHERINE BEER	563.22
254705		008305	CBT NUGGETS LLC	1,798.20
254706	*	000444	CDW GOVERNMENT INC	2,629.49
254707		008243	CHARTER TOWNSHIP OF BLOOMFIELD	35.72
254708		000603	CHEMCO PRODUCTS INC	652.00
254709		000605	CINTAS CORPORATION	126.78
254710		004188	COFFEE BREAK SERVICE, INC.	428.00
254711	*	007625	COMCAST	410.88
254712	*	007774	COMCAST BUSINESS	655.84
254713	*	008644	CONSUMERS ENERGY	1,080.00
254714		008512	COOL THREADS EMBROIDERY	662.93

City of Birmingham
Warrant List Dated 12/06/2017

Meeting of 12/11/2017

Check Number	Early Release	Vendor #	Vendor	Amount
254715		000956	DELTA TEMP INC	1,350.10
254716	*	MISC	DEREK BENZ	681.08
254717	*	007980	CURTIS DAVID DICHO	286.00
254718		008641	DINGES FIRE COMPANY	23.73
254719		000565	DORNBOS SIGN & SAFETY INC	57.91
254720		000190	DOWNRIVER REFRIGERATION	57.18
254721	*	000179	DTE ENERGY	158.05
254722		000493	ED RINKE CHEVROLET BUICK GMC	75.86
254723		008308	ERADICO PEST SERVICES	38.00
254724		001361	ERIE LANDMARK CO	165.59
254725	*	004514	FEDEX OFFICE	19.60
254726		000920	GLOBAL EQUIPMENT COMPANY INC	613.68
254727	*	004604	GORDON FOOD	222.50
254728		000243	GRAINGER	106.60
254729		001047	GRAYWOLF PRINTING	66.79
254730	*	MISC	GREAT LAKES CUSTOM BUILDER LLC	10,954.48
254731	*	008382	GREAT LAKES PORTABLE STORAGE LLC	169.00
254732		001531	GUNNERS METER & PARTS INC	1,395.00
254733		001672	HAYES PRECISION INC	61.00
254734		000340	INDUSTRIAL BROOM SERVICE, LLC	909.90
254735		002407	J & B MEDICAL SUPPLY	680.00
254736		000261	J.H. HART URBAN FORESTRY	10,157.51
254737		000186	JACK DOHENY COMPANIES INC	261.75
254738		008612	JADE STRATEGIES	1,000.00
254739	*	MISC	JILL MILLER	483.09
254740		003458	JOE'S AUTO PARTS, INC.	378.65
254741	*	007002	SHON JONES	107.10
254742		007423	K/E ELECTRIC SUPPLY	81.00
254743	*	007827	HAILEY R KASPER	130.00
254744		004088	KGM DISTRIBUTORS INC	293.00
254745	*	005327	L3 TECHNOLOGIES, INC.	290.00
254746		001456	MICHIGAN ASSESSORS ASSOCIATION	100.00
254747		001387	MICHIGAN MUNICIPAL LEAGUE	560.00
254748		005024	MIDWEST GLASS FABRICATORS, INC	128.92
254749		000230	MIKE SAVOIE CHEVROLET INC	29.51
254750	*	007306	MARK MISCHLE	100.00
254751		007163	MOBILE HEALTH RESOURCES	1,024.00
254752	*	008566	NATURAL SAND COMPANY INC	9,785.40
254753	*	008566	NATURAL SAND COMPANY INC	1,200.00
254754		001194	NELSON BROTHERS SEWER	180.00
254755	*	007856	NEXT	2,625.00
254756		001864	NOWAK & FRAUS ENGINEERS	13,934.00
254757		006359	NYE UNIFORM COMPANY	737.46

City of Birmingham
Warrant List Dated 12/06/2017

Meeting of 12/11/2017

Check Number	Early Release	Vendor #	Vendor	Amount
254758		002853	OAKLAND COMMUNITY COLLEGE	6,000.00
254759	*	000477	OAKLAND COUNTY	1,164.19
254760		004370	OCCUPATIONAL HEALTH CENTERS	538.25
254761	*	000481	OFFICE DEPOT INC	849.86
254762		001626	OXFORD OVERHEAD DOOR SALES CO.	729.50
254763		001325	P.K. CONTRACTING INC	772.50
254764		006625	PACIFIC TELEMANAGEMENT SERVICES	78.00
254765		006027	PENCHURA, LLC	209.30
254766	*	001753	PEPSI COLA	1,017.89
254767		008643	PERFORMANCE TOLL LINE CENTER	403.24
254768		007368	PHASE FOUR INVESTIGATIONS	1,620.00
254769		000486	PLANTE & MORAN PLLC	3,809.70
254770		008269	PREMIER SAFETY	159.29
254771		006697	PROGRESSIVE IRRIGATION, INC	8,375.00
254772		004476	QUALITY FIRST AID AND SAFETY INC.	162.40
254773	*	008342	RAIN MASTER CONTROL SYSTEMS	29.85
254774		008633	RESCUE WIPES, LLC	105.00
254775		000495	ROCHESTER LAWN EQUIPMENT CENTER INC	124.57
254776		001181	ROSE PEST SOLUTIONS	71.00
254777	*	002911	RUTH ROWLAND	92.77
254778		000218	ROYAL OAK P.D.Q. LLC	244.46
254779		000221	RUSSELL HARDWARE COMPANY	11.12
254780	*	MISC	SEAN MCKEON	662.42
254781		007142	SHERWIN-WILLIAMS COMPANY	137.52
254782	*	007882	MICHAEL SIMPSON	177.97
254783		000254	SOCRRA	61,960.00
254784		007907	SP+ CORPORATION	2,350.00
254785		001363	SPECMO ENTERPRISES, INC	205.00
254786		008642	STATE OF MICHIGAN	250.00
254787	*	MISC	STREAMCO INC	901.85
254788		005238	SUNTEL SERVICES	3,761.50
254789	*	008507	SUPERFLEET MASTERCARD PROGRAM	262.27
254790	*	MISC	TERESA M EVOLA LLC	329.52
254791		002037	TOTAL ARMORED CAR SERVICE, INC.	714.83
254792		004320	TRI-COUNTY POWER RODDING, INC	260.00
254793		008632	TURNOUT RENTAL	375.00
254794		007706	UTEC	208.20
254795	*	000158	VERIZON WIRELESS	138.05
254797	*	000158	VERIZON WIRELESS	194.43
254798	*	000158	VERIZON WIRELESS	194.43
254799	*	000158	VERIZON WIRELESS	504.16
254800	*	000158	VERIZON WIRELESS	866.51
254801	*	000158	VERIZON WIRELESS	1.18

City of Birmingham
Warrant List Dated 12/06/2017

Meeting of 12/11/2017

Check Number	Early Release	Vendor #	Vendor	Amount
254802		008439	WAYNE ENGINEERING	70,520.00
254803	*	007894	BRENDA WILLHITE	295.00
254804		000306	WOLVERINE CONTRACTORS INC	1,993.25
Sub Total Checks:				\$273,182.27
Sub Total ACH:				\$120,393.39
Grand Total:				\$393,575.66

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



Mark Gerber
Finance Director/ Treasurer

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

12/11/2017

City of Birmingham
ACH Warrant List Dated 12/06/2017

Vendor Name	Transfer Date	Transfer Amount
Birmingham Schools	11/30/2017	39,231.10
Oakland County Treasurer	11/30/2017	60,340.30
Automated Benefit Services, Inc.	12/4/2017	20,821.99
TOTAL		120,393.39



MEMORANDUM

Planning Division

DATE: December 4, 2017

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

Re: Set Public Hearing for a Special Land Use Permit Amendment and Final Site Plan for 1669 W. Maple, First Presbyterian Church

First Presbyterian Church is located on the south side of W. Maple between Pleasant and Larchlea Dr. They are proposing to install a replacement ground sign in front of the Church building and two directional signs. As a result of this new signage, the applicant requires an amendment to their existing Special Land Use Permit (SLUP), which was originally approved on May 13, 1991. Prior to the consideration of a SLUP Amendment, the City Commission refers the Site Plan and Design Review to the Planning Board.

On November 29, 2017, the Planning Board reviewed the proposed SLUP Amendment for the new signage, and voted to recommend approval of the Final Site Plan and Special Land Use Permit to the City Commission to allow the installation of a sign in front of the church building and a non-illuminated directional sign on Pleasant with the following condition:

1. The applicant must verify that the location of the directional sign along W. Maple Rd. is on private property or move the location to private property.

Thus, the Planning Division requests that the City Commission set a public hearing date for **January 22, 2018** to consider an application for a Special Land Use Permit ("SLUP") Amendment and Final Site Plan for 1669 W. Maple.

SUGGESTED ACTION:

To set a public hearing date for January 22, 2018 to consider an application for a Special Land Use Permit Amendment and Final Site Plan for First Presbyterian Church at 1669 W. Maple.

1669 W. MAPLE
FIRST PRESBYTERIAN CHURCH
SPECIAL LAND USE PERMIT AMENDMENT
2018

- WHEREAS, The First Presbyterian Church originally applied for and received a Special Land Use Permit on September 8, 1987 to allow for the resurfacing, lighting and landscaping of the parking lot at 1669 West Maple Road, such application having been filed pursuant to the former Section 126-477 of the City Code;
- WHEREAS, The land for which the Special Land Use Permit Amendment is sought is located on the south side of West Maple Road between Larchlea and Pleasant Streets;
- WHEREAS, THE LAND IS ZONED R-1A, Single Family Residential, which permits a church with a Special Land Use Permit;
- WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be reviewed by the Birmingham City Commission at such time that any addition to or change in the building or improvements on the parcel of land is proposed or the use of the property is altered;
- WHEREAS, The applicant submitted an application for a Special Land Use Permit Amendment and Final Site Plan Review to construct an illuminated ground sign and non-illuminated directional sign;
- WHEREAS, All conditions of the previously approved 1989, 1990, 1991, 1992, 1994, 1995, 1996, 1997 and 2002 Special Land Use Permit Amendments be continued as part of this Special Land Use Permit Amendment;
- WHEREAS, The Planning Board on November 29, 2017 reviewed the application for a Special Land Use Permit Amendment and Final Site Pla and recommended approval of the application with the following condition:
1. The applicant must verify that the location of the directional sign along W. Maple Rd. is on private property or move the location to private property.
- WHEREAS, The applicant has agreed to comply with the condition of approval recommended by the Planning Board;
- WHEREAS, The Birmingham City Commission has reviewed the First Presbyterian Church's Special Land Use Permit Amendment application as well as 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 and the First Presbyterian Church's application for a Special Land Use Permit Amendment and Final Site Plan Review allowing the installation of new signage is hereby approved;

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

1. First Presbyterian Church shall abide by all provisions of the Birmingham City Code; and
2. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest.

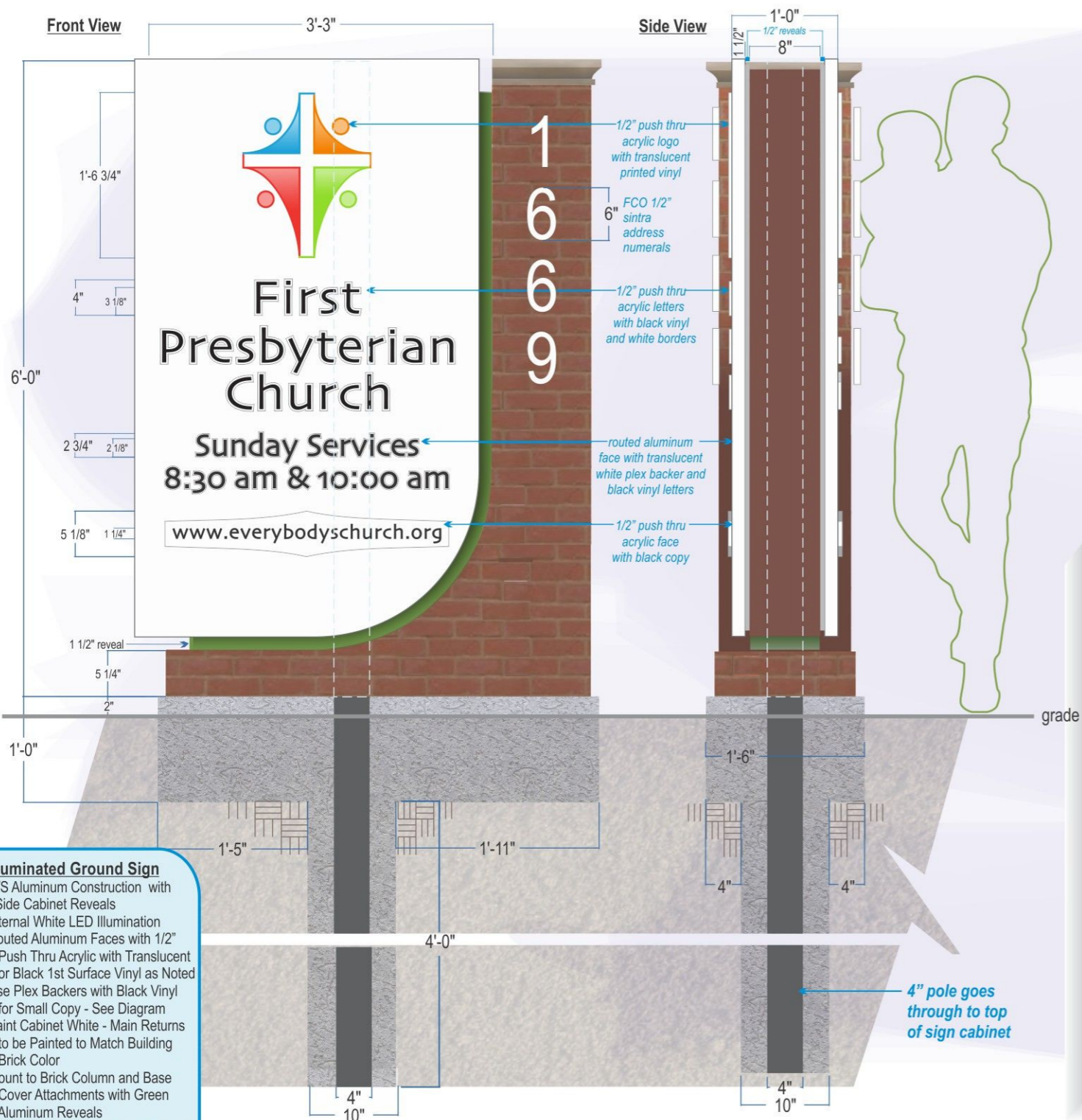
BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

MAY IT BE FURTHER RESOLVED that the First Presbyterian Church 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 subsequently be amended. Failure of the First Presbyterian Church to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

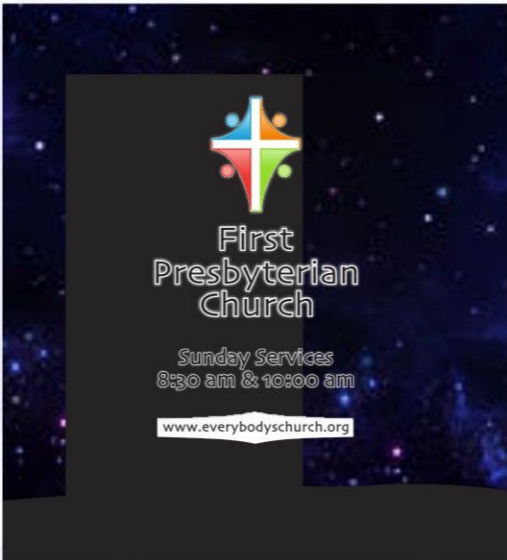
I, Cherilynn Mysnberge, City Clerk of the City of Birmingham, Michigan do hereby certify that the foregoing is a true and correct copy of the resolution by the Birmingham City Commission at its regular meeting held on January 22, 2018.

Cherilynn Mysnberge, City Clerk

Illuminated D/S Ground Sign - First Presbyterian Church - 1669 W Maple Rd-Birmingham, MI 48009



Night View - nts



Existing Elevation - nts



Proposed Elevation - 1/16" = 1'-0" Scale



Note:
This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and /or other applicable local codes. This includes proper grounding and bonding of the sign.

Gardner
signs

1087 Naughton Dr.
Troy, MI 48083
(248) 689-9100 T
(248) 689-9101 F
www.gardnersigns.com

3800 Airport Hwy.
Toledo, OH 43615
(419) 385-6669 T
(419) 385-7046 F

CLIENT:	First Presbyterian Church
PROJECT:	Ground Sign
LOCATION:	1669 W Maple Rd Birmingham, MI 48009
SALESPERSON:	Mia Asta
DESIGNER:	dmf
DATE:	08/17/2017
DESIGN #:	4550-1
REVISIONS:	08/22/2017 09/14/2017 10/11/2017
SCALE:	Noted
FILE:	First Presbyterian Church-1669 W Maple Rd-Birmingham, MI 48009

SALES AUTHORIZATION

SIGNED BY:
DATE:

DESIGN AUTHORIZATION

SIGNED BY:
DATE:

PRODUCTION AUTHORIZATION

CLIENT APPROVAL:

DATE:

PRODUCTION APPROVAL:

DATE:

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MEMORANDUM

Planning Department

DATE: November 21, 2017

TO: Planning Board Members

FROM: Matthew Baka, Senior Planner

APPROVED: Jana Ecker, Planning Director

SUBJECT: Final Site Plan Review & Special Land Use Permit Amendment,
1669 W. Maple – First Presbyterian Church

Executive Summary

First Presbyterian Church is located on the south side of W. Maple between Pleasant and Larchlea Dr. They are proposing to install a replacement ground sign in front of the Church building and two directional signs. As a result of this new signage, the petitioner will require an amendment to their existing Special Land Use Permit (SLUP). Prior to the consideration of a SLUP Amendment, the City Commission refers the Site Plan and Design Review to the Planning Board. Should Planning Board approval be granted, a public hearing will be held by the City Commission to consider whether or not to grant the proposed Special Land Use permit (SLUP) Amendment.

This parcel of land is zoned R1A, Single Family Residential District. Churches are a permitted use in the R1A District, subject to Special Land Use regulations. The Church originally received a Special Land Use Permit on May 13, 1991.

1.0 Land Use and Zoning

- 1.1** Existing Land Use - The existing site is currently used as a Church. The land uses surrounding the site are single family residential, Neighborhood Business, and Office.
- 1.2** Existing Zoning – The Church is currently zoned R1A, Single Family Residential, and has a valid Special Land Use Permit which was originally granted on May 13, 1991.
- 1.3** Summary of Land Use and Zoning - The following chart summarizes existing land use and zoning adjacent to and/or in the vicinity of the subject site.

	North	South	East	West
Existing Land Use	Single Family Residential	Office/Parking	Commercial	Single Family Residential
Existing Zoning District	R2, Single Family Residential	O1, Office and P, Parking	B1, Neighborhood Business	R1A, Single Family Residential
2016 Regulating Plan	NA	NA	NA	NA

2.0 Setback and Height Requirements

No changes are proposed to existing building or site with the exception of the proposed signage. Sign requirements are discussed further in section 7.0, Sign Review.

3.0 Screening and Landscaping

3.1 Screening – No changes are proposed.

3.2 Landscaping – No changes are proposed.

4.0 Parking, Loading and Circulation

4.1 Parking - No changes are proposed.

4.2 Loading – No changes are proposed.

4.3 Circulation – No changes proposed.

5.0 Lighting

Signage lighting is detailed in the signage section below.

6.0 Departmental Reports

6.1 Engineering Division – No concerns had been received at the time of this report.

6.2 Department of Public Services – No comments had been received at the time of this report.

6.3 Fire Department – No concerns.

6.4 Police Department – No concerns.

6.5 Building Division – No comments had been received at the time of this report.

7.0 Sign Review

The Birmingham Sign Ordinance allows for one ground sign with 20 square feet of signage per side. The applicant is proposing one sign, located in front of the Church on W. Maple. The total amount of signage proposed per side on the sign is 17.94 square feet. The sign is proposed to be located 7' from the front property line along W. Maple.

The proposed sign along W. Maple will be composed of a brick monument base constructed of red brick that matches the Church Building and an internally illuminated aluminum sign cabinet with acrylic push-thru letters.

The sign will have three lines of text that read "First Presbyterian Church", "Sunday Services 8:30am & 10:00am" and "www.everybodyschurch". The text of the monument sign will also include address numbers. Address signs are not counted toward the total amount of signage provided that the letters do not exceed 8" in height. The proposed address letters are 6" in height. **The proposed ground sign meets the requirements of the sign ordinance.**

In addition to the ground sign, the applicant is also proposing to replace a directional sign along Pleasant near the entrance to their parking lot and a new directional sign along W. Maple. The new directional sign is proposed to be 1' 6" x 2' 6" or 3.75 sq. ft. per side. The Sign Ordinance restricts directional signage of this type to 5 sq. ft. per side. **The proposed directional signs meet this requirement.** However, it is unclear based on the photos submitted by the applicant if the directional sign on W. Maple would be on public or private property. Per the Birmingham Sign Ordinance, no sign shall be erected in the public right of way. Accordingly, **the applicant must verify that the location of the directional sign along W. Maple is on private property or move the location to private property.**

8.0 Approval Criteria

In accordance with Article 2, Section 2.02, Sign Requirements, of the City Code, the proposed plans for development must meet the following conditions:

- (c) Sign review approval shall be granted only upon determining the following:
 - (1) The scale, color, texture and materials of the sign(s) being used will identify the business succinctly, and will enhance the building on which it is located, as well as the immediate neighborhood.
 - (2) The scale, color, texture and materials of the sign(s) will be compatible with the style, color, texture and materials of the building on which it is located, as well as neighboring buildings.

- (3) The appearance of the building exterior with the signage will preserve or enhance, and not adversely impact, the property values in the immediate neighborhood.
- (4) The sign is neither confusing nor distracting, nor will it create a traffic hazard or otherwise adversely impact public safety.
- (5) The sign is consistent with the intent of the Master Plan, Urban Design Plan(s), and/or Downtown Birmingham 2016 Report, as applicable.
- (6) The sign otherwise meets all requirements of this chapter.

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 Recommendation

Based on a review of the site plan submitted, the Planning Division recommends the Planning Board forward a recommendation to the City Commission to APPROVE the SLUP Amendment for 1699 W. Maple to install replacement ground signage in front of the Church building and a non-illuminated directional sign on Larchlea with the following condition:

- 1. The applicant must verify that the location of the directional sign along W. Maple is on private property or move the location to private property.**

11.0 Sample Motion Language

Motion to recommend that the City Commission APPROVE the Special Land Use Permit Amendment for 1669 W. Maple to install a sign in front of the Church building and a non-illuminated directional sign on Larchlea with the following condition:

- 1. The applicant must verify that the location of the directional sign along W. Maple is on private property or move the location to private property.**

OR

Motion to recommend that the City Commission DENY the Special Land Use Permit Amendment for 1669 W. Maple.

OR

Motion to recommend that the City Commission POSTPONE the Special Land Use Permit Amendment for 1669 W. Maple.

Non-Illuminated Directional Sign - Qty: 1

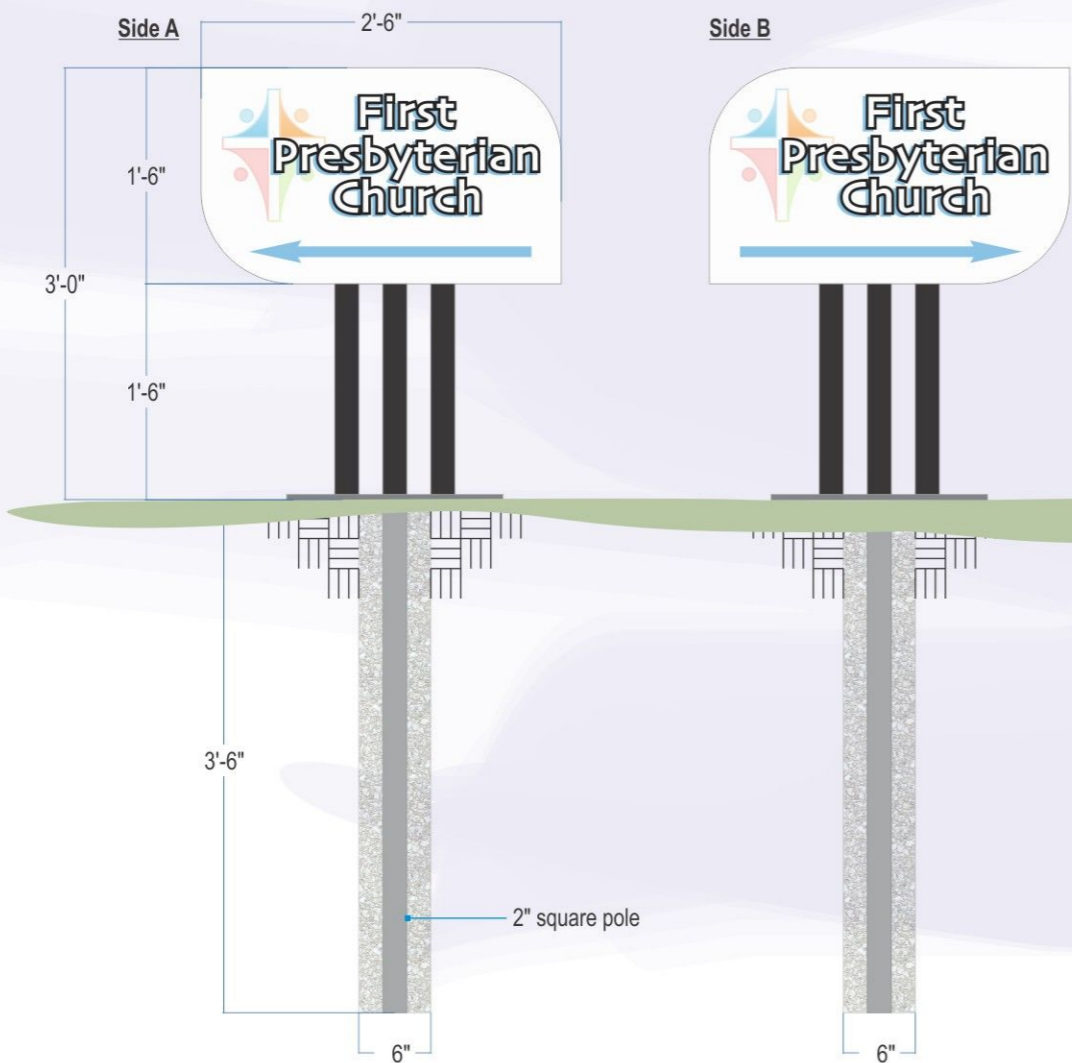
5 SqFt

D/S Aluminum Cabinet Construction

Paint Cabinets White

Apply 1st Surface Printed Vinyl

Install with 3 Decorative 2" Posts - Paint Posts Black



Existing Elevation #1 - nts



Proposed Elevation #1 - nts



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signs

1087 Naughton Dr. 3800 Airport Hwy.
Troy, MI 48083 Toledo, OH 43615
(248) 689-9100 T (419) 385-6669 T
(248) 689-9101 F (419) 385-7046 F

www.gardnersigns.com

CLIENT:	First Presbyterian Church
PROJECT:	Directional Sign
LOCATION:	1669 W Maple Rd Birmingham, MI 48009
SALESPERSON:	Mia Asta
DESIGNER:	dmf
DATE:	08/17/2017
DESIGN #:	4550-1
REVISIONS:	08/22/2017 09/14/2017 11/22/2017
SCALE:	Noted
FILE:	First Presbyterian Church-1669 W Maple Rd-Birmingham, MI 48009

SALES AUTHORIZATION

SIGNED BY:

DATE:

DESIGN AUTHORIZATION

SIGNED BY:

DATE:

PRODUCTION AUTHORIZATION

CLIENT APPROVAL:

DATE:

PRODUCTION APPROVAL:

DATE:

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Non-Illuminated Directional Sign - Qty: 1

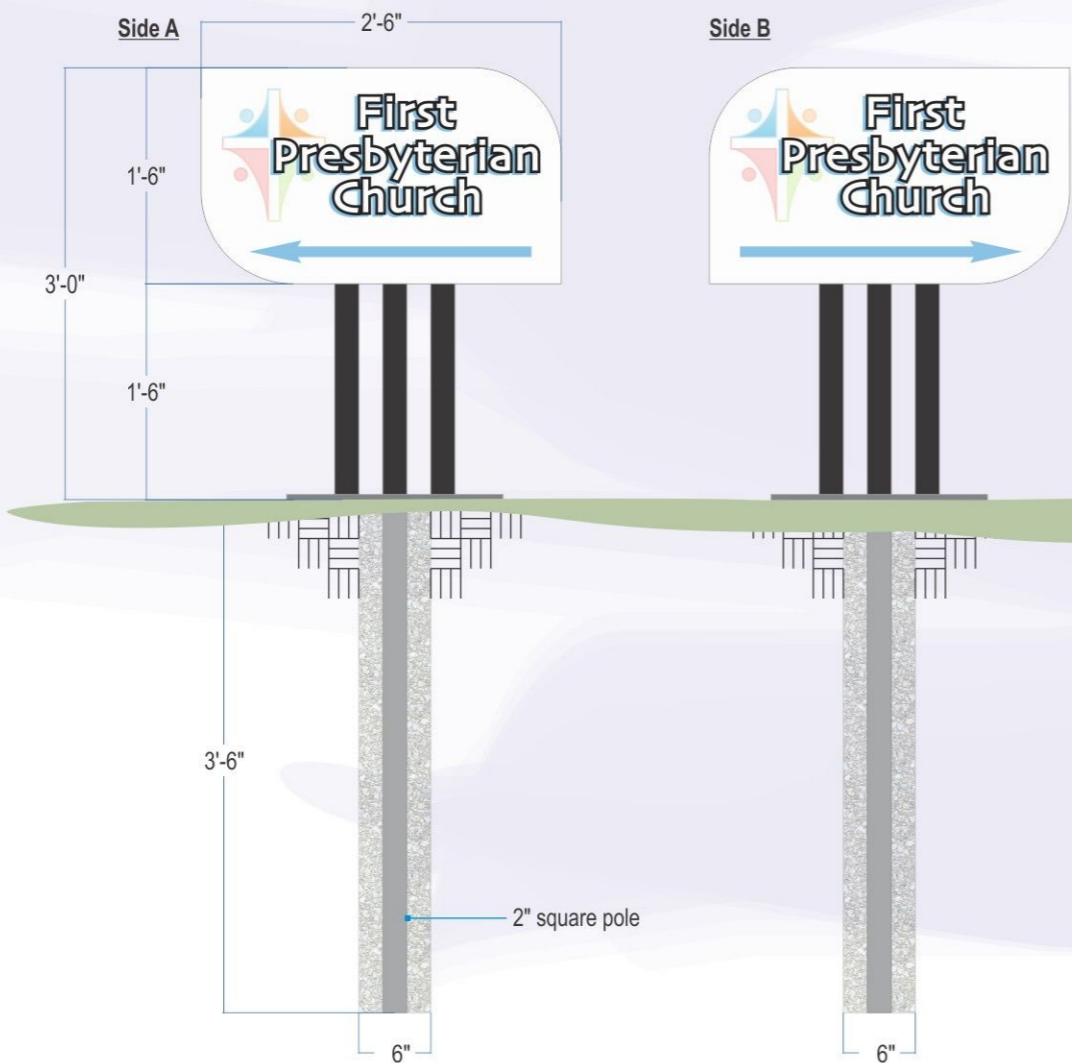
5 SqFt

D/S Aluminum Cabinet Construction

Paint Cabinets White

Apply 1st Surface Printed Vinyl

Install with 3 Decorative 2" Posts - Paint Posts Black



Existing Elevation #2 - nts



Proposed Elevation #2 - nts



CLIENT:	First Presbyterian Church
PROJECT:	Directional Sign
LOCATION:	1669 W Maple Rd Birmingham, MI 48009
SALESPERSON:	Mia Asta
DESIGNER:	dmf
DATE:	08/17/2017
DESIGN #:	4550-1
REVISIONS:	08/22/2017 09/14/2017 11/22/2017
SCALE:	Noted
FILE:	First Presbyterian Church-1669 W Maple Rd-Birmingham, MI 48009

SALES AUTHORIZATION

SIGNED BY:

DATE:

DESIGN AUTHORIZATION

SIGNED BY:

DATE:

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**DRAFT Planning Board Minutes
November 29, 2017**

**3. 1669 W. Maple Rd. (First Presbyterian Church of Birmingham)
Special Land Use Permit ("SLUP") and Final Site Plan Review
Request for approval of a SLUP Amendment to add a new illuminated
ground sign**

Mr. Baka advised that First Presbyterian Church is located on the south side of W. Maple Rd. between Pleasant and Larchlea Dr. They are proposing to install a replacement ground sign and two directional signs. As a result of this new signage, the petitioner will require an amendment to their existing SLUP. Prior to the consideration of a SLUP Amendment, the City Commission refers the Site Plan and Design Review to the Planning Board. Should Planning Board approval be granted, a public hearing will be held by the City Commission to consider whether or not to grant the proposed SLUP Amendment.

This parcel of land is zoned R-1A, Single Family Residential. Churches are a permitted use in the R-1A District, subject to Special Land Use regulations. The Church originally received a SLUP on May 13, 1991.

Sign Review

The Birmingham Sign Ordinance allows for one ground sign with 20 sq. ft. of signage per side and a maximum height of 8 ft. The applicant is proposing one 6 ft. tall sign, located in front of the church on W. Maple Rd. The total amount of signage proposed per side is 17.94 sq. ft.

The proposed sign along W. Maple Rd. is proposed to be located 7 ft. from the front property line. The sign will be composed of a brick monument base constructed of red brick that matches the church building and an internally illuminated aluminum sign cabinet with acrylic push-thru letters.

The sign will have three lines of text that read "First Presbyterian Church," "Sunday Services 8:30 a.m. & 10:00 a.m." and "www.everybodyschurch." The text of the monument sign will also include 6 in. high address numbers that are not counted toward the total amount of signage because they do not exceed 8 in. in height. The proposed ground sign meets the requirements of the Sign Ordinance.

In addition to the ground sign, the applicant is also proposing to replace a directional sign along Pleasant near the entrance to their parking lot, and to add a new directional sign along W. Maple Rd. The Sign Ordinance restricts directional signage of this type to 5 sq. ft. per side. The new directional signage is proposed to be 3.75 sq. ft. per side and therefore the proposed directional signs meet this requirement. However, it is unclear based on the photos submitted by the applicant if the directional sign on W. Maple Rd. would be on public or private property. Per the Birmingham Sign Ordinance, no sign shall be erected in the public right-of-way. Accordingly, the applicant must verify that the location of the directional sign along W. Maple Rd. is on private property or move the location to private property.

Ms. Mia Assen with Gardner Signs, 1087 Naughton Dr., Troy said the directional sign on W. Maple Rd. will be moved to the other side of the sidewalk which will put it on the applicant's property. She thinks the updated ground sign will be a very nice addition to that area.

There was no one from the public that wished to comment at 8:16 p.m.

Motion by Ms. Whipple-Boyce

Seconded by Mr. Boyle to recommend that the City Commission approve the SLUP Amendment for 1669 W. Maple Rd. to install a sign in front of the church building and a non-illuminated directional sign on Pleasant with the following condition:

- 1. The applicant must verify that the location of the directional sign along W. Maple Rd. is on private property or move the location to private property.**

Motion carried, 7-0.

VOICE VOTE

Yeas: Whipple-Boyce, Boyle, Clein, Jeffares, Lazar, Ramin, Williams

Nays: None

Absent: Koseck



MEMORANDUM

IT Department

DATE: 12/11/2017

TO: Joseph A. Valentine, City Manager

FROM: Eric Brunk, IT Manager

SUBJECT: Traps Endpoint Antivirus Software Renewal

The current Anti-Virus software package that was purchased and installed last year is up for renewal of the Support and subscription licenses. This is a yearly renewal and allows for continuous updates of the endpoint security software to keep up with the latest virus and malware software introduced on the internet. Money was budgeted for this renewal of support and subscription licenses in the IT Computer Software Fund account.

SUGGESTED RESOLUTION:

Authorize the IT department to purchase the Traps Anti Virus subscription renewal from CDWG. The purchase price not to exceed \$6,864.00. Funds are available in the IT Computer Software fund account # 636-228.000-742.0000

QUOTE CONFIRMATION



DEAR ERIC BRUNK,

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

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
JKQL872	11/22/2017	JJSB347	5969901	\$6,864.00

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
PALO ALTO TRAPS ADV EP PROT Mfg. Part#: PAN-TRAPS-A-1YR-R Electronic distribution - NO MEDIA Contract: Michigan Master Computing-MiDEAL NetApp (071B6600110)	208	4645142	\$33.00	\$6,864.00

PURCHASER BILLING INFO	SUBTOTAL	\$6,864.00
Billing Address: CITY OF BIRMINGHAM ACCOUNTS PAYABLE 151 MARTIN ST PO BOX 3001 BIRMINGHAM, MI 48009-3368 Phone: (248) 530-1850 Payment Terms: Net 30 Days-Govt State/Local	SHIPPING	\$0.00
	GRAND TOTAL	\$6,864.00
	Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	
DELIVER TO		
Shipping Address: CITY OF BIRMINGHAM ERIC BRUNK 151 MARTIN ST BIRMINGHAM, MI 48009-3368 Phone: (248) 530-1885 Shipping Method: ELECTRONIC DISTRIBUTION		

Need Assistance? CDW•G SALES CONTACT INFORMATION



Ryan Marron

(877) 219-8208

ryamarr@cdwg.com

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

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MEMORANDUM

IT Department

DATE: 12/11/2017

TO: Joseph A. Valentine, City Manager

FROM: Eric Brunk, IT Manager

SUBJECT: Palo Alto Firewall Security Subscription Renewal

The current Palo Alto Firewall that was purchased and installed last year is up for renewal of the Security subscription licenses. This is a yearly renewal and allows for continuous firewall updates to keep up with the latest infected websites, internet hacks, as well as virus and malware attack attempts. Money was budgeted for this renewal of subscriptions in the IT Network Upgrade Fund account.

SUGGESTED RESOLUTION:

Authorize the IT department to purchase the Security subscription renewal for the Palo Alto Firewall from Amerinet. The purchase price not to exceed \$12,857.60. Funds are available in the IT Network Upgrade fund account # 636-228.000-973.0400



Birmingham City | Palo Alto | Subscriptions Renewal 1Y

To:	From:
Eric Brunk	Keith Shoultz
City of Birmingham	AmeriNet
151 Martin Street	1241 S. Maple Rd.
Birmingham, MI 48012	Ann Arbor, MI 48103
248.530.1885	Phone: 734-995-1233
ebrunk@bhamgov.org	kshoultz@amerinet.com

Summary

Total Amount:	\$12,857.60	Quote ID:	QUO-16040-T8K2
Shipping Method:		Date:	11/16/2017
Payment Terms:	Net 30		

Details

Product ID	Product	Serial #	Start Date	End Date	Quantity	Price	Sub Total
PAN-PA-3020-GP-HA2-R	GlobalProtect subscription renewal for devices in HA pair, PA-3020	'001801042254	2/2/2018	2/2/2019	1.00	\$1,607.20	\$1,607.20
PAN-PA-3020-GP-HA2-R	GlobalProtect subscription renewal for devices in HA pair, PA-3020	'001801042226	2/2/2018	2/2/2019	1.00	\$1,607.20	\$1,607.20
PAN-PA-3020-TP-HA2-R	Threat prevention subscription renewal for devices in HA pair, PA-3020	'001801042226	2/2/2018	2/2/2019	1.00	\$1,607.20	\$1,607.20
PAN-PA-3020-TP-HA2-R	Threat prevention subscription renewal for devices in HA pair, PA-3020	'001801042254	2/2/2018	2/2/2019	1.00	\$1,607.20	\$1,607.20
PAN-PA-3020-URL4-HA2-R	PANDB URL filtering subscription renewal for devices in HA pair, PA-3020	'001801042226	2/2/2018	2/2/2019	1.00	\$1,607.20	\$1,607.20
PAN-PA-3020-URL4-HA2-R	PANDB URL filtering subscription renewal for devices in HA pair, PA-3020	'001801042254	2/2/2018	2/2/2019	1.00	\$1,607.20	\$1,607.20
PAN-PA-3020-WF-HA2-R	WildFire subscription renewal for devices in HA pair, PA-3020	'001801042254	2/2/2018	2/2/2019	1.00	\$1,607.20	\$1,607.20
PAN-PA-3020-WF-HA2-R	WildFire subscription renewal for devices in HA pair, PA-3020	'001801042226	2/2/2018	2/2/2019	1.00	\$1,607.20	\$1,607.20

Total	\$12,857.60
--------------	--------------------

Thank you for the opportunity to quote these products. Applicable taxes are additional. Important: Please renew before the expiration dates. There may be additional fees or changes if there is a lapse in coverage. We look forward to helping you in the future.



MEMORANDUM

Department of Public Services

DATE: November 6, 2017

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services
Aaron J. Filipski, Public Services Manager

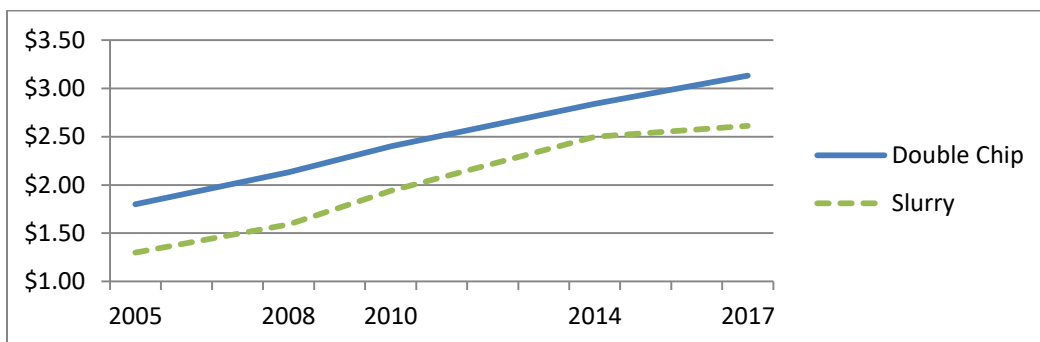
SUBJECT: Cape Seal Pricing Extension

On July 10, 2017, the City Commission approved a contract with Highway Maintenance & Construction for the application of cape seal surface treatment on select city streets as part of the Department of Public Services' unimproved street maintenance program. The pricing proposal provided by Highway Maintenance was lower across all categories, as indicated by the following:

Company	Double Chip Seal (yd ² in place)	Single Chip Seal (yd ² in place)	Slurry Seal (yd ² in place)	Pulverization (yd ² - in place)	Street Prep (per ton)	Manhole Adjustment (each)
Pavement Maint. Systems, Inc.	\$3.45	\$1.75	\$2.75	\$2.00	\$410.00	\$550.00
Highway Maint. and Const., Inc.	\$3.13	\$1.70	\$2.61	\$1.90	\$395.00	\$550.00

Highway Maintenance has offered to extend these per-unit prices for the summer 2018 project. The Department of Public Services recommends waiving the formal bidding procedure and accepting the price extension offer for several reasons.

First, costs have consistently increased with each project, as illustrated by the graph below. Given average annual increases of six and eight percent for chip seal and slurry, respectively, a unit cost increase can be reasonably expected if re-bid in advance of the upcoming project. Uncertainty surrounding the price of petroleum – to which asphalt emulsion product prices are related – also contributes to the likelihood of price increases.



Source: Birmingham DPS Cape Seal Program Records

Second, from a planning and administrative perspective, the pricing extension as proposed allows DPS staff to begin calculating assessment estimates and planning project specifics sooner – tasks that cannot be completed until accurate pricing is secured. Typically, a request for proposals requires 4-6 weeks for drafting, posting, review, recommendation, and award. As a result of a price extension, the required public hearings could be scheduled farther in advance, providing interested residents ample time to explore the alternative option of a full-scale street upgrade.

Solicitations for pricing are typically published in advance of each project. In this case, a second round of maintenance was planned after publication of the initial April 13, 2017 request for proposals; as such, the streets planned for the summer 2018 project were not referenced in that document.

In addition to extending the prices included in the original bid response, the agreement identifies the streets to be included in the 2018 project. It also provides a work start date of no later than July 15, 2018, ensuring that the Birmingham project schedule will take priority over the contractor's other projects.

For the reasons stated above, the Department of Public Services recommends approval of the service agreement extension with Highway Maintenance as described.

SUGGESTED RESOLUTION:

To approve the service agreement extension with Highway Maintenance & Construction, Inc. for cape seal maintenance services related to the 2018 summer cape seal program – contingent upon the results of the related public hearing of necessity and confirmation of the special assessment roll – in amounts not to exceed the per-unit pricing as submitted and as follows: single chip seal \$1.70/sq. yd., double-chip seal \$3.13/sq. yd., slurry seal \$2.61/sq. yd., street preparation \$395/ton, and manhole adjustment \$550/each; further, to direct the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of proper insurances.

AMENDMENT TO THE 2017 CAPE SEAL PROJECT AGREEMENT

THIS AMENDMENT to the Agreement of July 10, 2017 by and between the **CITY OF BIRMINGHAM** having its principal municipal office located at 151 Martin Street, Birmingham, Michigan, hereinafter sometimes called the "City", and **HIGHWAY MAINTENANCE AND CONSTRUCTION, INC.**, having its principal offices at P.O. 74411 Romulus, Michigan, 48174, hereinafter called "Contractor."

RECITALS

WHEREAS, the parties entered into a contract on July 10, 2017 for the purpose of providing performance of a Cape Seal project throughout the City of Birmingham for specific residential streets; and,

WHEREAS, the specific scope of the work was set forth in the proposal of the contract dated April 29, 2017, which was incorporated by reference into the aforementioned contract; and,

WHEREAS, the Contractor and the City are desirous of amending the contract to expand the scope of work beyond that which was set forth in the RFP of April 29, 2017.

NOW, THEREFORE, and in consideration of the respective agreements and undertakings herein, the parties agree to amend the aforementioned contract as follows:

1. It is mutually agreed by and between the parties that the scope of work contained in the request for proposal to perform the Cape Seal Project in the City of Birmingham which was contained in the Cost Proposal dated April 29, 2017 shall be supplemented with the following additional terms and conditions:

A. To extend the terms of the July 10, 2017 agreement between Highway Maintenance and Construction, Inc. and the City of Birmingham for the "Summer 2018 Cape Seal Project," including the per-unit prices from the Contractor's April 29, 2017 Cost Proposal.

B. The amended agreement shall include scope of work, "Summer 2018 Cape Seal Project" which shall include the following streets (subject to necessity hearing approval):

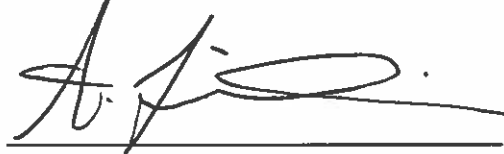
- Chesterfield – Maple to Quarton
- Fairfax – Maple to Raynale
- Suffield – Maple to Quarton

- Pilgrim – Maple to Quarton
- Puritan – Pine to Redding
- Lakepark – Maple to Redding
- Pine – Chesterfield to Lakepark
- Raynale – Chesterfield to Lakeside
- Redding – Chesterfield to Lakepark

C. The expected start date shall be no later than July 15, 2018, unless mutually agreed upon in writing by both parties.

2. All of the remaining terms and conditions of the contract of July 10, 2017 shall remain in full force and effect including, but not limited to maintaining the unit prices established in the July 10, 2017 contract.

WITNESSES:



HIGHWAY MAINTENANCE AND
CONSTRUCTION, INC.

By: _____

Its: _____



CITY OF BIRMINGHAM

By: _____

Andrew Harris

Its: _____

Mayor

By: _____

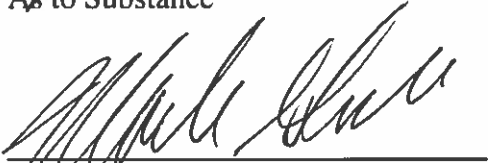
Cherilynn Mynsberge

Its: _____

Clerk

Approved: _____

Joseph A. Valentine, City Manager
As to Substance



Mark Gerber, Director of Finance
As to Financial Obligation



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



Timothy J. Currier, City Attorney
As to Form



Aaron Fillipski <afillipski@bhamgov.org>

Request for Extension

Jeff Demek <jeffdemek@comcast.net>
To: Aaron Fillipski <afillipski@bhamgov.org>

Wed, Oct 25, 2017 at 2:44 PM

**(734) 941-8885**

Fax (734) 941-8962

P.O. Box 74411

Romulus, MI 48174-0411

October 25, 2017

To: Aaron Fillipski, Public Services Manager

From: Jeffrey S. Demek at Highway Maintenance & Construction

Subject: Request to extend Capeseal Prices for 2018 Work

Aaron,

Thank you for your work this year. We hope you are as pleased as we are with results.

We have talked with our suppliers and we are able to extend the prices for this year's Capeseal program for your 2018 work

We hope you will take this opportunity to know your prices for next year so we can get set up earlier than this year.

Please feel free to call with any questions and we look forward to working with you again next year.

Jeffrey S. Demek P.E., President

Highway Maintenance & Construction

Maintaining Pavements for Over 45 years

Office: (734) 941-8885

Cell: (734) 718-3789



MEMORANDUM

Department of Public Services

DATE: June 29, 2017
TO: Joseph A. Valentine, City Manager
FROM: Lauren A. Wood, Director of Public Services
SUBJECT: 2017 Cape Seal – Bid Award

CC
Approved
7-10-17

On April 13, 2017, the Department of Public Services, using the Michigan Inter-governmental Trade Network, solicited sealed proposals from qualified parties to perform cape seal treatment on approximately 31,000 square yards of roadway as part of its cape seal maintenance program. The solicitation sought per-unit prices for single- and double-chip treatment, slurry seal, surface pulverization, street preparation, and manhole adjustments. Two firms responded, and the sealed bids were publicly opened on April 27, 2017. The results are as follows:

Company	Double Chip Seal (yd ² - in place)	Single Chip Seal (yd ² - in place)	Slurry Seal (yd ² - in place)	Pulverization (yd ² - in place)	Street Prep (per ton)	Manhole Adjustment (each)
Pavement Maint. Systems, Inc.	\$3.45	\$1.75	\$2.75	\$2.00	\$410.00	\$550.00
Highway Maint. and Construction, Inc.	\$3.13	\$1.70	\$2.61	\$1.90	\$395.00	\$550.00

The Department of Public Services recommends awarding the cape seal contract to Highway Maintenance and Construction, Inc. of Romulus, MI, the lowest qualified bidder for each solicited bid item. This recommendation is contingent upon the results of the public hearing of necessity and confirmation of the related special assessment roll. There is over 31,000 square yards of residential streets as part of the 2017 Cape Seal Program. Highway Maintenance and Construction has been performing the City cape seal work for over twelve years. The last award was for the 2014 Cape Seal Program and pricing was seven (7%) percent lower than the combined bid pricing for 2017.

SUGGESTED RESOLUTION:

To approve the award with Highway Maintenance and Construction, Inc. for services related to the 2017 Cape Seal Program – contingent upon the results of the related public hearing of necessity and confirmation of the special assessment roll – in amounts not to exceed the per-unit pricing as submitted; Double chip seal \$3.13/sq. yd., Single chip seal \$1.70/sq. yd., Slurry seal \$2.61/sq. yd., Pulverizing \$1.90/sq. yd., Street preparation \$395.00/ton and Manhole adjustment \$550.00 each. Further, to authorize the Mayor and Clerk to sign the agreement on behalf of the City upon receipt of proper insurances.

Copy

ATTACHMENT A - AGREEMENT
For "2017 Cape Seal Project"

This AGREEMENT, made this 10th day of July, 2017, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and Highway Maintenance and Construction, Inc., having its principal office at PO 74411 Romulus, MI 48174 (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Department of Public Services, is desirous of having a cape seal project performed throughout the City on specific residential streets.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to perform a cape seal project for the City of Birmingham, the total of which shall consist of approximately 31,300 square yards of residential streets throughout the City of Birmingham, and in connection therewith has prepared a request for sealed proposals ("RFP"), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to perform perform a cape seal project for the City of Birmingham, the total of which shall consist of approximately 31,300 square yards of residential streets.

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

It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to perform a cape seal project for the City of Birmingham, the total of which shall consist of approximately 31,300 square yards of residential streets and the Contractor's cost proposal dated April 29, 2017 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

1. The City shall pay the Contractor for the performance of this Agreement in accordance with per-unit bid prices as set forth in the Contractor's April 29, 2017 cost proposal as follows:

Single-chip seal	\$1.70	per yd ² in place
Double-chip seal	\$3.13	per yd ² in place
Slurry seal	\$2.61	per yd ² in place
Bituminous base pulverization	\$1.90	per yd ² in place
Street preparation	\$395.00	per ton
Manhole adjustment	\$550	each

2. This Agreement shall commence upon execution by both parties, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals.

3. The Contractor shall employ personnel of good moral character and fitness in performing all services under this Agreement.

4. The Contractor and the City agree that the Contractor is acting as an independent Contractor with respect to the Contractor's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

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

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

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

8. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by the Contractor without the prior

written consent of the City. Any attempt at assignment without prior written consent shall be void and of no effect.

9. The Contractor agrees that neither it nor its subcontractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The Contractor shall inform the City of all claims or suits asserted against it by the Contractor's employees who work pursuant to this Agreement. The Contractor shall provide the City with periodic status reports concerning all such claims or suits, at intervals established by the City.

10. The Contractor shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham.

11. The Contractor shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

- A. Workers' Compensation Insurance: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.
- B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.
- C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage

by primary, contributing or excess.

- E. Professional Liability: Professional liability insurance with limits of not less than \$1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage.
- F. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than \$1,000,000, per occurrence preferred, but claims made accepted.
- G. Owners Contractors Protective Liability: The Contractor shall procure and maintain during the life of this contract, an Owners Contractors Protective Liability Policy with limits of liability not less than \$3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be "Name Insured" on said coverage. Thirty (30) days Notice of Cancellation shall apply to this policy.
- H. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance (and Professional Liability Insurance, if applicable), as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal, shall be sent to: Finance Director, City of Birmingham, PO Box 3001, 151 Martin Street, Birmingham, MI 48012-3001.
- I. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.
 - 1) Two (3) copies of Certificate of Insurance for Workers' Compensation Insurance;
 - 2) Two (3) copies of Certificate of Insurance for Commercial General Liability Insurance;
 - 3) Two (3) copies of Certificate of Insurance for Vehicle Liability Insurance;
 - 4) Two (3) copies of Certificate of Insurance for Professional Liability Insurance;
 - 5) If so requested, Certified Copies of all policies mentioned above will be furnished.
- J. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.
- K. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage

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

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

14. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

15. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

Department of Public Services
Attn: Aaron Filipski
851 S. Eton
Birmingham, MI 48009
248.530.1701

16. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds \$1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL§600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment

upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

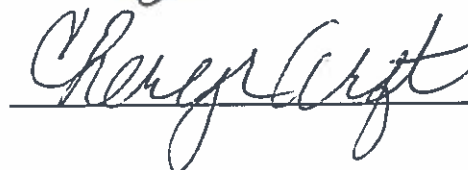
17. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:


Aaron Filipski





CONTRACTOR

HIGHWAY MAINT & CONST

By: 

Its: PRESIDENT

CITY OF BIRMINGHAM

By: 

Mark Nickita


Its: Mayor

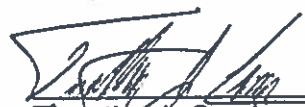
By: 


J. Cherilyn Brown


Its: City Clerk

Approved:


Lauren A. Wood, Director of Public
Services
(Approved as to substance)


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


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


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



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/28/2017

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

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

PRODUCER VTC Insurance Group Farmington Hills Office 37000 Grand River Ste 150 Farmington Hills MI 48335	CONTACT NAME: Anita Palarchio PHONE (A/C, No, Ext): (248) 888-5485 E-MAIL: apalarchio@gswins.com FAX (A/C, No): (248) 471-0641
INSURED Highway Maintenance and Construction Co P O Box 74411 Romulus MI 48174-0411	INSURER(S) AFFORDING COVERAGE INSURER A: Michigan Millers Mutual Ins Co INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
	NAIC # 14508

COVERAGES CERTIFICATE NUMBER: 17-18 REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	C0515590	4/1/2017	4/1/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ *300,000 MED EXP (Any one person) \$ *10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000	
A	<input type="checkbox"/> AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS HIRED AUTOS 19	<input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X	C0515590	4/1/2017	4/1/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB DED <input checked="" type="checkbox"/> RETENTION \$ 0	<input type="checkbox"/> CLAIMS-MADE	C0515590	4/1/2017	4/1/2018	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	C0515590	4/1/2017	4/1/2018	PER STATUTE E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Project: 2017 Cape Seal Project

Where required by written contract, The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof are additional insured for General Liability as respects ongoing and completed operations on a primary and non-contributory basis and additional insured with respects to Automobile liability. (Cont. on next page)

CERTIFICATE HOLDER City of Birmingham Department of Public Services Attn: Aaron Filipski 851 S. Eton Birmingham, MI 48009	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Terry Griffin/AJP
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COMMENTS/REMARKS

Insurer will endeavor to mail 30 days written notice of cancellation to the certificate holder; City of Birmingham, Finance Director, P O Box 3001, 151 Martin Street, Birmingham, MI 48012-3001, on the General Liability, Automobile and Workers Compensation policies; however, failure to do so will impose no liability of any kind upon the insurer or its agents or representatives.



MEMORANDUM

Department of Public Services

DATE: November 29, 2017

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services

SUBJECT: Permeable Paver Installation

The incorporation of bulbed-out, or 'enhanced pedestrian crossings' at street intersections throughout Birmingham has improved pedestrian safety, but has, at some intersections, required additional maintenance in order to maintain aesthetics. Due to a tighter turning radius, vehicles often roll over the curb edge, resulting in unsightly rutting and sod damage.

As a solution, the Department of Public Services explored the use of permeable pavers at intersections prone to rollover damage. Designed to distribute the weight of a vehicle across their honey-combed, interlocking tiles, permeable pavers reduce the instances and severity of tire rutting, while allowing sod to grow at the surface.

The intersection of Lincoln and Pierce was identified as a prime location to test the product's effectiveness due to its relatively heavy traffic volumes and tendency to result in particularly bad rutting. A request for proposals was posted in late September 2017 for the purchase and installation of permeable pavers by qualified landscaping firms. Proposals were unsealed on October 12, 2017. A total of two bids were received, with the results as follows:

Agroscaping, Inc.	\$8,250
KLM Landscape	\$13,750

Interviews were conducted with the bidders to determine their familiarity and experience with permeable paver installation; both demonstrated competency. The Department of Public Services recommends awarding the installation contract to the lowest bidder, Agroscaping, Inc, of Swartz Creek, Mich. Funds for this project are available in Local Streets Fund, Contract Maintenance account.

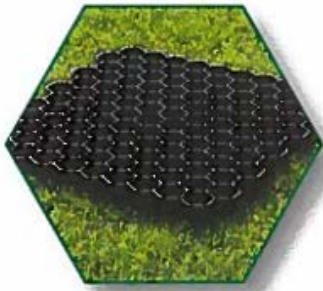
Work on the project will begin once weather conditions are appropriate for proper installation, estimated for the week of April 16, 2018. Pending satisfactory product performance at this location, the Department of Public Services will consider the potential for additional applications at other locations.

SUGGESTED RESOLUTION:

To approve the service agreement with Agroscaping, Inc. of Swartz Creek, MI for the purchase and installation of permeable pavers at the intersection of Lincoln and Pierce streets in an amount not to exceed \$8250.00 from the Local Streets Fund, Contract Maintenance account #203-449.003-937.0400.

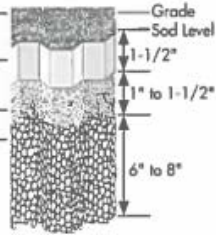
NDS Grassroad Pavers Technical Data

Tufftrack® Grass Pavers

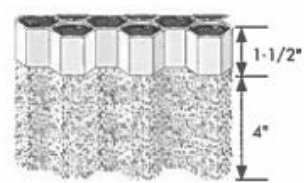


Heavy Load and Firelane Access

Turf ←
NDS Tufftrack® Grass
Pavers Model #TT-24 ←
Planting base – grass root
establishment area ←
Sub-base should be 6" ←
base material, based on
local requirements and
availability. See page 7 for
recommendations.



Light to Moderate Weight – Utility, Golf, RV, Service Access



Height	Panel Dimensions	Area Covered Per Panel	Compressive Strength (empty)	Plastic Material	Recycled Content
1-1/2"	24" x 24"	4 Sq. Feet	98,770 psf	HDPE with UV inhibitors	100%

ATTACHMENT A - AGREEMENT
For Porous Paver Installation

This AGREEMENT, made this _____ day of _____, 2017, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and Agroscaping, Inc., having its principal office at 6443 Grand Blanc Rd, Swartz Creek, MI (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Department of Public Services, is desirous of having work completed to furnish and install porous grass pavers at the intersection of Pierce and Lincoln Street.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to furnish and install porous grass pavers, and in connection therewith has prepared a request for sealed proposals ("RFP"), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to furnish and install porous grass pavers..

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

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to furnish and install porous grass pavers and the Contractor's cost proposal dated October 8, 2017 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.
2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed \$8250.00, as set forth in the Contractor's October 8, 2017 cost proposal.
3. This Agreement shall commence upon execution by both parties, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals.
4. The Contractor shall employ personnel of good moral character and fitness in performing all services under this Agreement.
5. The Contractor and the City agree that the Contractor is acting as an independent Contractor with respect to the Contractor's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and

neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

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

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

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

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

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

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

11. The Contractor shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham.

12. The Contractor shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

- A. Workers' Compensation Insurance: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.
- B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.
- C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.
- E. Professional Liability: Professional liability insurance with limits of not less than \$1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage.

F. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than \$1,000,000, per occurrence preferred, but claims made accepted.

G. Owners Contractors Protective Liability: The Contractor shall procure and maintain during the life of this contract, an Owners Contractors Protective Liability Policy with limits of liability not less than \$3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be "Name Insured" on said coverage. Thirty (30) days Notice of Cancellation shall apply to this policy.

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

I. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

- 1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
- 2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
- 3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
- 4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
- 5) If so requested, Certified Copies of all policies mentioned above will be furnished.

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

K. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

13. To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and

appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham.

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

15. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

Department of Public Services
Attn: Aaron Filipski
851 S Eton St.
Birmingham, MI 48009
(248)530-1701

CONTRACTOR:
Joseph Kudwa
6443 Grand Blanc Rd
Swartz Creek, MI 48473-9403
(810) 691-9555

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

arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.


18. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:



CONTRACTOR


By: 
Joseph Kudwa
Its: President

CITY OF BIRMINGHAM

By: _____
Andrew Harris
Its: Mayor

By: _____
J. Cherilynn Mynsberge
Its: City Clerk

Approved:


Lauren A. Wood, Director of Public
Services
(Approved as to substance)


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


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


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

ATTACHMENT B - BIDDER'S AGREEMENT
For Porous Paver Installation

In submitting this proposal, as herein described, the Contractor agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.
2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

<u>JOE Kudus</u>	<u>10 / 8 / 17</u>
BID PREPARED BY (Print Name)	DATE
<u>PROPOSER</u>	
TITLE	DATE
<u>[Signature]</u>	<u>agroscape@hotmail.com</u>
AUTHORIZED SIGNATURE	E-MAIL ADDRESS
<u>Agroscape, Inc</u>	
COMPANY	
<u>6443 GRAND BLANC BL SWANTZ CANTON, MI 48473</u>	
ADDRESS	PHONE
<u>SAME AS ABOVE</u>	
NAME OF PARENT COMPANY	PHONE
<u></u>	
ADDRESS	

ATTACHMENT C - COST PROPOSAL

For Porous Paver Installation

In order for the bid to be considered valid, this form must be completed in its entirety. The cost for the Scope of Work as stated in the Request for Proposal documents shall be a lump sum, as follows:

\$ 8,250⁰⁰

Attach technical specifications for all proposed materials and submit documents listed in the "Contractor's Responsibilities" section of the RFP (p. 6), including that which demonstrates the Contractor's capabilities, technical proficiencies, and experience in installing porous pavers for the application described within this RFP.

Firm Name Agroscaping, Inc

Authorized signature Joe White Date 10/8/17



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/22/2017

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

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

PRODUCER W. J. Phillips, Inc. 6045 Corunna Rd Suite B Flint MI 48532	CONTACT NAME: Deborah Sipes PHONE (A/C, No, Ext): 8102300020 FAX (A/C, No): E-MAIL ADDRESS: deb@wjphillips.com																					
INSURED Agroscaping Inc 6443 Grand Blanc Road Swartz Creek MI 48473	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A:</td><td>AUTO OWNERS INS CO</td><td>18988</td></tr><tr><td>INSURER B:</td><td>HOME OWNERS INS CO</td><td>26638</td></tr><tr><td>INSURER C:</td><td></td><td></td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	AUTO OWNERS INS CO	18988	INSURER B:	HOME OWNERS INS CO	26638	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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INSURER C:																						
INSURER D:																						
INSURER E:																						
INSURER F:																						

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURED	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y		14232281	04/28/2017	04/28/2018	EACH OCCURRENCE \$ 1000000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300000 MED EXP (Any one person) \$ 10000 PERSONAL & ADV INJURY \$ 1000000 GENERAL AGGREGATE \$ 2000000 PRODUCTS - COM/OP AGG \$ 2000000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y		47-232-281-04	04/28/2017	04/28/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 500000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ 5000.00 OCCUR CLAIMS-MADE			47-232-281-02	04/28/2017	04/28/2018	EACH OCCURRENCE \$ 1000000.00 AGGREGATE \$ 1000000.00
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Contractors Equipment			14232281	04/28/2017	04/28/2018	Limit 134300 Deductible 250

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

City of Birmingham is listed as additional insured on the general liability policy and the automobile policy.

CERTIFICATE HOLDER**CANCELLATION**

City of Birmingham 851 S. Eaton Birmingham, MI 48009	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Deborah Sipes
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NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION
SPECIAL LAND USE PERMIT & REVISED FINAL SITE PLAN

Meeting Date, Time, Location:	Monday, December 11, 2017 at 7:30 PM Municipal Building, 151 Martin Birmingham, MI
Location of Request:	210 S. Old Woodward (Bird and the Bread)
Nature of Hearing:	To consider approval of a Special Land Use Permit & Revised Final Site Plan to allow a name and concept change to the existing restaurant.
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 November 26, 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.



MEMORANDUM

Planning Division

DATE: December 5, 2017

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: Public Hearing for a Special Land Use Permit Ammendment and Final Site Plan for Vinoteca at 210 S. Old Woodward Ave

The subject business is located at 210 S. Old Woodward Avenue in the southern portion of The Plaza at Birmingham building, just south of Merrill Street. The applicant is the current owner of the restarant on site, The Bird and the Bread, and intends to change the name and concept of the current restaurant into Vinoteca, which will have serve wine in conjunction with a European food focus. According to Section 6 Article 6.02(A)(5) of the Zoning Ordinance, existing and new establishments with alcoholic beverage sales shall obtain a Special Land Use Permit upon change in ownership or name of establishment.

The parcel is Zoned B-4, Business Residential and D-4 in the Downtown Overlay District. The applicant is proposing new signage and minor remodeling for the interior that includes the construction of a stage for low key entertainment. The applicant will be operating with the existing Class C liquor license controlled by the property owner which is currently in use by the Bird and the Bread.

The Planning Board met on November 8th, 2017 and conducted a public hearing to discuss the Final Site Plan and Special Land Use Permit Review for 210 S. Old Woodward. The Planning Board raised the issue of isinglass with the applicant, citing their disapproval and encouraging the applicant to find different screening materials for the outdoor café. The Planning Board voted unanimously to recommend approval of the Special Land Use Permit and Final Site Plan for 210 S. Old Woodward Avenue to the City Commission with the following conditions:

1. The applicant obtains approval from the Historic District Commission; and
2. The Proposed Eisinglass is not considered a part of the Final Site Plan and SLUP approval.

The Historic District Commission met on November 15, 2017 and conducted a public hearing to discuss the Final Site Plan and Special Land Use Permit Review for 210 S. Old Woodward. The Historic District Commission approved the proposed changes with the exception of the Isinglass enclosure, however they did note that it would be reasonable to put up Isinglass or similar material during the construction phase next door to prevent dust and debris from affecting the site.

As The Bird and the Bread (Vinoteca) currently holds an entertainment permit, live entertainment is permitted within the establishment. However, given previous concerns raised by the City Commission regarding the use of DJ's and other types of entertainment, the draft SLUP resolution contains additional entertainment provisions that the City Commission may wish to consider adopting.

The City Commission set a public hearing date for December 11th, 2017 to consider an application for a Special Land Use Permit ("SLUP") Amendment and Final Site Plan for Vinoteca at 210 S. Old Woodward Avenue. Please see attached staff report presented to the Planning Board, along with the application, submitted plans and relevant meeting minutes for your review.

SUGGESTED ACTION:

To approve a Special Land Use Permit Amendment and Final Site Plan for Vinoteca at 210 S. Old Woodward to allow for a name and concept change from the previous restaurant as recommended by the Planning Board on November 8, 2017.

VINOTECCA
210 S. OLD WOODWARD
SPECIAL LAND USE PERMIT AMMENDMENT
2017

- WHEREAS, Vinoteca filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a food and drink establishment in the B4 zone district in accordance Article 2, Section 2.37 of Chapter 126, Zoning, of the City Code;
- WHEREAS, The land for which the Special Land Use Permit is sought is located on the west side of S. Old Woodward, south of Merrill Street;
- WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, which permits the operation of food and drink establishments serving alcoholic beverages 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 applicant received SLUP approval from City Commission on October 7th, 2013 for the restaurant HOME;
- WHEREAS, The applicant received SLUP approval from City Commission on February 10th, 2014 to change the name from HOME to The Bird and the Bread;
- WHEREAS, The applicant submitted an application for a Special Land Use Permit and Final Site Plan to change the restaurant name from The Bird and the Bread to Vinoteca, along with minor interior and exterior changes;
- WHEREAS, The Planning Board on November 8th, 2017 reviewed the application for a Special Land Use Permit and Final Site Plan Review and recommended approval to change the name and concept of The Bird and the Bread to Vinoteca, subject to the following conditions:
- (1) The applicant obtains approval from the Historic District Commission; and
 - (2) The proposed Eisinglass is not considered a part of the Final Site Plan and SLUP approval.
- WHEREAS, The applicant has agreed to comply with the conditions of approval recommended by the Planning Board;
- WHEREAS, The HDC reviewed the application for Historic Design Review and recommended approval on November 15, 2017;

WHEREAS, The Birmingham City Commission has reviewed Vinoteca'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 Vinoteca's application for a Special Land Use Permit Amendment and Final Site Plan at 210 S. Old Woodward 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. Vinoteca shall be permitted to provide entertainment in accordance with their entertainment permit issued by the MLCC, except that no disc jockey ("DJ") entertainment shall be permitted after 7:00pm on any day of the week;
2. DJ entertainment includes any entertainment that involves a person who mixes different sources of pre-existing recorded music as it is playing;
3. Vinoteca shall abide by all provisions of the Birmingham City Code; and
4. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest.

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, Vinoteca 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 Vinoteca to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit.

MAY IT BE FURTHER RESOLVED that Vinoteca is recommended for the operation of a food and drink establishment serving alcoholic beverages on premises with a Class C Liquor License, at 210 S. Old Woodward, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

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 11th, 2017.

Cherilynn Mynsberge, City Clerk

PREVIOUS SLUP RESOLUTION

THE BIRD AND THE BREAD
210 S. OLD WOODWARD
SPECIAL LAND USE PERMIT AMENDMENT
2014

- WHEREAS, HOME filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a food and drink establishment with on-premises consumption of alcoholic liquors in the B4 zone district in accordance Article 2, Section 2.37 of Chapter 126, Zoning, of the City Code;
- WHEREAS, The land for which the Special Land Use Permit is sought is located on the west side of S. Old Woodward, south of Merrill Street;
- WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, which permits the operation of food and drink establishments serving alcoholic beverages 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 applicant submitted an application for a Special Land Use Permit and Final Site Plan for HOME;
- WHEREAS, The Planning Board on August 28, 2013 reviewed the application for a Special Land Use Permit and Final Site Plan Review and recommended approval of the application with the following conditions:
- (1) The applicant obtains approval from the Historic District Commission;
 - (2) The applicant obtains an outdoor dining permit from the City of Birmingham; and
 - (3) The applicant comply with the requests of the Fire Department.
- WHEREAS, The applicant has agreed to comply with the conditions of approval recommended by the Planning Board;
- WHEREAS, The Historic District Commission on September 18, 2013 reviewed the application for a Historic Sign and Design Review and recommended approval of the application;
- WHEREAS, The Birmingham City Commission reviewed HOME's Special Land Use Permit application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;
- WHEREAS, The City Commission approved the Special Land Use Permit and Final Site Plan for HOME on October 7, 2013;

WHEREAS, The applicant has now requested to change the DBA name of HOME to THE BIRD AND THE BREAD, and thus amend the Special Land Use Permit approved on October 7, 2013;

WHEREAS, The Birmingham City Commission has reviewed THE BIRD AND THE BREAD'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 THE BIRD AND THE BREAD's application for a Special Land Use Permit Amendment at 210 S. Old Woodward 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. THE BIRD AND THE BREAD shall abide by all provisions of the Birmingham City Code; and
2. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest.

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

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

MAY IT BE FURTHER RESOLVED that THE BIRD AND THE BREAD is recommended for the operation of a food and drink establishment serving alcoholic beverages on premises with a Class C Liquor License, at 210 S. Old Woodward, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

I, Laura M. Broski, 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 February 10, 2014.

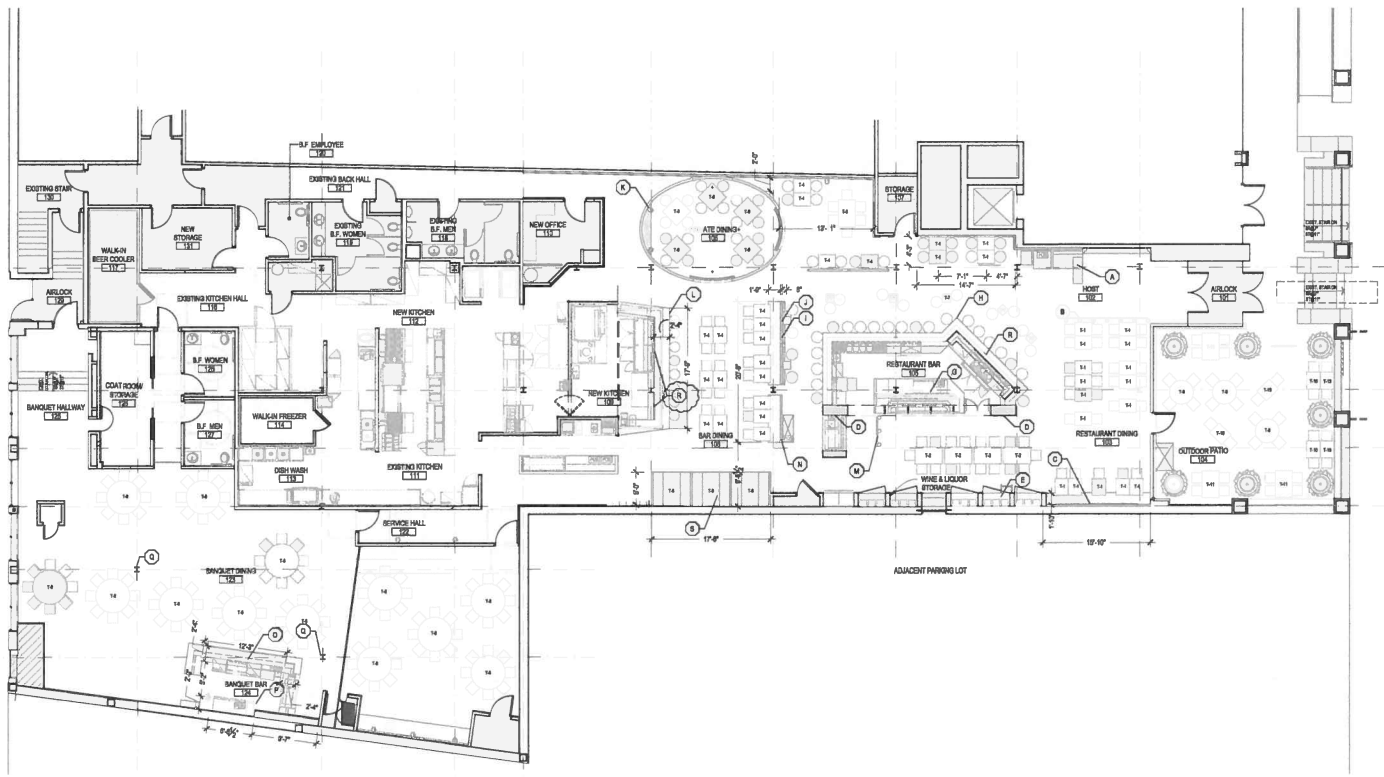
Laura M. Pierce, City Clerk

Existing Layout of Bird and the Bread

FIXTURE SCHEDULE:	
ITEM	DESCRIPTION
A	HOT STAND
B	BLACK PIPE POSTS AND MONICOLOR GRATING FLOOR TO CEILING SCREEN
C	NEW BAR HEIGHT SETTEE
D	NEW COLUMN - CLAD IN TILE - FLOOR TO CEILING
E	LIQUOR DRILLING AND ROLLING LIBRARY LADDER
F	(2) NEW DINING HEIGHT BOOTH
G	NEW LIQUOR ITEMS
H	NEW BAR TOP TO REPLACE EXISTING
I	NEW BAR HEIGHT SETTEE WITH DRINK COUNTER ON REVERSE SIDE
J	NEW DINING HEIGHT SETTEE
K	NEW STAFF CAFE PRIVATE ROOM WITH WOOD COUNTER
L	NEW BAR DIE AND TOP
M	BLACK PIPE POSTS AND MONICOLOR GRATING - FLOOR TO CEILING SCREEN
N	NEW SERVICE STATION
O	REWORK EXISTING BAR AND DIE
P	NEW BACK BAR
Q	NEW CUSTOM METAL ABSTRACT "SHELL" COVER COLUMN AND PART OF SURROUNDING CEILING (2)
R	GLASS SHEETZ GUARDRAILS (2) DETAILS A & B SHEET AND
S	NEW DINING HEIGHT BOOTH
T	NEW COLUMN - CLAD IN TILE - TO R.F. A.F.F.

TABLE SCHEDULE:		
ITEM	QTY.	DESCRIPTION
T-1	20	3"X12"X4"TH
T-2	4	4"X12"X4"TH
T-3	1	EXIST. BY OWNER
T-4	18	3"X12"X4"TH
T-5	3	4"X12"X4"TH
T-6	5	3"X12"X4"TH
T-7	5	1"X12"X4"TH
T-8	17	8"X12"X4"TH
T-9	3	4"X12"X4"TH
T-10	8	3"X12"X4"TH
T-11	3	4"X12"X4"TH

EXISTING ALLEY



FIXTURE AND FINISH PLAN
scale: 1/8" = 1'-0"

RonandRoman
architects et al.
275 E. Park St. Birmingham, AL 35203
205.252.5799 9.543.724.5799

Project:

HOME
Remodelation of an Existing Restaurant
210 S. Old Woodward Birmingham, AL 35209

Scale:

Issue Date:	
BUILDING PERMIT	1/26/2013
REVISION	1/26/2013
REVISION	1/13/2014
REVISION	1/13/2014

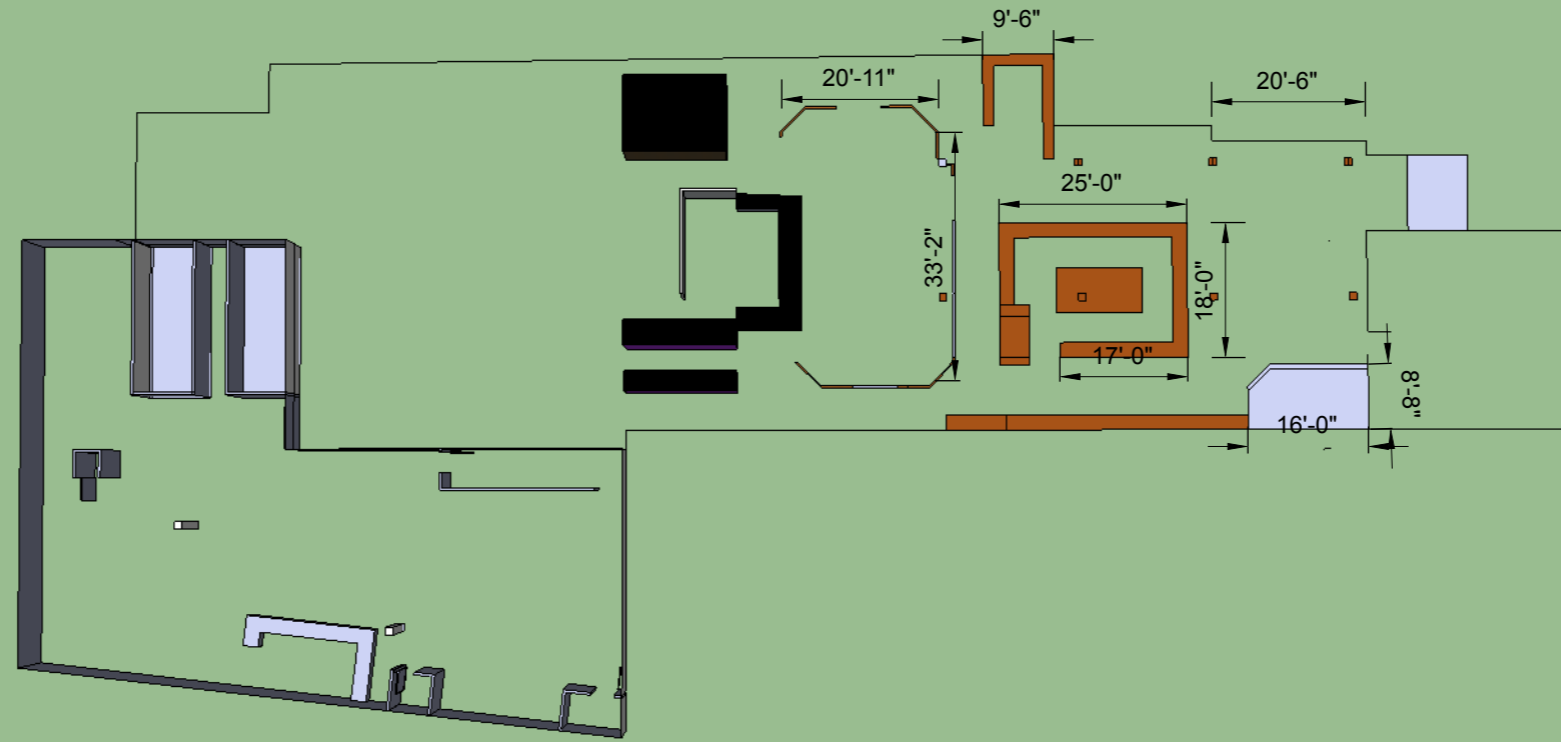
Sheet Title:

FIXTURE AND FINISH PLAN

Sheet Number:

A102

existing conditions



Vintage LLC
210 S Old Woodward
Birmingham MI 48009

PROJECT NO.
210

10/2/2017
DRAWN BY
David Eifrid

Vintecca



Special Land Use Permit Application

Planning Division

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

1. Applicant

Name: Vintage LLC
Address: 210 S. Old Woodward
Birmingham MI 48009
Phone Number: 248-203-6600
Fax Number: _____
Email Address: kristin.jonna@gmail.com

Property Owner

Name: ESSCO development
Address: 210 S. Old Woodward #230
Birmingham MI 48009
Phone Number: 248-645-5900
Fax Number: _____
Email Address: sfoumin@esscodevelopment.com

2. Applicant's Attorney/Contact Person

Name: DAVE Eifrid / Kristin Jonna
Address: 210 S. Old Woodward
Birmingham MI 48009
Phone Number: 248-203-6600
Fax Number: _____
Email Address: kristin.jonna@gmail.com

Project Designer/Developer

Name: DAVE Eifrid
Address: 47974 West Rd
Wixom MI 48393
Phone Number: 734-718-7078
Fax Number: _____
Email Address: DAVEEifrid@gmail.com

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

- 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

4. Project Information

Address/Location of Property: 210 S. Old Woodward
Name of Development: Uinotecca
Sidwell #: _____
Current Use: Restaurant
Proposed Use: Restaurant
Area in Acres: _____
Current Zoning: _____
Zoning of Adjacent Properties: _____
Is there a current SLUP in effect for this site?: yes
Is property located in the floodplain? no

Name of Historic District site is in, if any: Downtown
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: _____
Will proposed project require the division of platted lots? _____

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

Reconcept of The Bird and the Bread to Uinotecca. Uinotecca
has been in Royal Oak for 12 years. This will move the concept to Birmingham.
The Restaurant will have a wine focus with European food pairings. The
restaurant will have an upscale feel, compared to TB&TB and will feature
live music - Jazz and Blues emphasis.

6. Buildings and Structures

Number of Buildings on site: 1
Height of Building & # of stories: 1

Use of Buildings: mi. x
Height of rooftop mechanical equipment: N/A

7. Floor Use and Area (in square feet)

Commercial Structures:

Total basement floor area: N/A
 Number of square feet per upper floor: 11,000
 Total floor area: 11,000
 Floor area ratio (total floor area divided by total land area): N/A
 Open space: N/A
 Percent of open space: N/A

Office space: _____
Retail space: _____
Industrial space: _____
Assembly space: _____
Seating Capacity: _____
Maximum Occupancy Load: _____

Residential Structures:

Total number of units: 2202
 Number of one bedroom units: _____
 Number of two bedroom units: _____
 Number of three bedroom units: _____
 Open space: _____
 Percent of open space: _____

Rental units or condominiums?: _____
 Size of one bedroom units: _____
 Size of two bedroom units: _____
 Size of three bedroom units: _____
 Seating Capacity: _____
 Maximum Occupancy Load: _____

8. Required and Proposed Setbacks

Required front setback: NONE
 Required rear setback: _____
 Required total side setback: _____
 Side setback: _____

Proposed front setback: _____
 Proposed rear setback: _____
 Proposed total side setback: _____
 Second side setback: _____

9. Required and Proposed Parking

Required number of parking spaces: NONE
 Typical angle of parking spaces: _____
 Typical width of maneuvering lanes: _____
 Location of parking on the site: _____
 Location of off site parking: _____
 Number of light standards in parking area: _____
 Screenwall material: _____

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

Location of landscape areas: NONE

Proposed landscape material:

11. Streetscape

Sidewalk width: NONE
Number of benches: _____
Number of planters: _____
Number of existing street trees: _____
Number of proposed street trees: _____
Streetscape Plan submitted?: _____

Description of benches or planters: _____

Species of existing street trees: _____
Species of proposed street trees: _____

12. Loading

Required number of loading spaces: NONE
Typical angle of loading spaces: _____
Screenwall material: _____
Location of loading spaces on the site: _____

Proposed number of loading spaces: _____
Typical size of loading spaces: _____
Height of screenwall: _____

13. Exterior Trash Receptacles

Required number of trash receptacles: NONE
Location of trash receptacles: _____
Screenwall material: _____

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

14. Mechanical Equipment

Utilities & Transformers:

Number of ground mounted transformers: NONE
Size of transformers (LxWxH): _____

Location of all utilities & easements: _____

Number of utility easements: _____
Screenwall material: _____

Height of screenwall: _____

Ground Mounted Mechanical Equipment:

Number of ground mounted units: NONE
Size of ground mounted units (LxWxH): _____

Location of all ground mounted units: _____

Screenwall material: _____

Height of screenwall: _____

Rooftop Mechanical Equipment:

Number of rooftop units: NONE
Type of rooftop units: _____

Location of all ground mounted units: _____
Size of rooftop units (LxWxH): _____

Screenwall material: _____
Location of screenwalls: _____

Height of screenwall: _____
Percentage of rooftop covered by mechanical units: _____
Distance from units to rooftop units to screenwall: _____

15. Accessory Buildings

Number of accessory buildings: NONE
Location of accessory buildings: _____

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

16. Building Lighting

Number of light standards on building: NONE
Size of light fixtures (LxWxH): _____

Type of light standards on building: _____
Height from grade: _____

Maximum wattage per fixture: _____
Light level at each property line: _____

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: _____ Date: _____

Print Name: _____

Signature of Applicant: _____ Date: _____

Print Name: _____

Signature of Architect: _____ Date: _____

Print Name: _____

Office Use Only

Application #: _____ Date Received: _____ Fee: _____

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



CONSENT OF PROPERTY OWNER

I, ESSCO OF BIRMINGHAM, LLC OF THE STATE OF MICHIGAN AND COUNTY OF
(Name of property owner)

CAKUMIO STATE THE FOLLOWING:

1. That I am the owner of real estate located at 210 SOUTH OAKWOOD AVE;
(Address of affected property)
2. That I have read and examined the Application for Administrative Approval made to the City of Birmingham by:
Re Bird and The Breed;
(Name of applicant)
3. That I have no objections to, and consent to the request(s) described in the Application made to the City of Birmingham.

Dated: 10/17/17

JAMES ESSHAKI, MANAGER
Owner's Name (Please Print)

James Esshaki
Owner's Signature



Notice Signs - Rental Application Community Development

1. Applicant

Name: Vintage LLC
Address: 210 S. Old Woodward
Birmingham AL 35209
Phone Number: 248-203-6600
Fax Number: _____

Property Owner

Name: ESCO Development
Address: 210 S. Old Woodward
Birmingham MS 38209
Phone Number: 248-645-5900
Fax Number: _____

2. Project Information

Address/Location of Property: 210 S. Old Woodward #100
Name of Development: Vintage
Area in Acres: None

Name of Historic District site is in, if any: _____
Current Use: _____
Current Zoning: _____

3. Date of Board Review

Board of Building Trades Appeals: _____
City Commission: _____
Historic District Commission: _____
Planning Board: _____

Board of Zoning Appeals: _____
Design Review Board: _____
Housing Board of Appeals: _____

The undersigned states the above information is true and correct, and understands that it is the responsibility of the applicant to post the Notice Sign(s) at least 15 days prior to the date on which the project will be reviewed by the appropriate board or commission, and to ensure that the Notice Sign(s) remains posted during the entire 15 day mandatory posting period. The undersigned further agrees to pay a rental fee and security deposit for the Notice Sign(s), and to remove all such signs on the day immediately following the date of the hearing at which the project was reviewed. The security deposit will be refunded when the Notice Sign(s) are returned undamaged to the Community Development Department. Failure to return the Notice Sign(s) and/or damage to the Notice Sign(s) will result in forfeiture of the security deposit.

Signature of Applicant: _____ Date: _____

Office Use Only

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



Kristin
248-752-8142
David
734-718-7078

SPECIAL LAND USE PERMIT APPLICATION CHECKLIST – PLANNING DIVISION

Applicant: Vintage LLC Case #: _____ Date: _____

Address: 210 S. Old Woodward Project: Vinoteca / The bird & the bread

All site plans and elevation drawings prepared for approval shall be prepared in accordance with the following specifications and other applicable requirements of the City of Birmingham. If more than one page is used, each page shall be numbered sequentially. All plans must be legible and of sufficient quality to provide for quality reproduction or recording. Plans must be no larger than 24" x 36", and must be folded and stapled together. The address of the site must be clearly noted on all plans and supporting documentation.

Site Plan for Special Land Use Permit

A full site plan detailing the proposed changes for which approval is requested shall be drawn at a scale no smaller than 1" = 100' (unless the drawing will not fit on one 24" X 36" sheet) and shall include:

- ☐ 1. Name and address of applicant and proof of ownership;
- ☒ 2. Name of Development (if applicable);
- ☒ 3. Address of site and legal description of the real estate;
- N/A 4. Name and address of the land surveyor;
- N/A 5. Legend and notes, including a graphic scale, north point, and date;
- ☒ 6. A separate location map;
- N/A 7. A map showing the boundary lines of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land;
- ☒ 8. A list of all requested elements / changes to the site plan;
- ☒ 9. Any changes requested marked in color on the site plan and on all elevations of any building(s);
- N/A 10. A chart indicating the dates of any previous approvals by the Planning Board, Board of Zoning Appeals, Design Review Board, City Commission, or the Historic District Committee ("HDC");
- N/A 11. Existing and proposed layout of streets, open space and other basic elements of the plan;
- N/A 12. Existing and proposed utilities and easements and their purpose;
- N/A 13. Location of natural streams, regulated drains, 100-year flood plains, floodway, water courses, marshes, wooded areas, isolated preservable trees, wetlands, historic features, existing structures, dry wells, utility lines, fire hydrants and any other significant feature(s) that may influence the design of the development;
- ☒ 14. General description, location, and types of structures on the site;
- ☒ 15. Details of existing or proposed lighting, signage and other pertinent development features;
- N/A 16. A landscape plan showing all existing and proposed planting and screening materials, including the number, size, and type of plantings proposed and the method of irrigation; and
- N/A 17. Any other information requested in writing by the Planning Division, the Planning Board, or the Building Official deemed important to the development.

Elevation Drawings

Complete elevation drawings detailing the proposed changes for which approval is requested shall be drawn at a scale no smaller than 1" = 100' (unless the drawing will not fit on one 24" X 36" sheet) and shall include:

- ✓ 18. Name and address of applicant and proof of ownership;
- ✓ 19. Name of Development (if applicable);
- ✓ 20. Address of site and legal description of the real estate;
- ✓ 21. A separate location map;
- ✓ 22. Legend and notes, including a graphic scale, north point, date and all relevant dimensions;
- ✓ 23. Color elevation drawings showing the proposed design for each façade of the building;
- ✓ 24. Itemized list of all materials to be used, including exact size specifications, color, style, and the name of the manufacturer; and
- N/A 25. Elevation drawings of all screenwalls to be utilized in concealing any exposed mechanical or electrical equipment, trash receptacle areas and parking areas;
- ✓ 26. Details of existing or proposed lighting, signage and other pertinent development features;
- ✓ 27. A list of any requested design changes;
- N/A 28. Location of all exterior lighting fixtures, exact size specifications, color, style and the name of the manufacturer of all fixtures, and a photometry analysis of all exterior lighting fixtures showing light levels to all property lines; and
- N/A 29. Any other information requested in writing by the Planning Division, the Planning Board, or the Building Official deemed important to the development.



HURON
SIGN CO.

663 S. MANSFIELD
P.O. BOX 980423
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MAP SATIN BLACK

MAP METALLIC SILVER



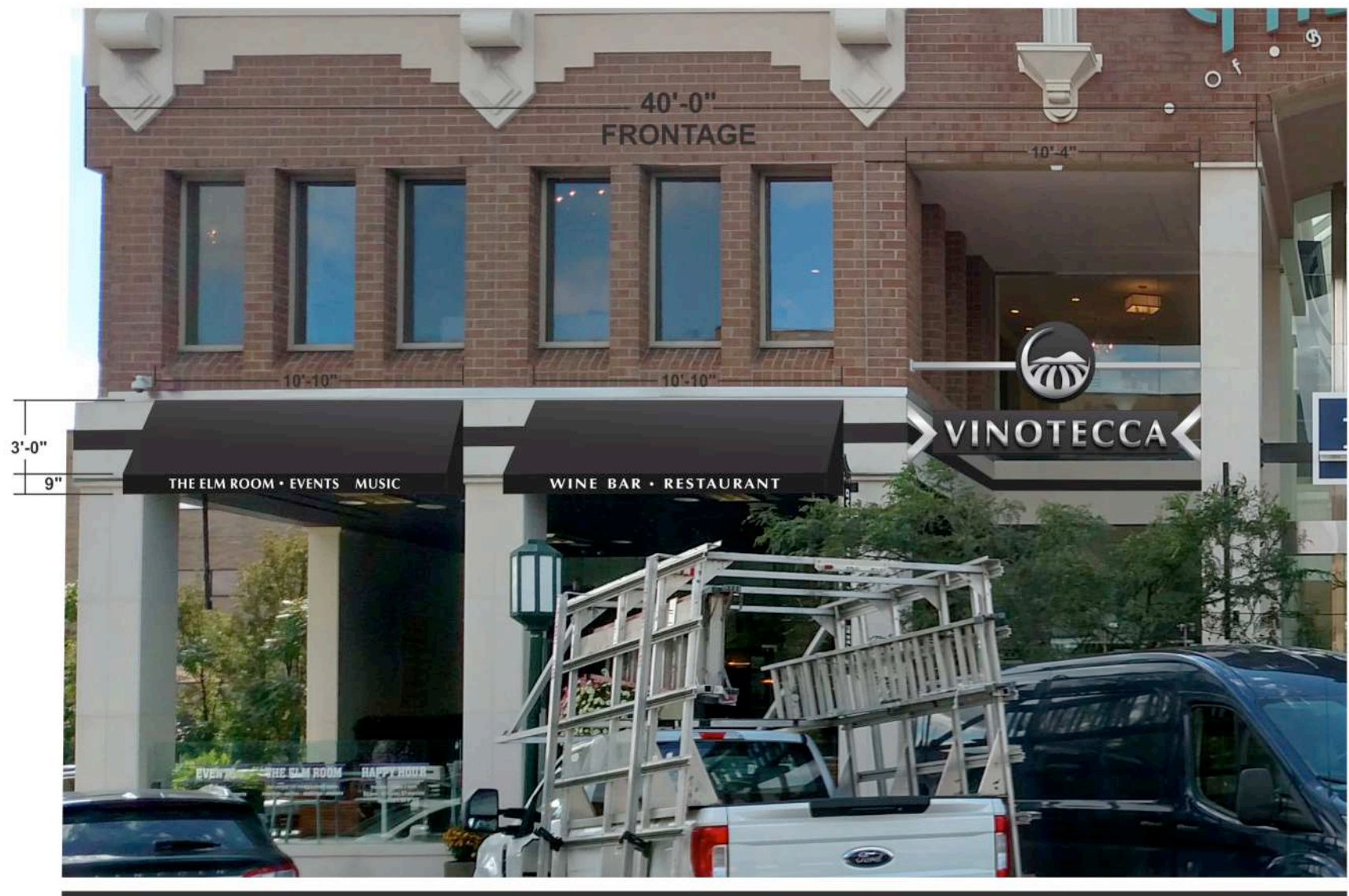
ALL ELECTRICAL SIGNS TO
BEAR THIS MARK

Underwriters
Laboratories, Inc.

-SUITABLE FOR WET LOCATIONS-
IN ACCORDANCE WITH NEC 600

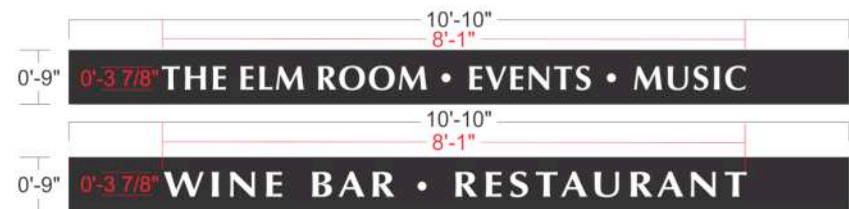
ELECTRIC SIGN
CERTIFIED MANUFACTURER

Proposed Signage Concept



SCALE 3/16" = 1'


NEW CUSTOM DIMENSIONAL HALO LIT WALL SIGN WITH ARCHITECTURAL ACCENT SUSPENSION BRACKETS. THE CABINET COMPONENTS ARE FABRICATED ALUMINUM 6" DEEP WITH WHITE LED LIGHTING THAT IS LET OUT OF THE 3/4" PUSH-THRU ACRYLIC LETTER SIDES. THE FACES ARE OPAQUE SILVER. THE LED LIGHT PASSES THROUGH A TRANSPARENT BURGUNDY FILM TO PRODUCE A COLOR SHIFT TOWARDS PURPLE/ RED. THE SIGN IS INSTALLED WITH WALL PLATES ATTACHED WITH EXPANSION BOLTS ALIGNED TO MORTAR JOINTS WHERE APPLICABLE. THE AWNINGS ARE FABRICATED ALUMINUM TUBE FRAMES WITH SUNBRELLA BLACK FABRIC NON-ILLUMINATED SKINS. THEY HAVE 3 7/8" APPLIED WHITE VINYL TEXT IN THE 9" VALANCES. AWNING PROJECTION IS 24" DEEP.



VALANCE DETAIL

SCALE 3/8" = 1'

EACH VALANCE IS 8.125 SQFT
33% OF 8.125 = 2.68 SQFT
VALANCE TEXT IS 2.61 SQFT EACH



SECTION 1
7.8 SQFT

SECTION 2
13 SQFT

2'-9 1/2"

2'-9 1/2"

1'-6"

8'-7 3/4"

20.8 SQUARE FEET

SCALE 3/8" = 1'



NIGHT SIMULATION



EXISTING CONDITION

APPROVED BY: _____ DATE: _____

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# OF SETS	1	RETURN DEPTH	6"	RACEWAY COLOR	N.A.	DESIGNER	S WILKIE
FACE COLOR	SEE ABOVE	TYPE OF INSTALL	WALL MOUNT	TRANSFORMER	N.A.	DATE	10/24/17
RETURN COLOR	TO MATCH	TYPE OF FACE	ALUMINUM / ACRYLIC	BALLAST	N.A.	JOB NO.	9758
RETAINER COLOR	N.A. (BLIND)	RACEWAY D. H. L.	N.A.	COMMENTS:		JOB NAME	VINOTECCA-9758-7
LED COLOR	WHITE	HOUSINGS	N.A.	SALESPERSON:	KEVIN SHORT	ADDRESS:	210 S. OLD WOODWARD BIRMINGHAM, MI

DATE: November 3, 2017

TO: Planning Board Members

FROM: Brooks Cowan, Assistant Planner

SUBJECT: 210 S. Old Woodward – Vinoteca – Special Land Use Permit Amendment and Final Site Plan application

Executive Summary

The subject site is located at 210 S. Old Woodward, on the west side of S. Old Woodward, just south of Merrill. The applicant is the owner of the current restaurant on site, The Bird and the Bread, and wishes to change the name and concept the current restaurant into Vinoteca which will have a wine focus with European food pairings. According to Section 6 Article 6.02(A)(5) of the Zoning Ordinance, existing and new establishments with alcoholic beverage sales shall obtain a Special Land Use Permit upon change in ownership or name of establishment, or upon application for a Site Plan Review.

The parcel is zoned B-4, Business-Residential and D-4 in the Downtown Overlay District. The applicant is proposing new signage and enclosing the existing outdoor café with framing and retractable isinglass. They are also proposing minor remodeling for the interior that includes the construction of a stage for low key entertainment. The applicant will be operating with the existing Class C liquor license controlled by the property owner which is currently in use by the Bird and the Bread. Article 02 section 2.37(B)(4) permits food or drink establishments with alcoholic beverage sales (on-premise consumption) as an accessory permitted use provided that the establishment obtain Special Land Use Permit approval. 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. As the proposed establishment is located within the Central Business District Historic District, the applicant will also be required to appear before the Historic District Commission.

1.0 Land Use and Zoning

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

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

2.0 Screening and Landscaping

- 2.1 Screening – No screening is proposed at this time. However, if needed in the future, the applicant will be required to screen any additional mechanical equipment in accordance with the Zoning Ordinance.
- 2.2 Landscaping – No changes proposed.

3.0 Parking, Loading, Access, and Circulation

- 3.1 Parking – As the subject site is located within the Parking Assessment District, the applicant is not required to provide on-site parking.
- 3.2 Loading – No changes are proposed.
- 3.3 Vehicular Access & Circulation - Vehicular access to the building will not be altered.
- 3.4 Pedestrian Access & Circulation – Pedestrian access to the outdoor café is available from the main stair case into the restaurant or the inside dining area. Outdoor cafes are encouraged as they create a more pedestrian friendly environment. The proposed café plans indicate a 5 foot width of unobstructed pedestrian access along the storefront in the public right-of-way, and thus conforms to the Zoning Ordinance provisions for outdoor cafés.
-

- 3.5 Streetscape – The existing sidewalk is concrete on the north side of Maple, accented with sections of brick pavers. The applicant is not proposing to alter the existing sidewalk, street trees, or light poles.

4.0 Lighting

Pedestrian scale light fixtures illuminate S. Old Woodward, and will continue to do so. The applicant is proposing to illuminate the new signage as well.

5.0 Departmental Reports

- 5.1 Engineering Division - No concerns were reported from the Engineering Department.
- 5.2 Department of Public Services – No concerns were reported from the DPS.
- 5.3 Fire Department – No concerns were reported from the Fire Department.
- 5.4 Police Department - No concerns were reported from the Police Department.
- 5.5 Building Department - The Building Department has provided their standard comments.

6.0 Design Review

Awning and Signage

The applicant is proposing to install two new awnings with signage along the building frontage. The two awnings are constructed of fabricated aluminum tubing with Sunbrella black fabric non-illuminated skins. They have 3.88 inch applied white vinyl text in the 9 inch valences. The awnings are 3' x 10'10", and project 2 feet from the building façade. Each valance is 8.125 square feet total, while the proposed valance signage text totals 2.61 square feet for each awning, satisfying the Sign Ordinance requirement of no more than 33% of the valance area in Section 1.05(B), Table B.

The applicant is also proposing a halo lit wall sign with the restaurant name "VINOTECCA", as well as a logo above it. The sign will utilize halo style white LED backlighting through a transparent burgundy film to produce a color shift to purple/red. The name letter sign measures 1'6" in height by 8'7.75" in width for a total of 13 square feet, while the logo sign measures 2'9.5" in height by 2'9.5" in width for a total of 7.8 square feet. The wall sign and the logo sign total 20.8 square feet.

The total linear building frontage for is 130'5" which allows 130.5 square feet of sign area. There are currently four other tenants with approved signage for the building; Chase Bank, Rivage, K&W Domaine, and Ahmet Karaca MD.

Chase Bank:	48.36 SF
Rivage Day Spa:	21.8 SF

K&W Domain:	15 SF
Ahmet Karaca MD:	12 SF
Total:	97.16

The addition of Vinoteca's sign will bring the total to 117.96 which satisfies the maximum square footage permissible according to the Sign Ordinance Section 1.05(B), Table B. Meanwhile the height of the name letter sign is less than 24 inches and the logo sign is less than 36 inches which also satisfies the Sign Ordinance Section 1.05(B), Table B.

Interior

The applicant is proposing minor remodeling for the interior that includes the construction of a small stage for low key entertainment.

Outdoor Dining Area

Outdoor cafés must comply with the site plan criteria as required by Article 04, Section 4.44 OD-01, Outdoor Dining Standards. Outdoor cafes are permitted immediately adjacent to the principal use and are subject to site plan review and the following conditions:

1. Outdoor dining areas shall provide and service refuse containers within the outdoor dining area and maintain the area in good order.
2. All outdoor activity must cease at the close of business, or as noted in Subsection 3 below, whichever is earlier.
3. When an outdoor dining area is immediately adjacent to any single-family or multiple-family residential district, all outdoor activity must cease at the close of business or 12:00 a.m., whichever is earlier.
4. Outdoor dining may be permitted on the sidewalk throughout the year with a valid Outdoor Dining License, provided that all outdoor dining fixtures and furnishings must be stored indoors each night between November 16 and March 31 to allow for snow removal.
5. All tables and chairs provided in the outdoor dining area shall be constructed primarily of metal, wood, or material of comparable quality.
6. Table umbrellas shall be considered under Site Plan Review and shall not impede sight lines into a retail establishment, pedestrian flow in the outdoor dining area, or pedestrian or vehicular traffic flow outside the outdoor dining area.
7. For outdoor dining located in the public right-of-way:
 - a. All such uses shall be subject to a license from the city, upon forms provided by the Community Development Department, contingent on compliance with all city codes, including any conditions required by the Planning Board in conjunction with Site Plan approval.
 - b. In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 5 feet.
 - c. Outdoor dining is permitted to extend in the right-of-way in front of neighboring properties, with the written permission of the property owner(s) and with Planning Board Approval, if such property is vacant or the first floor storefront(s) is/are vacant. Outdoor dining areas may extend up to 50% of

the width of the neighboring lot(s) storefront(s), or up to 50% of the lot(s) frontage, if such lot is vacant.

- d. City Commission approval is also required for outdoor dining extensions onto neighboring property if the establishment making such a request holds a bistro license.
- e. An elevated, ADA compliant, enclosed platform may be erected on the street adjacent to an eating establishment to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.
- f. No such facility shall erect or install permanent fixtures in the public right-of-way.

The applicant is proposing to enclose the outdoor seating with roll down isinglass panels. The panels will be stabilized by 2x6 framing with ¾" plywood cladding on faces and jambs that are primed and painted flat black. There will be 2" of continuous reveal on the top and sides. A 3'x7' wood door with clear plex is proposed on the north elevation with egress only that does not swing into the pedestrian entryway. No changes to the outdoor seating layout is proposed, the applicant is maintaining the same amount of tables and chairs as previously approved by the Planning Board.

7.0 Downtown Birmingham 2016 Overlay District

The site is located within the D-4 zone of the DB 2016 Regulating Plan, within the Downtown Birmingham Overlay District. The Planning Division finds the proposed site plan adequately implements the goals of the plan as they relate to outdoor café uses. The 2016 Plan states that outdoor dining space is in the public's best interest as it enhances street life, thus promoting a pedestrian friendly environment. The 2016 Plan also recommends that a 5' clear pedestrian passage be provided against the storefronts to ensure that merchants can display and sell their products and so as not to distort the flow of pedestrians.

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 of the applicant's request for Final Site Plan and a SLUP Amendment for 210 S. Old Woodward - Vinoteca to the City Commission, with the following conditions:

- (1) The applicant obtains approval from the Historic District Commission.

11.0 Sample Motion Language

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board recommend APPROVAL of the applicant's request for Final Site Plan and a SLUP Amendment for 210 S. Old Woodward – Vinoteca, with the following conditions:

- (1) The applicant obtains approval from the Historic District Commission.

OR

Motion to recommend DENIAL of the Final Site Plan and SLUP Amendment to the City Commission for 210 S. Old Woodward - Vinoteca, for the following reasons:

1. _____
-

2. _____
3. _____

OR

Motion to POSTPONE the Final Site Plan and SLUP Amendment for 210 S. Old Woodward - Vinoteca, with the following conditions:

1. _____
2. _____
3. _____

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, NOVEMBER 8, 2017**

11-206-17

**2. 210 S. Old Woodward Ave., The Bird & the Bread
Request for approval of a SLUP Amendment to allow for a concept change of the Bird & the Bread to Vinoteca, with interior and exterior changes proposed**

Ms. Ecker responded to Mr. Williams' question regarding the City's position on Eisenglass. It was permitted on a couple of bistro establishments that were approved. Since the approvals the City has received a number of complaints and concerns. The Planning Board has been charged with updating the development standards for bistros and one of the items is to put in place regulations concerning Eisenglass. Right now there is no specific regulation that states Eisenglass is or is not permitted. It is a case-by-case judgment by this board.

Mr. Cowan advised the subject site is located on the west side of S. Old Woodward Ave., just south of Merrill. The applicant is the owner of the current restaurant on site, The Bird and the Bread, and intends to change the name and re-concept the current restaurant into Vinoteca which will have a wine focus with European food pairings. According to Section 6 Article 6.02(A)(5) of the Zoning Ordinance, existing and new establishments with alcoholic beverage sales shall obtain a SLUP upon change in ownership or name of establishment, or upon application for a Site Plan Review. The parcel is zoned B-4 Business-Residential and D-4 in the Downtown Overlay District.

The applicant is proposing new signage and enclosing the existing outdoor café with framing and retractable Eisenglass. They are also proposing minor remodeling for the interior that includes the construction of a stage for low key entertainment. The applicant will be operating with the existing Class C Liquor License controlled by the property owner which is currently in use by The Bird and the Bread. Article 02 section 2.37(B)(4) permits food or drink establishments with alcoholic beverage sales (on-premise consumption) as an accessory permitted use provided that the establishment obtain SLUP approval. Accordingly, the applicant is required to obtain a recommendation from the Planning Board on the Final Site Plan and SLUP, and then obtain approval from the City Commission for the Final Site Plan and SLUP. As the proposed establishment is located within the Central Business District Historic District, the applicant will also be required to appear before the Historic District Commission.

Design Review

Awning and Signage: The applicant is proposing to install two new awnings with signage along the building frontage. The two awnings are constructed of fabricated aluminum tubing with Sunbrella black fabric non-illuminated skins. They have 3.88 in. applied white vinyl text in the 9 in. valences. The awnings project 2 ft. from the building façade. Each valance totals is 8.125 sq. ft., while the proposed valance signage text totals 2.61 sq. ft. for each awning, satisfying the Sign Ordinance requirement in Section 1.05 (B), Table B of no more than 33% of the valance area.

The applicant is also proposing a halo lit wall sign with the restaurant name "VINOTECCA", as well as a logo above it. The sign will utilize halo style white LED backlighting through a transparent burgundy film to produce a color shift to purple/red. The wall sign and the logo sign total 20.8 sq. ft. The total linear building frontage is 130 ft. 5 in. which allows 130.5 sq. ft. of sign area. There are currently four other tenants with approved signage for the building; Chase Bank, Rivage, K&W Domaine, and Ahmet Karaca MD. that have a total of 97.16 sq. ft. of signage. The addition of Vinoteca's sign will bring the total to 117.96 sq. ft. which satisfies the maximum square footage permissible according to the Sign Ordinance Section 1.05 (B), Table B.

Meanwhile the height of the name letter sign is less than 24 in. and the logo sign is less than 36 in. which also satisfies the Sign Ordinance Section 1.05 (B), Table B.

Interior: The applicant is proposing minor remodeling that includes the construction of a small stage for low key entertainment.

Outdoor Dining Area: The applicant is also proposing to enclose the outdoor seating with roll down Eisenglass panels. The panels will be stabilized by 2x6 framing with $\frac{3}{4}$ in. plywood cladding on faces and jambs that are primed and painted flat black. There will be 2 in. of continuous reveal on the top and sides. A 3 ft. x 7 ft. wood door with clear plex is proposed on the north elevation with egress only that does not swing into the pedestrian entryway. No changes to the outdoor seating layout are proposed.

Ms. Ecker indicated she and Mr. Baka have warned the applicant that Eisenglass is not currently in favor and the board would have concerns about it.

Ms. Kristin Jonna addressed the board on behalf of The Bird and the Bread. They have streamlined their process by getting back to two wine bar concepts in Ann Arbor and in Birmingham. They intend to continue bringing entertainment to the establishment.

Their reasons for proposing Eisenglass are not to expand seating. Rather they are to bring more energy right up to Old Woodward Ave. and to protect their patio from the dust of upcoming street and hotel construction, Expanding their patio season would be nice because that is where people want to sit. They didn't find more options for temporary enclosure other than Eisenglass.

Mr. Koseck advised that there are other options. He thinks Eisenglass would cheapen the place so he will not support it. Ms. Jonna indicated that other treatments will cost a lot of money and cost is a big factor for them. They tried to design it in a way that would have the least impact of a plastic material being there. Responding to the board's discussion about allowing a temporary Eisenglass installation or having it only on the hotel side, Ms. Jonna said it would not be worth installing if it would be temporary and only on one side.

Mr. Boyle observed that in order to keep out the cold other establishments have added padding to keep the drafts out. However that starts to degrade the appearance of the facility. To him, bringing in Eisenglass is a grave mistake for this establishment and for Downtown Birmingham. Therefore he urged Ms. Jonna to go back to her architect and ask him to find other options. He will not support the plan tonight with the Eisenglass.

Mr. Boyle asked if the board can divide the request and postpone the Eisenglass proposal as a separate item but still covered by the same SLUP. Ms. Ecker indicated the board has never done that before. Therefore, she would have check with the City Attorney, plus she didn't know how the Commission would react if a half of a SLUP application was brought to them.

Mr. Koseck stated the Planning Board shouldn't be making long-term decisions based on the fact that it will take 19 months to construct the hotel. Further, the board should not be designing the project. He knows there are options out there for the applicant to consider. Mr. Williams suggested that the City Attorney and the Building Dept. be consulted as to what the City will permit on an interim basis during construction, not only on this facility but on the other facilities. These are not necessarily Planning Board issues, but issues that the City should address.

Motion by Mr. Williams

Seconded by Mr. Koseck to postpone consideration of the applicant's request for Final Site Plan and a SLUP Amendment for 210 S. Old Woodward - Vinotecta, until November 29th, 2017.

Mr. Jeffares observed that costs cannot be compared to Eisenglass, which is really not an option.

Public comments were heard at 9:10 p.m.

Mr. James Esshaki, the landlord, suggested the board allow a temporary remedy to keep away the dust.

Mr. Derrick Dickow, a Downtown resident, said Eisenglass doesn't bother him as much as it bothers other people so he would support it to control dust. He went on to thank the Jonna Family for their investment in Downtown Birmingham. He urged a motion tonight so they can move forward with their plans.

Motion failed, 6-0.

ROLLCALL VOTE

Yeas: None

Nays: Williams, Koseck, Boyle, Jeffares, Lazar, Whipple-Boyce

Absent: Clein

Motion by Mr. Boyle

Seconded by Mr. Koseck that based on a review of the site plans submitted, the Planning Board recommends approval of the applicant's request for Final Site Plan and a SLUP Amendment for 210 S. Old Woodward Ave, Vinotecta, with the following conditions:

- 1. The applicant obtains approval from the Historic District Commission; and**
- 2. The proposed Eisenglass is not to be considered as part of this approval.**

No one from the public commented on the motion at 9:15 p.m.

Motion carried, 6-0.

VOICE VOTE

Yeas: Boyle, Koseck, Jeffares, Koseck, Lazar, Whipple-Boyce

Nays: None
Absent: Clein

HISTORIC DISTRICT COMMISSION MINUTES NOVEMBER 15, 2017

HISTORIC DESIGN REVIEW 210 S. Old Woodward Ave. Vinoteca CBD Historic District

Zoning: B-4 Business Residential

Proposal: Mr. Baka explained the applicant is on the process of amending their Special Land Use Permit ("SLUP") with the City in order to change the name of the establishment from "The Bird and the Bread" to "Vinoteca." The tenant space is located in a two-story, multi-tenant non-contributing building in the CBD Historic District. The applicant proposes to install a new wall sign above the main entranceway to the restaurant and new awnings along the front elevation of the building. The sign is proposed to be suspended between the two existing columns in line with the existing sign band. The applicant is also proposing to enclose the existing outdoor dining space with Eisenglass.

The applicant appeared before the Planning Board on November 8, 2017. The Planning Board recommended approval of the proposal with the condition that the proposed Eisenglass enclosure be removed. The applicant is now requesting approval from the Historic District Commission before moving on for final approval from the City Commission.

Existing Signage: There are currently four other tenants with approved signage for the building for a total of 97.16 sq. ft.

Signage: The applicant proposes to replace the existing signage by installing a new wall sign above the main entranceway to the restaurant and by adding lettering to the new proposed awnings. The total linear building frontage is 130 ft. 5 in., permitting 130.5 sq. ft. sign area. The wall sign measures 13 sq. ft while the logo sign measures 7.8 sq. ft. The wall sign and the logo sign total 20.8 sq. ft.

The applicant is also proposing to install two new awnings with signage along the building frontage. The two awnings are constructed of fabricated aluminum tubing with Sunbrella black fabric non-illuminated skins. They have 3.88 in. applied white vinyl text in the 9 in. valences. Each valance is 8.125 sq. ft. total, while the proposed valance signage text totals 2.61 sq. ft. for each awning, satisfying the Sign Ordinance requirement in Section 1.05(B), Table B of no more than 33% of the valance area. This proposal would bring the total signage for the building to 123.2 sq. ft. In accordance with Article 1.0, section 1.04 (B) of the Birmingham Sign Ordinance, Combined Sign Area, that states for all buildings, including multi-tenant 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 wall sign is proposed to be mounted more than 8 ft. 6 in. above grade. The projecting sign is proposed to be mounted 6 in. off the face of the column and 8.5 ft. above grade meeting the requirement of Article 1.0, Table B of the Birmingham Sign Ordinance that states wall signs that project more than 3 in. from the building facade 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 driveways, alleys and thoroughfares.

The proposed wall sign background will be constructed of fabricated aluminum painted black. The letters will be $\frac{3}{4}$ in. push-thru acrylic dimensional letters reading "Vinoteca" with silver metallic faces. The entire sign will be mounted to wall plates attached with expansion bolts aligned to the mortar and will span the distance between the two columns that flank the front entrance to the establishment.

Illumination: The wall sign is proposed to be halo lit with internal white LED lights with a burgundy filter.

Design: The applicant is proposing to enclose the existing outdoor dining area with Eisenglass plastic similar to what is currently used at Market, Social Kitchen, and Café Via. The Eisenglass is proposed to be attached to a wooden frame constructed out of 2 x 6 ft. framing and clad with plywood that would be painted flat black. There would be 2 in. of continuous reveal on the top and sides. A 3 x 7 ft. wood door with clear plex is proposed on the north elevation with egress only that does not swing into the pedestrian entryway. No changes to the outdoor seating layout are proposed, the applicant is maintaining the same amount of tables and chairs as previously approved.

Chairman Deyer had three concerns:

- The Eisenglass;
- The information on the awning valances. In the past this commission has said the signage should identify the establishment and not be an advertisement for what they sell; and
- The awnings have a tendency to unbalance the building.

Ms. Fuller said she understands the Eisenglass because it is helpful to extend the outdoor dining season. At Cafe Via the Eisenglass takes a beating and loses its transparency. Mr. Willoughby noted this Eisenglass would be right on S. Old Woodward Ave.

Ms. Kristin Jonna, the restaurant owner, said they discussed this at length at the Planning Board and agreed to throw out the Eisenglass. Their reason for having it was to protect from the construction that they know is going to be happening for probably two years with the hotel coming in on their south facing side, and also the road construction. Their other reason was to create more energy up front on S. Old Woodward Ave. because they are so recessed that people don't know they are there. Their research for some alternative material has turned up only semi-permanent plastic or permanent glass.

Ms. Fuller said she would not be opposed if during construction they had Eisenglass between the restaurant and the hotel, because it is perpendicular to S. Old Woodward Ave.

Mr. Baka noted if this board decided to approve with that barrier they could, but the City Commission would also have to approve it. If it is denied by the HDC, it has to be appealed to the State because it is in a Historic District.

Ms. Jonna addressed the wording on the awnings. They have had problems at The Bird and the Bread with people seeing them and with people understanding what they are. So they feel like that little bit of writing is important. She offered to change the wording from "Elm Room Events Music" to something the commission would approve.

Chairman Deyer then suggested extending the awnings across the whole front facade to balance the building.

Mr. Willoughby thought there is room for a nice composition of the whole facade with little spurts of elements that identify an individual space. So, this awning doesn't bother him at all. Ms. Fuller added that it doesn't bother her.

Motion by Mr. Willoughby

Seconded by Mr. Charles to not accept the Eisenglass for 210 S. Old Woodward Ave., Vinoteca, anywhere. He would recommend to the City Commission that they give leeway during the construction process so the south side of Vinoteca would be protected.

There was no discussion from members of the audience at 7:20 p.m.

Motion carried, 5-0.

VOICE VOTE

Yeas: Willoughby, Charles, Burley, Deyer, Fuller

Nays: None

Absent: Henke, Dukas, Trapnell

Motion by Mr. Willoughby

Seconded by Ms. Fuller to approve the rest of the proposal as submitted for 210 S. Old Woodward Ave., Vinoteca, with the understanding that there would be a change in the verbiage that would be administratively approved.

There was no discussion from members of the audience at 7:21 p.m.

Motion carried, 5-0.

VOICE VOTE





























Yeas: Willoughby, Fuller, Burley, Charles, Deyer

Nays: None

Absent: Henke, Dukas, Trapnell

Vinoteca

Legend

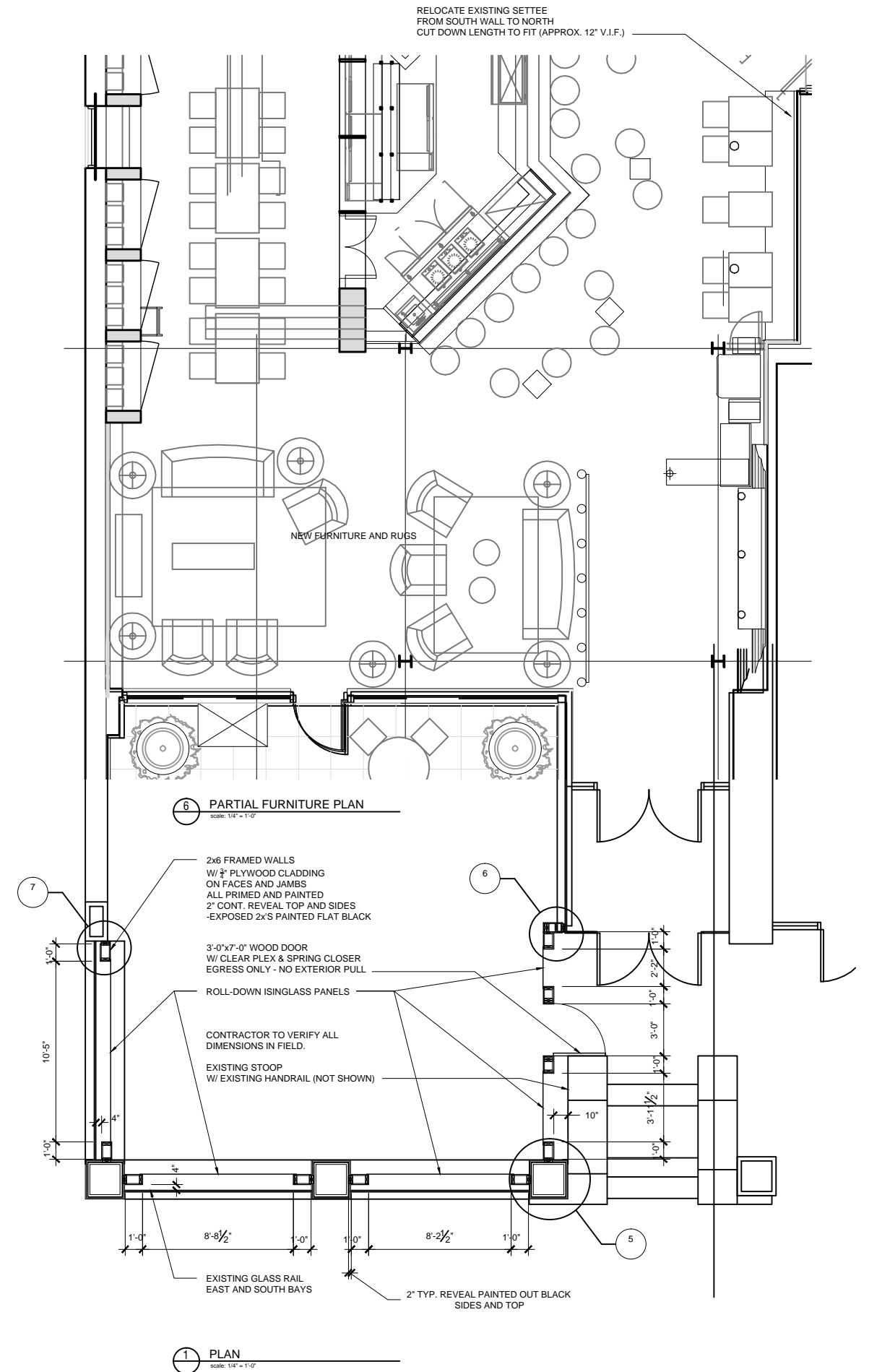
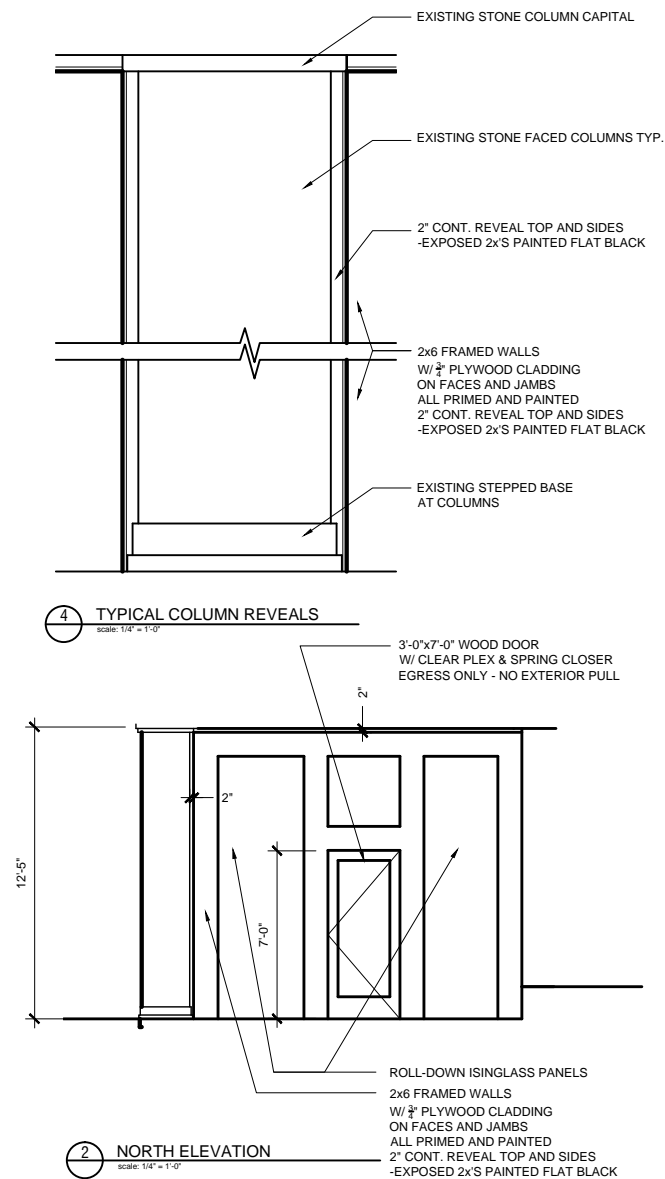
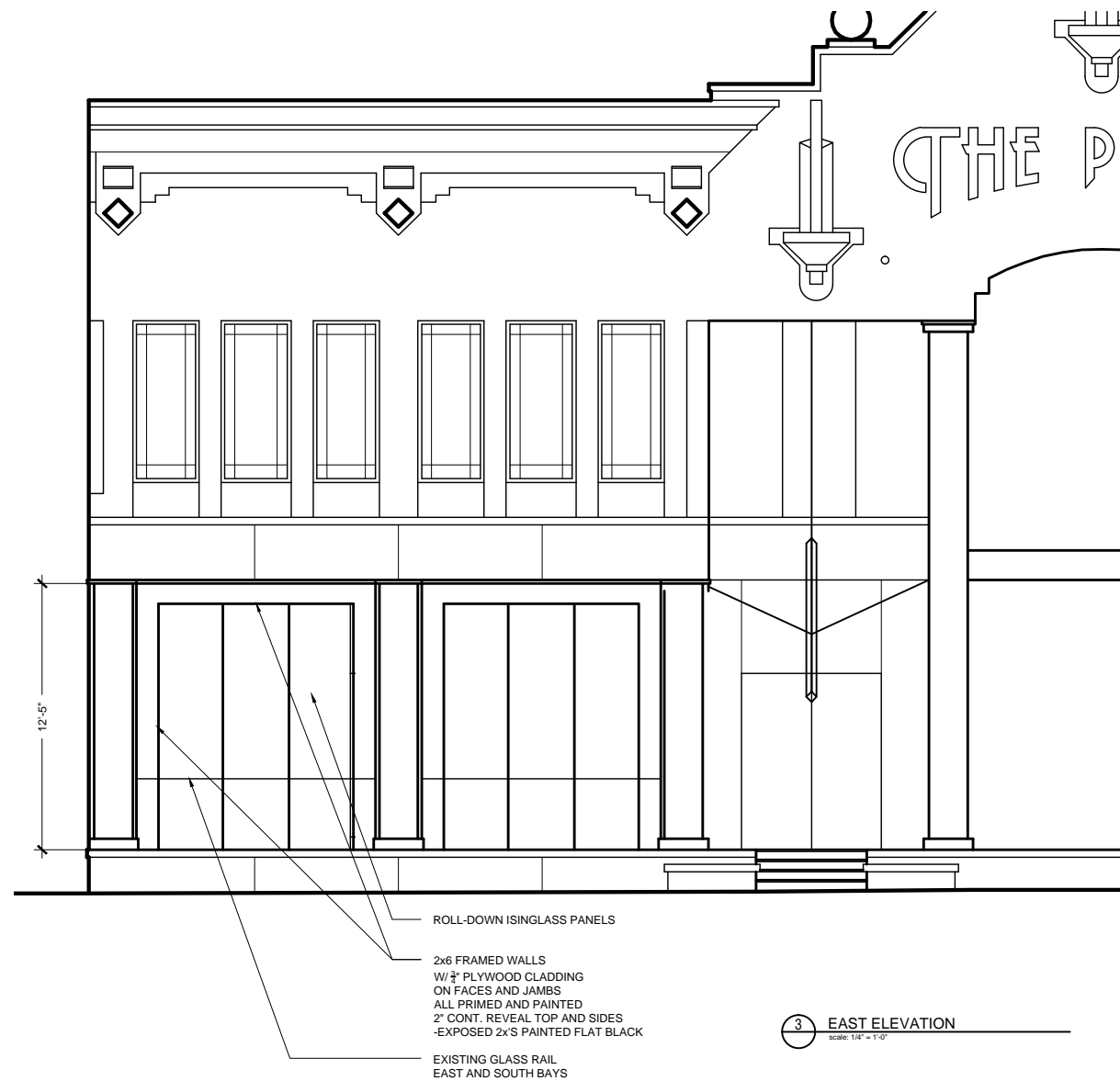
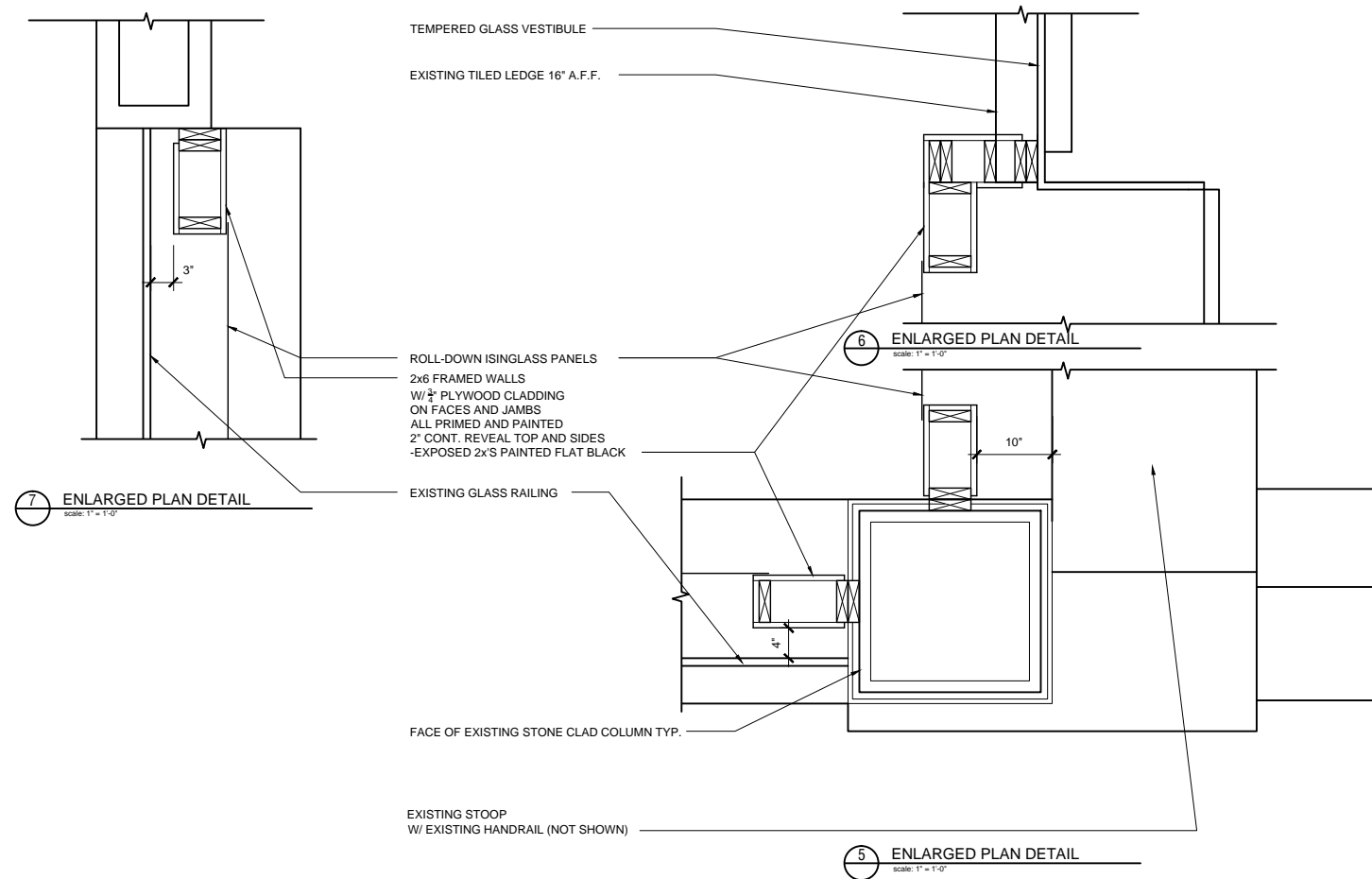
-  210 S Old Woodward Ave
-  Bank
-  Birmingham
-  Birmingham
-  Birmingham City Hall
-  Christian Science Reading Room
-  Clark Hill PLC
-  Cosi
-  DETROIT RIVER INTERNATIONAL WILDLIFE REFUGE
-  Feature 1
-  Feature 10
-  Feature 2
-  Feature 3
-  Feature 4
-  Feature 5
-  Feature 6
-  Feature 7
-  Feature 8
-  Feature 9
-  Frank's Shoe Service
-  Jax Kar Wash
-  Lewand Custom Homes
-  Lindamood-Bell Learning Processes
-  Powerhouse
-  Richard A Litt PC
-  Shades Optical
-  Uptown
-  Wells Fargo Advisors

210 S Old Woodward Ave

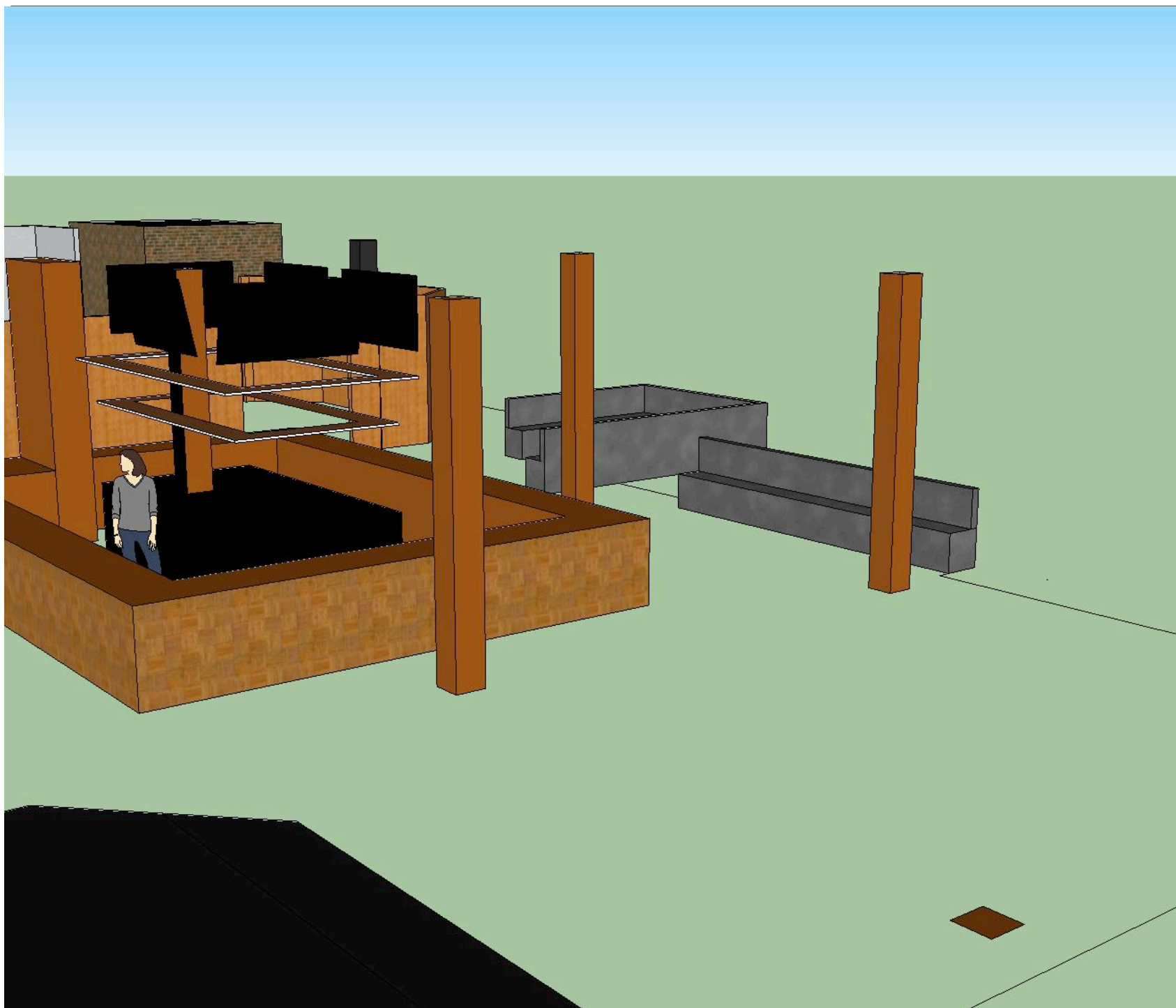
Google Earth

© 2017 Google
© 2017 Europa Technologies

200 ft

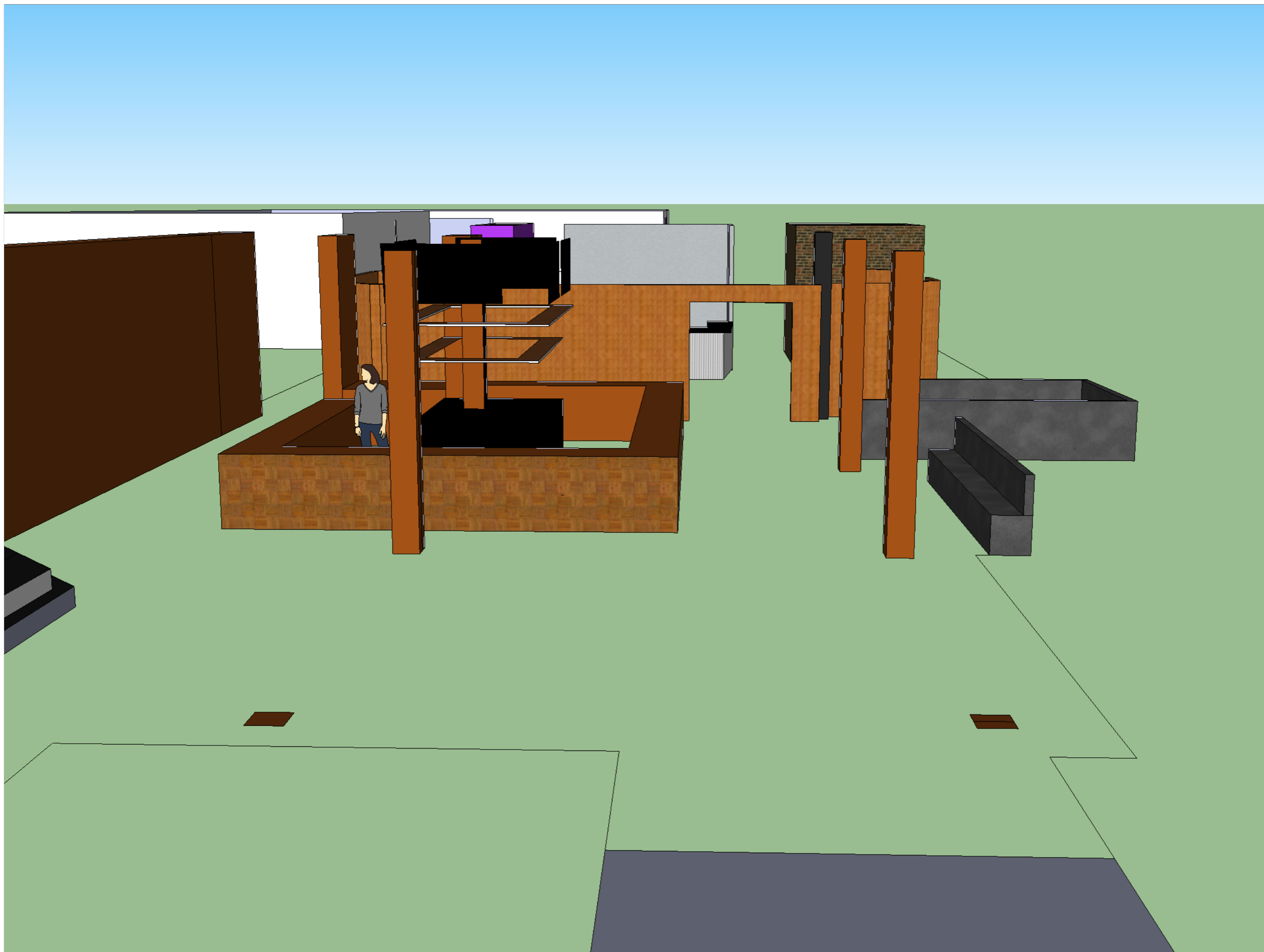


the bird and the bread



Vinoteca
Elevation

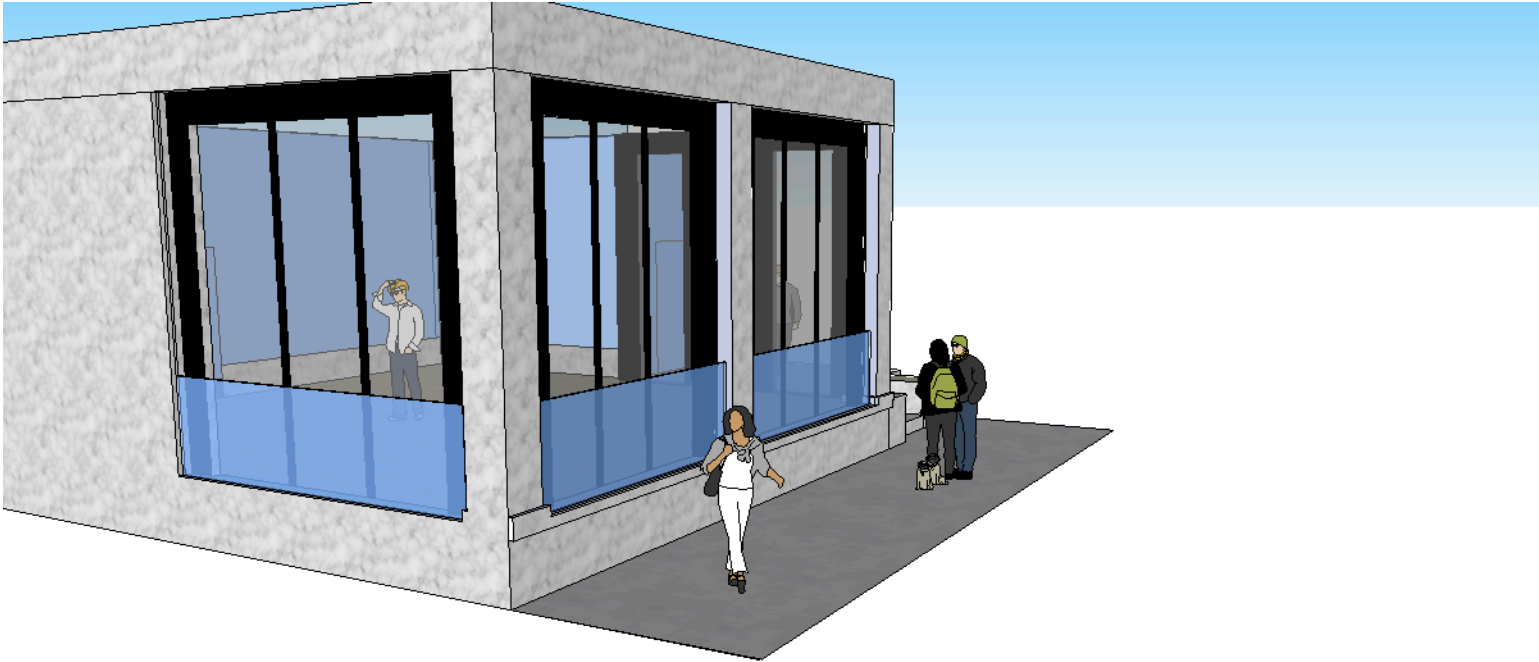
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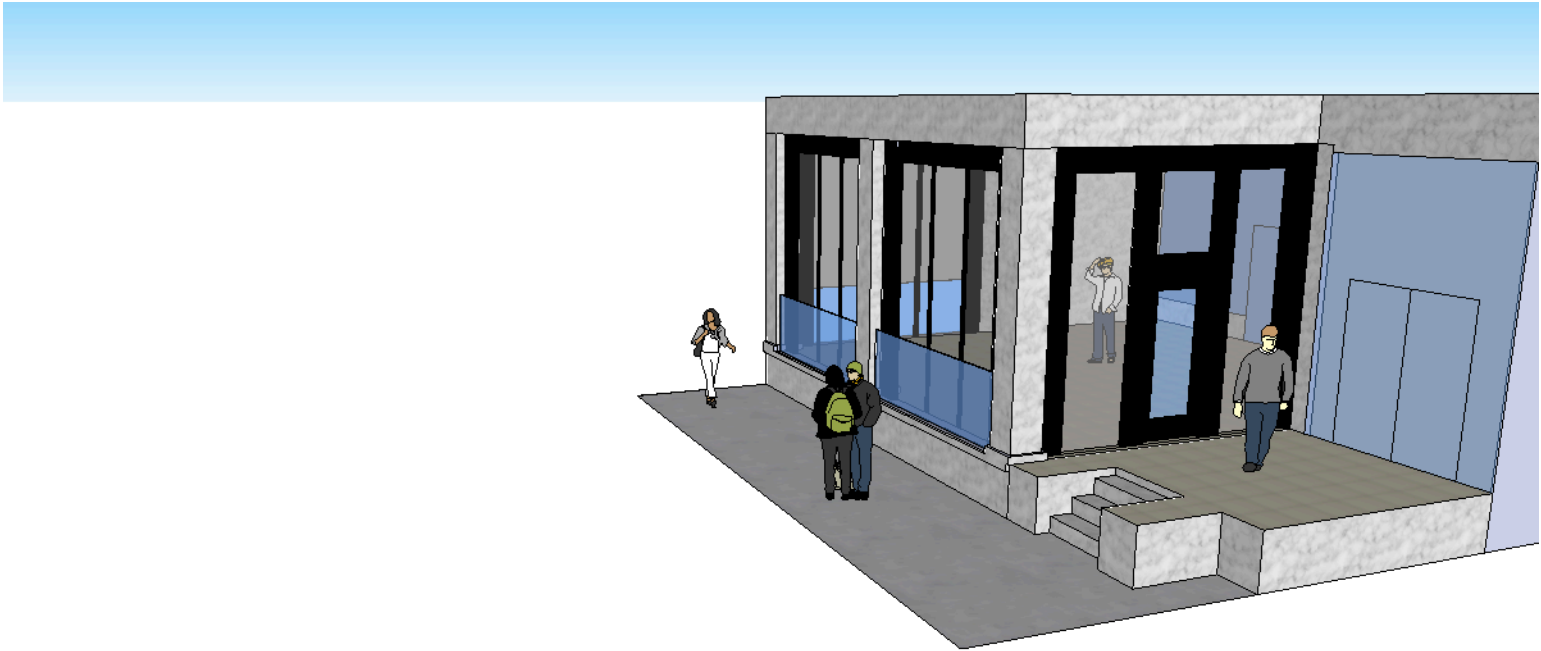




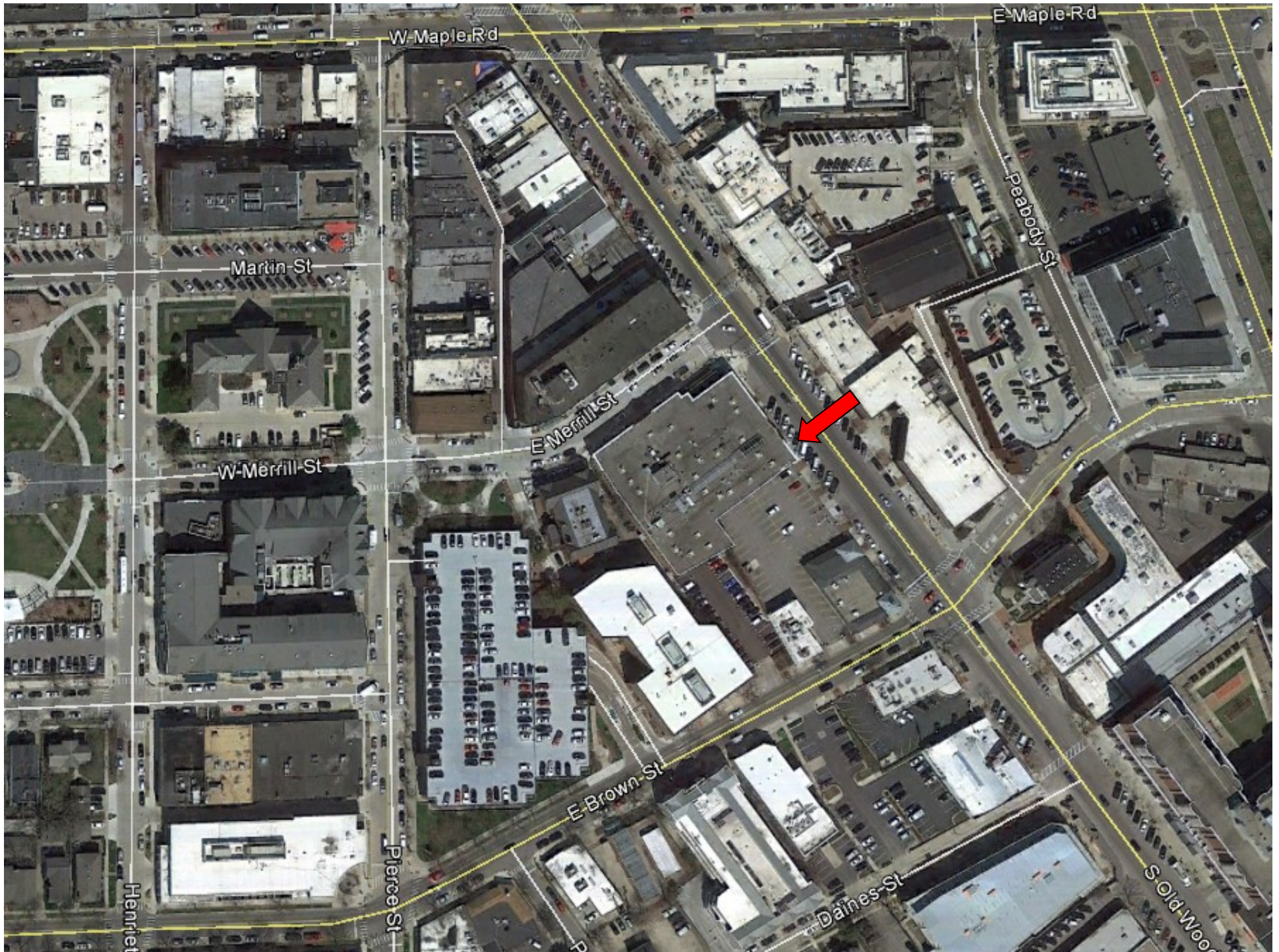








Vinoteca 2017 Aerial Photo



NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION
SPECIAL LAND USE PERMIT & REVISED FINAL SITE PLAN

Meeting Date, Time, Location:	Monday, December 11, 2017 at 7:30 PM Municipal Building, 151 Martin Birmingham, MI
Location of Request:	220 Merrill (220 Restaurant)
Nature of Hearing:	To consider approval of a Special Land Use Permit & Revised Final Site Plan to allow the existing restaurant to expand into the basement level.
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 November 26, 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.



MEMORANDUM

Planning Division

DATE: December 5, 2017

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

Re: Public Hearing for a Special Land Use Permit Amendment and Final Site Plan for 220 Restaurant at 220 E. Merrill

The subject property at 220 E. Merrill is located in the B4 Business Residential zone district. The B4 zone lists food and drink establishment as a permitted use requiring a Special Land Use Permit (SLUP). The applicant was approved for a SLUP by the City Commission on March 10, 2014.

The applicant is now requesting an amendment to the existing SLUP to allow them to utilize the lower level of the building, formerly known as "Edison's" for special events, private parties, and the public as an extension to 220 Restaurant on the first floor. The applicant has indicated that the proposed lower level of 220 Restaurant will offer a food menu (the same as that offered on the main floor of the existing restaurant) and will host low-key entertainment, such as jazz music and piano music, in the space. Business hours would be the same as those of the main restaurant. The existing 220 Restaurant currently holds an entertainment permit from the Michigan Liquor Control Commission. According to the Michigan Liquor Control Code, Administrative Rules and Related Laws, Article 436.1915, Section 916:

An on-premises licensee shall not allow monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing on the licensed premises unless the licensee has applied for and been granted an entertainment permit by the commission. Issuance of an entertainment permit under this subsection does not allow topless activity on the licensed premises.

As 220 Restaurant currently holds an entertainment permit, the low-key live entertainment proposed would be permitted within the establishment. However, given previous concerns raised by the City Commission regarding the use of DJ's and other types of entertainment, the draft SLUP resolution contains additional entertainment provisions that the City Commission may wish to consider adopting.

The applicant appeared before the Planning Board on November 8, 2017 and received a recommendation for approval. As there are no exterior changes proposed to the historic structure they are not required to obtain approval from the Historic District Commission.

The City Commission set a public hearing date for December 11, 2017 to consider an application for a Special Land Use Permit ("SLUP") Amendment and Final Site Plan for 220 restaurant at 220 E. Merrill.

SUGGESTED ACTION:

To approve a Special Land Use Permit Amendment and Final Site Plan for 220 Restaurant at 220 E. Merrill to utilize the lower level of the building as an extension of the 220 Restaurant.

220 RESTAURANT
220 E. MERRILL
SPECIAL LAND USE PERMIT ADMENDMENT
2017

- WHEREAS, 220 Restaurant filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a food and drink establishment in the B4 zone district in accordance Article 2, Section 2.37 of 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, west of S. Old Woodward;
- WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, which permits the operation of food and drink establishments serving alcoholic beverages 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 applicant was granted a Special Land Use Permit by the City Commission on March 10, 2014;
- WHEREAS, The applicant submitted an application for a Special Land Use Permit Amendment and Final Site Plan for 220 Restaurant;
- WHEREAS, The Planning Board on November 8, 2017 reviewed the application for a Special Land Use Permit Amendment and recommended approval of the application with the following conditions:
1. Add the required street tree to the existing open tree well, with a minimum caliper of 3 in. DBH at the time of planting;
 2. Complete and legible plans, with all required information, will need to be submitted before approval of any occupancy of this space, and for the evaluation of this space for the allowable occupant load; and
 3. Compliance with the requests of all City departments.
- WHEREAS, The applicant has agreed to comply with the conditions of approval recommended by the Planning Board;
- WHEREAS, The Birmingham City Commission has reviewed 220 Restaurant'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 220 Restaurant's application for a Special Land Use Permit Amendment and Final Site Plan at 220 E. Merrill 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. 220 Restaurant shall be permitted to provide entertainment in accordance with their entertainment permit issued by the MLCC, except that no disc jockey ("DJ") entertainment shall be permitted after 7:00pm on any day of the week;
2. DJ entertainment includes any entertainment that involves a person who mixes different sources of pre-existing recorded music as it is playing;
3. 220 Restaurant shall abide by all provisions of the Birmingham City Code; and
4. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest.

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, 220 Restaurant and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of 220 Restaurant to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit.

MAY IT BE FURTHER RESOLVED that 220 Restaurant is recommended for the operation of a food and drink establishment serving alcoholic beverages on premises with a Class C Liquor License at 220 E. Merrill, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

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 11, 2017.

Cherilynn Mynsberge, City Clerk

PREVIOUS SLUP RESOLUTION

220 MERRILL RESTAURANT SPECIAL LAND USE PERMIT AMENDMENT OUTDOOR DINING 2000

WHEREAS, 220 Merrill Restaurant at 220 Merrill has applied for a continuation of a Special Land Use Permit originally granted on March 15, 1993 to permit the placement of outdoor seating for 20 persons in front of the building, where customers would consume food purchased at 220 Merrill Restaurant, such applications having been filed pursuant to Section 126-477 of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is on the north side of Merrill, east of Pierce;

WHEREAS, The land is zoned B - 4 Business-Residential, which permits outdoor dining with a Special Land Use Permit;

WHEREAS, Section 126-477 (8) requires a Special Land Use Permit to be considered by the Birmingham City Commission at such time that any change takes place in the building, or the use of the property is altered;

WHEREAS, 220 Merrill Restaurant has applied for a Special Land Use Permit Amendment for outdoor dining in conformance with the approved February 10, 1993 plan;

WHEREAS, The Birmingham City Commission has reviewed the 220 Merrill Restaurant Special Land Use Permit application and standards for such review as set forth in Subparagraphs (a) through (f) of Section 126-477 of the City Code; now, therefore, be it

RESOLVED, That the Birmingham City Commission finds the standards imposed under the City Code have been met and 220 Merrill Restaurant application for a Special Land Use Permit Amendment to continue the outdoor dining operation is hereby approved; be it further

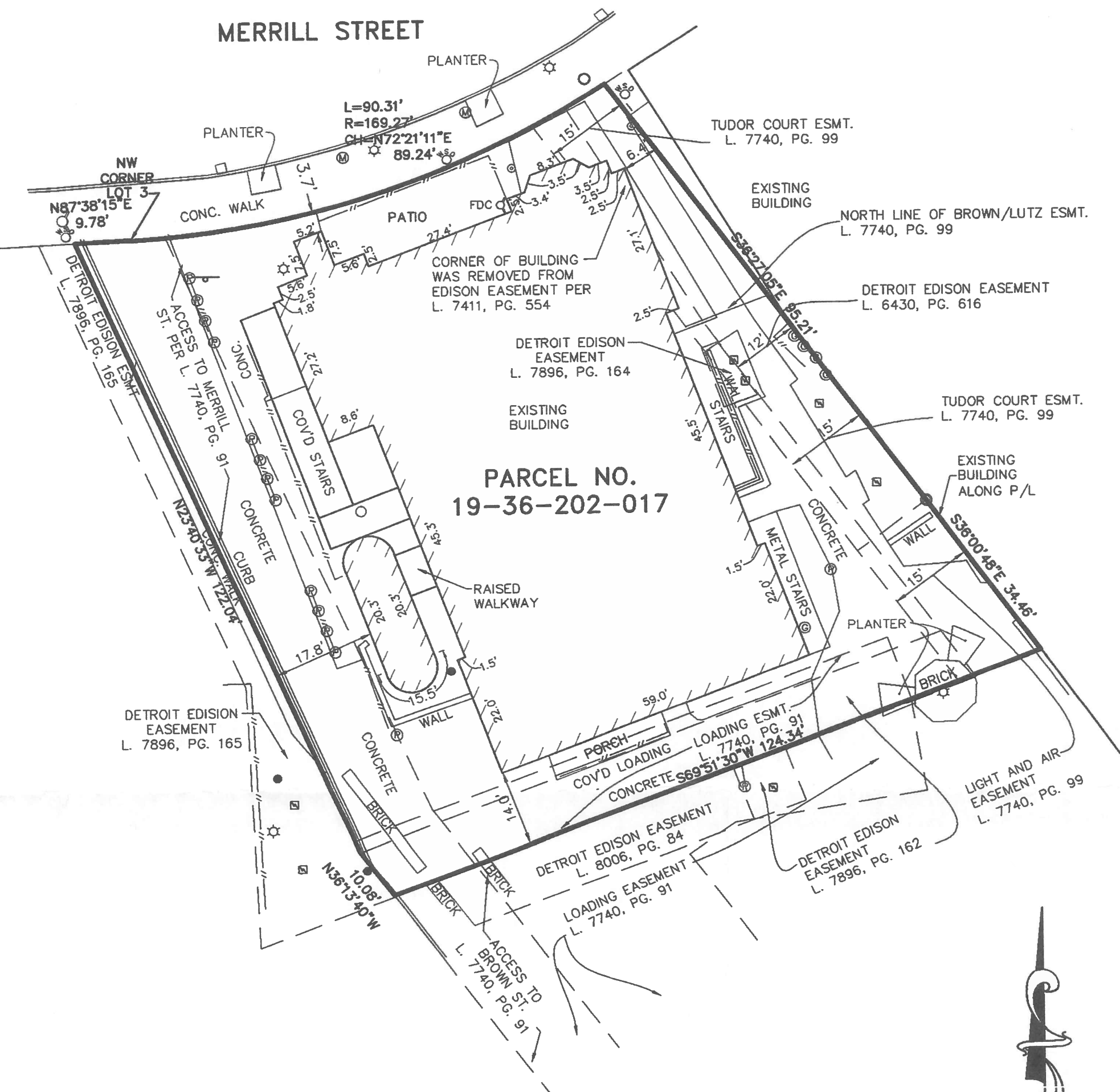
RESOLVED, That all conditions of the previously approved 1999 Special Land Use Permit shall be continued for a period of one year as part of this Special Land Use Permit Amendment and are incorporated as herein by reference; be it further

RESOLVED, Except as herein specifically provided, 220 Merrill Restaurant and its heirs, successors and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of 220 Merrill Restaurant and its heirs, successors and assigns to comply with all the ordinances of the city, may result in the Commission revoking this Special Land Use Permit. The applicant may reapply for a renewal of its Special Land Use Permit at the end of the one year period.

I, Judith A. Benn, 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 March 27, 2000.

Judith A. Benn, City Clerk

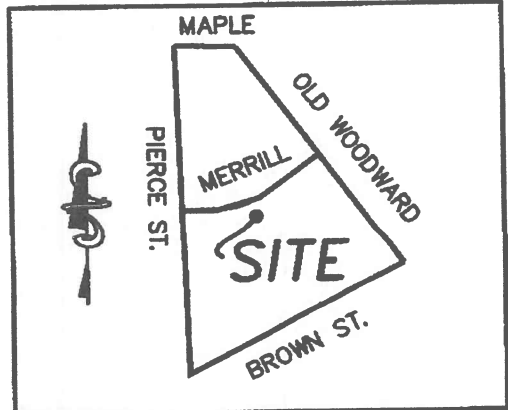
Previously Approved Plans



PARCEL NO.
19-36-202-017

NOTE:
THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AS DISCLOSED BY AVAILABLE UTILITY COMPANY RECORDS AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE COMPANY. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES. THE CONTRACTOR SHALL NOTIFY THE DESIGN ENGINEER IMMEDIATELY IF A CONFLICT IS APPARENT.

- LEGEND**
- EX. CATCH BASIN
 - EX. WATER SHUTOFF
 - EX. PARKING METER
 - EX. LIGHT POLE
 - EX. TRANSFORMER
 - EX. UTILITY POLE
 - FOUND IRON ROD
 - EX. UTILITY METERS
 - EX. FIRE DEPT. CONNECTION
 - EXISTING OVERHEAD LINES
 - EX. CLEAN OUT
 - EX. POST
 - EX. MANHOLE
 - EX. HYDRANT
 - EX. SIGN
 - EX. FENCE LINE



LOCATION MAP
NOT TO SCALE

ALPINE ENGINEERING, INC.
CIVIL ENGINEERS & LAND SURVEYORS

RESIDENTIAL
SUBDIVISIONS
SITE CONDOMINIUM
MULTI-FAMILY
PLOT PLANS
CONSTRUCTION LAYOUT

SURVEYING
ALTA SURVEYS
BOUNDARY SURVEYS
TOPOGRAPHIC SURVEYS
PARCEL SPLITS

COMMERCIAL
SITE PLANNING
SITE ENGINEERING
INDUSTRIAL & MULTI-UNIT
LAND SURVEYING
CONSTRUCTION LAYOUT

46892 WEST ROAD
SUITE 109
NOVI, MICHIGAN 48377

(248) 926-3701 (BUS)
(248) 926-3765 (FAX)
WWW.ALPINE-INC.NET

CLIENT: **220 PARK PLACE, LLC**

ALTA/ACSM LAND TITLE SURVEY

220 E MERRILL STREET
TOWNSHIP: 2 N
CITY OF BIRMINGHAM
OAKLAND COUNTY
MICHIGAN

SECTION: 36 RANGE: 10 E

REVISED	
12/9/2013	
DATE:	10/16/2013
DRAWN BY:	JDH
CHECKED BY:	GLM
SCALE: HOR 1"=20 FT. VER 1"=--- FT.	
FBK: 256 & 264	1/2
CH: RDF	13-317

1 FIRST FLOOR PLAN
1/4" = 1'-0"

	02/06/14	DD SET
	01/27/14	FINAL DD COORDINATION
	01/27/14	BACKGROUND TO KEC
	01/23/14	FOR DEMOLITION PERMIT
	01/17/14	FOR OWNER APPROVAL
	01/15/14	PRELIMINARY FLOOR PLAN
	01/14/14	BACKGROUND TO KEC
	01/13/14	OFFICE MEETING
MARK ISSUED	DATE	DESCRIPTION

220 MERRILL

220 MERRILL
BIRMINGHAM, MI 48009

PROJECT NO: 3199

CAD DWG FILE: R3110 - 220 E MERRILL BIRMINGHAM UICAD3110 - 220 E MERRILL BIRMINGHAM
-MECHANETRICHEMATIC DESIGN - 1000A-101 FIRST FLOOR PLAN.DWG DWG

DRAWN BY: -

CHIKO BY: -

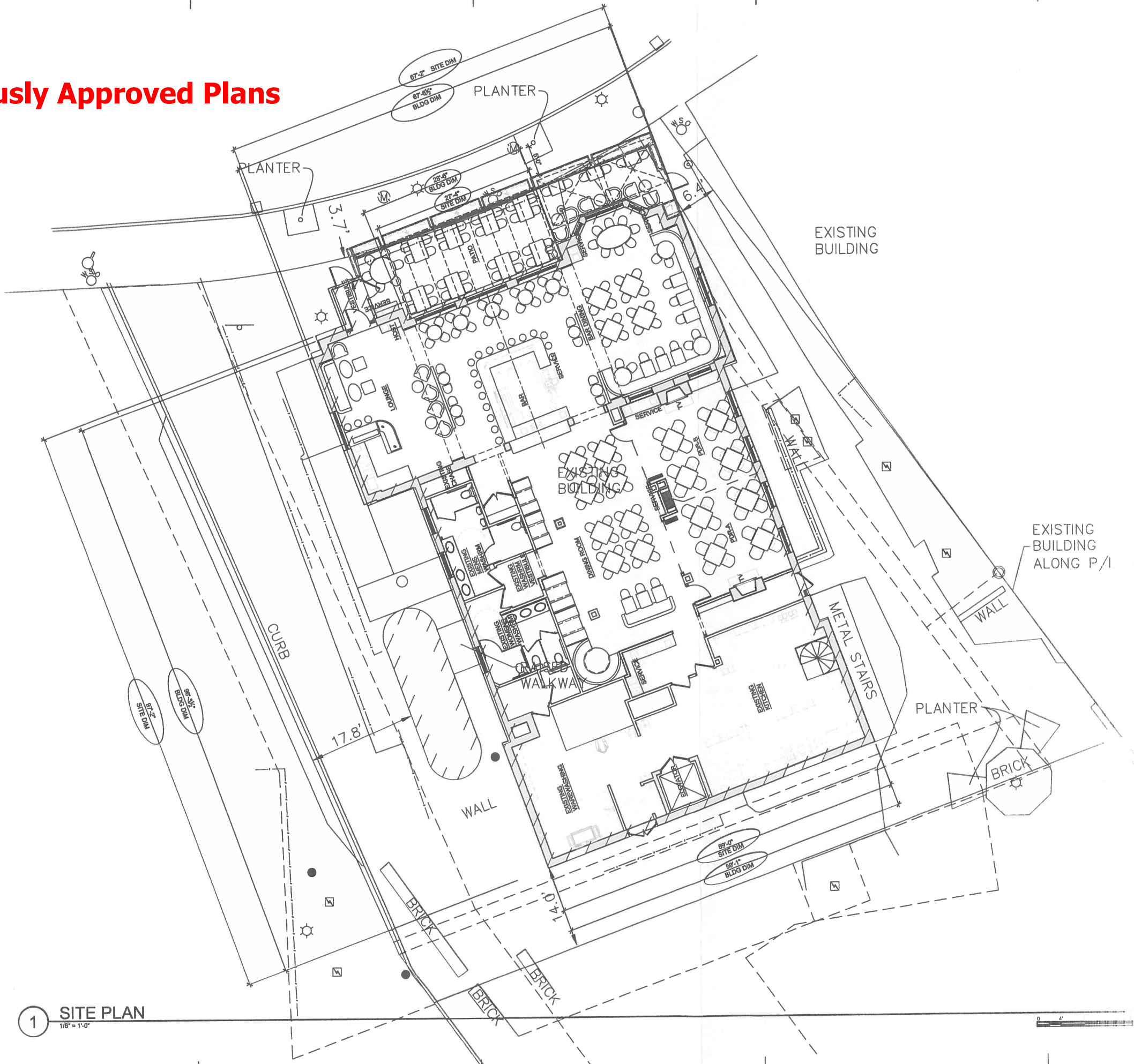
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KNAUER INCORPORATED AND THE SAME MAY NOT BE
DUPLICATED, USED, OR DISCLOSED WITHOUT THE WRITTEN
CONSENT OF KNAUER INCORPORATED

SHEET TITLE

FIRST FLOOR PLAN

A-101

Previously Approved Plans



KNAUER

Knauer Incorporated
720 Waukegan Road, Suite 200
Deerfield, IL 60015
(847) 948.9500
(847) 948.9599 fax
www.knaufinc.com

architecture
design
direction

	02/08/14	DD SET
	01/27/14	FINAL DD COORDINATION
	01/27/14	BACKGROUND TO KEC
	01/23/14	FOR DEMOLITION PERMIT
	01/17/14	FOR OWNER APPROVAL
	01/15/14	PRELIMINARY FLOOR PLAN
	01/14/14	BACKGROUND TO KEC
	01/13/14	OFFICE MEETING
MARK	DATE	DESCRIPTION
ISSUED		

220 MERRILL
220 MERRILL
BIRMINGHAM, MI 48009

PROJECT NO: 3199
CAD DWG FILE: 10100 - 220 MERRILL BIRMINGHAM ARCHITECTURE - 220 MERRILL BIRMINGHAM
ARCHITECTURAL DESIGN - ARCHITECTURE SITE PLANS
DRAWN BY: -
CHKD BY: -
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CONSENT OF KNAUF INCORPORATED

SHEET TITLE
SITE PLAN

AS-100

**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
MINUTES OF WEDNESDAY, FEBRUARY 26, 2014**

**SLUP & FINAL SITE PLAN REVIEW
220 E. Merrill St.**

Site Plan Review

Ms. Ecker advised the subject site, currently 220 Restaurant, is located on the south side of Merrill St. west of Old Woodward Ave. The parcel is zoned B-4, Business-Residential and D-4 in the Downtown Overlay District. The applicant, 220 Restaurant, is proposing to renovate the existing interior of the restaurant and to update and enlarge the outdoor dining area across the front of the building. A new door system is also proposed to replace a window on the existing façade to allow direct access from the restaurant into the outdoor dining area. The establishment will remain as 220 Restaurant, operating under the existing Class C liquor license. The applicant is required to obtain a Special Land Use Permit ("SLUP") due to the change in ownership of both the restaurant and the liquor license. Article 06 section 6.02 Continuance of Nonconformity, A (5) requires that any establishment with alcoholic beverage sales (on-premise consumption) shall obtain a ("SLUP") upon change in ownership or name of establishment, or upon application for a site plan review.

Accordingly, the applicant is required to obtain a recommendation from the Planning Board on the Final Site Plan and SLUP, and then obtain approval from the City Commission for the Final Site Plan and SLUP. As the proposed establishment is located within the Central Business District Historic District, the applicant is also required to appear before the Historic District Commission.

There is an unscreened dumpster at the rear of the building which is visible from the vias to the south and west of the building. ***The applicant will be required to screen the dumpster or obtain a variance from the Board of Zoning Appeals.***

Design Review

The applicant is proposing to renovate the north elevation of the building by reconfiguring the central bay, and adding glass doors with sidelites in metal frames with a bronze finish to match the existing windows. The existing transom windows in this bay are proposed to remain. This new door will improve access and circulation in the area of the outdoor dining as guests and servers will be able to access the outdoor dining area directly from the building without having to go in and out of the main entrance door to the restaurant.

No signage changes are proposed at this time. The name of the restaurant will remain the same.

The applicant is proposing to expand the existing 360 sq. ft. outdoor dining area to both the east and west to extend the full length of the property. The existing outdoor dining area will also extend into the public sidewalk to the north. The total outdoor dining area proposed is 825 sq. ft.

Nine 24 in. by 30 in. two-top dining tables with stainless steel bases and white carrarra marble table tops are proposed within the expanded outdoor dining area. Ten 32 in. by 48 in. four-top dining tables with stainless steel bases and white carrarra marble table tops are also proposed. Sixty-four

powder coated aluminum chairs in lime green are proposed for use at all dining tables. Sunbrella "Canvas Walnut" fabric chair cushions are proposed for each dining chair.

The applicant also proposes to install a pergola structure constructed of 5 ft. steel tube columns and 3 ft. aluminum cross bars, with overhead planters and lights in the central portion of the outdoor dining area at 11 ft. above grade.

The required 5 ft. pedestrian pathway will be maintained along the entire frontage of the building.

Mr. Christopher Longe, Architect, said their proposal opens up the rear of the restaurant to the front and to the street. Chairs and tables in the outdoor area are all movable. In response to Ms. Whipple-Boyce's inquiry, the space between tables is adequate at 3 ft. His preference was to put in a regular door in the middle and not a roll-up door. In answer to Ms. Lazar, the food will stay about the same. The chef will remain. On the interior, the paneling will be stained. Valet parking is not part of their plan. They hope to open by June 1.

Motion by Mr. DeWeese

Seconded by Mr. Williams that the Planning Board approve the applicant's request for Final Site Plan and a SLUP for 220 E. Merrill, 220 Restaurant, with the following conditions:

There were no public comments on the motion at 10:05 p.m.

Motion carried, 6-0.

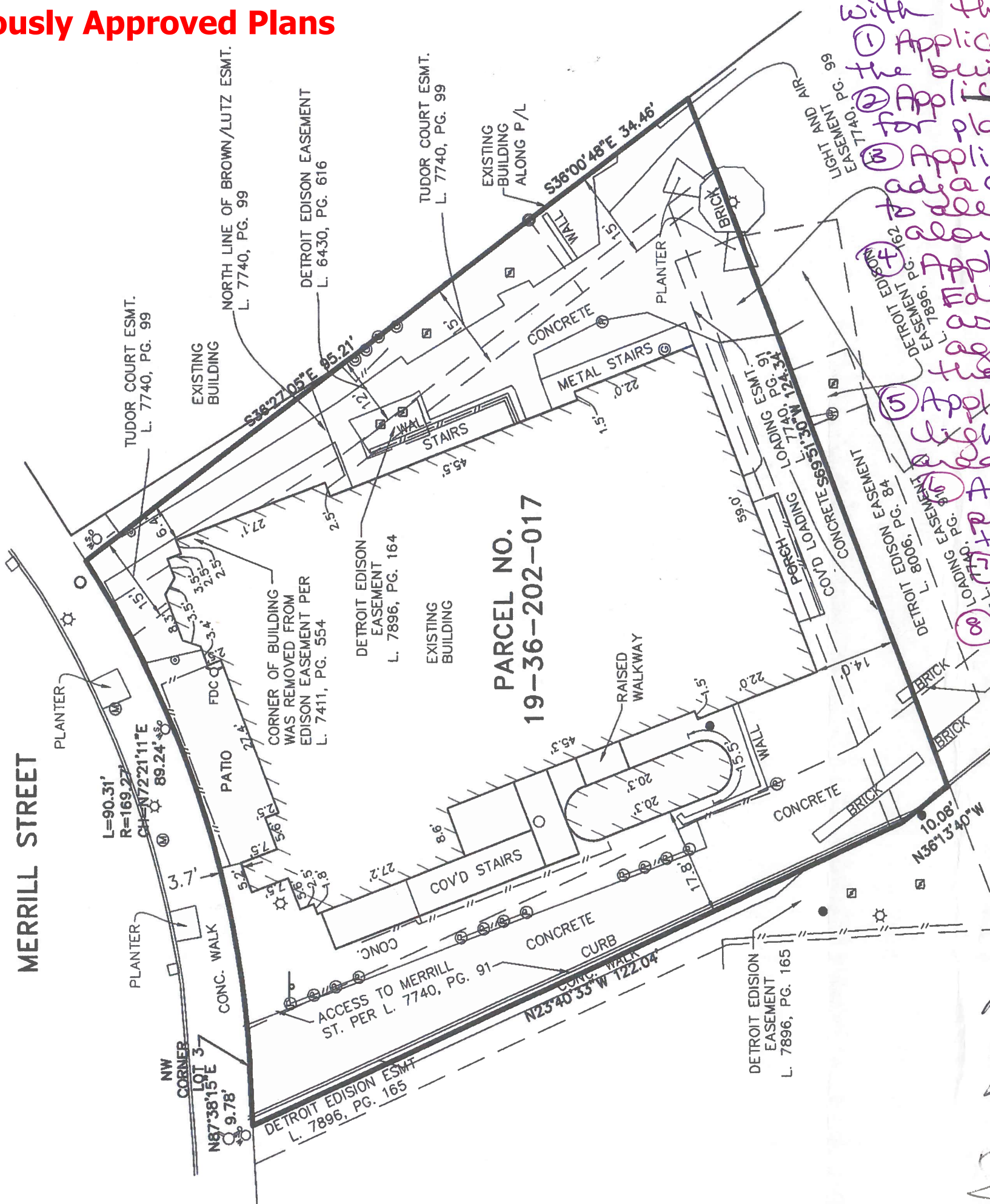
VOICE VOTE

Yeas: DeWeese, Williams, Boyle, Koseck, Lazar, Whipple-Boyce

Nays: None

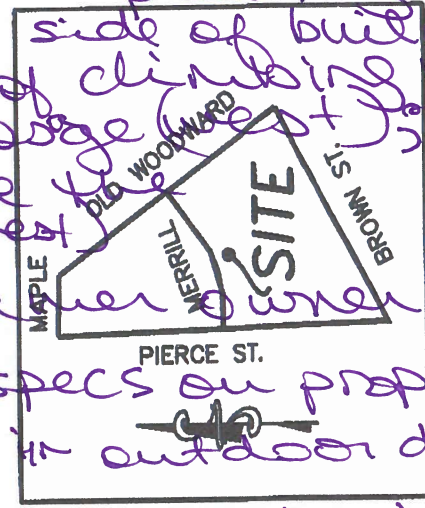
Absent: Clein

Previously Approved Plans



On Feb 26/17, the PB voted to give COMMUNITY APPROVAL to the City Commission with the following conditions:

- ① Applicant screen the dumpster behind the building or obtain variance.
- ② Applicant provide spec sheets for planters + plant material.
- ③ Applicant add small planting beds adjacent to west side of building to allow planting of climbing vines along Edison Passage (west).
- ④ Applicant improve the Edison Passage (west) as previously agreed with former owner of the property.
- ⑤ Applicant provide specs on proposed lighting fixtures in outdoor dining area.
- ⑥ Applicant provide spec sheets on proposed door system to be added to north elevation.
- ⑦ Applicant obtain an outdoor dining permit.
- ⑧ Add a Knox Box.



LEGEND

- EX. CATCH BASIN
- EX. WATER SHUTOFF
- EX. PARKING METER
- EX. LIGHT POLE
- EX. TRANSFORMER
- EX. UTILITY POLE
- FOUND IRON ROD
- EX. UTILITY METERS
- EX. FIRE DEPT. CONNECTION
- EXISTING OVERHEAD LINES
- EX. CLEAN OUT
- EX. POST
- EX. MANHOLE
- EX. HYDRANT
- EX. SIGN
- EX. FENCE LINE

Signed: *[Signature]*
[Signature]
[Signature]

Approved by *[Signature]*
City Commission 3/10/14

NOTE: THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN AN APPROXIMATE WAY ONLY AS DISCLOSED BY AVAILABLE UTILITY COMPANY RECORDS AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE COMPANY. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES. THE CONTRACTOR SHALL NOTIFY THE DESIGN ENGINEER IMMEDIATELY IF A CONFLICT IS APPARENT.

CLIENT: 220 PARK PLACE, LLC

SECTION: 36

RANGE: 10 E

TOWNSHIP: 2 N

CITY OF BIRMINGHAM

OAKLAND COUNTY

MICHIGAN

ALPINE ENGINEERING, INC.

CIVIL ENGINEERS & LAND SURVEYORS

46892 WEST ROAD

SUITE 109

NOV, MICHIGAN 48377

(248) 926-3701 (BUS)

(248) 926-3765 (FAX)

WWW.ALPINE-INC.NET

RESIDENTIAL SURVEYING

SUBDIVISIONS

SITE CONDOMINIUM

MULTI-FAMILY PLOT PLANS

CONSTRUCTION LAYOUT

COMMERCIAL SITE PLANNING

SITE ENGINEERING

INDUSTRIAL & MULTI-UNIT LAND SURVEYING

CONSTRUCTION LAYOUT

DATE: 10/16/2013

DRAWN BY: JDH

CHECKED BY: CLM

SCALE: HORIZ 1"=20 FT. VERT 1"=10 FT.

1/2

13-317

LIBER 46848 PAGE 534

0039513

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

FEB 28 2014

001523

1.00 *Q*

ANDREW E. MEISNER, County Treasurer
Sec. 135, Act 208, 1893 as amended

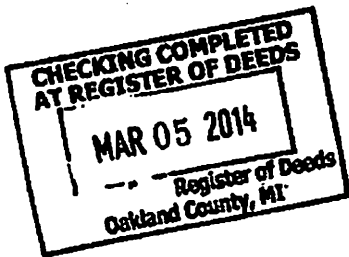
LIBER 46848 PAGE 534
\$22.00 DEED - COMBINED
\$4.00 REMONUMENTATION

03/10/2014 08:29:11 AM RECEIPT# 22098
PAID RECORDED - Oakland County, MI
Lisa Brown, Clerk/Register of Deeds

WARRANTY DEED

TWO TWENTY, L.L.C., a Michigan limited liability company ("Grantor"), having an address of 16267 West 14 Mile Road, Suite 200, Beverly Hills, Michigan 48025, conveys and warrants to 220 PARK PLACE, LLC, a Michigan limited liability company ("Grantee"), having an address of 124 South Old Woodward Avenue, Suite A, Birmingham, Michigan 48009, certain land situated in the City of Birmingham, Oakland County, Michigan, and more particularly described in attached Exhibit A, subject to those matters set forth in attached Exhibit B, for good and valuable consideration [Real Estate Transfer Tax Valuation Affidavit filed].

Dated as of the 11th day of February, 2014.



GRANTOR:

TWO TWENTY, L.L.C., a Michigan limited liability company

By: *Judith Ann Roberts*

Name: Judith Ann Roberts

Its: Authorized Representative

[ACKNOWLEDGMENT ON FOLLOWING PAGE]

REVENUE TO BE AFFIXED
AFTER RECORDING

Warranty Deed - 220 East Merrill Street
2000939162 12472/068440

2014 MAR - 4 AM 10:25
OK - *AN*

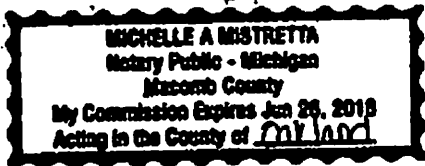
5P
R
TC

TC13-49880 *SR*
Title Connect LLC *SR*
a title insurance agency
28470 W. 13 Mile Rd. Suite 325
Farmington Hills, MI 48334

LIBER 46848 PAGE 535

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 11th day of February, 2014, by Judith Ann Roberts, authorized representative of Two Twenty, L.L.C., a Michigan limited liability company, on behalf of the limited liability company.



Michelle A. Mistretta
Michelle A. Mistretta, Notary Public
Macomb County, Michigan
My commission expires: 1-28-2018
Acting in Oakland County, Michigan

Prepared by:

Brandon J. Muller
Clark Hill PLC
151 South Old Woodward Avenue, Suite 200
Birmingham, Michigan 48009

When recorded, return to:

Zaid D. Elia
220 Park Place, LLC
124 South Old Woodward Avenue, Suite A
Birmingham, Michigan 48009

Exhibit A to Warranty Deed

Legal Description

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

Part of Lots 3, 4, 6 and 7, Assessor's Plat No. 25, as recorded in Liber 54A of Plats, Page 73, Oakland County Records, described as beginning at the Northwest corner of said Lot 3; thence along the Northerly line of said Lot 3, on a curve to the left (radius = 169.27 feet, long chord bears North 72 degrees 21 minutes 11 seconds East, 89.24 feet), a distance of 90.31 feet; thence South 36 degrees 27 minutes 05 seconds East 95.21 feet, thence South 36 degrees 00 minutes 48 seconds East, 34.46 feet, thence South 69 degrees 51 minutes 30 seconds West, 124.34 feet; thence North 36 degrees 13 minutes 40 seconds West, 10.08 feet; thence North 23 degrees 40 minutes 33 seconds West, 122.04 feet; thence North 87 degrees 38 minutes 15 seconds East 9.78 feet to the point of beginning.

**Commonly known as 220 East Merrill Street, Birmingham, Michigan 48009
Tax Parcel No. 19-36-202-017**

Subject to and together with easements for ingress, egress and loading described as:

ACCESS TO MERRILL STREET:

A 15 foot wide easement for ingress and egress described as the Westerly 15.00 feet of part of Lots 3, 4, 6 and 7 of Assessor's Plat No. 25, as recorded in Liber 54A of Plats, Page 73, Oakland County Records, described as beginning at the Northwest corner of said Lot 3; thence along the Northerly line of said Lot 3 on a curve to the left (radius = 169.27 feet, long chord bears North 72 degrees 21 minutes 11 seconds East, 89.24 feet), a distance of 90.31 feet; thence South 36 degrees 27 minutes 05 seconds East, 95.21 feet; thence South 36 degrees 00 minutes 48 seconds East, 34.46 feet; thence South 69 degrees 51 minutes 30 seconds West, 124.34 feet; thence North 36 degrees 13 minutes 40 seconds West, 10.08 feet; thence North 23 degrees 40 minutes 33 seconds West, 122.04 feet; thence North 87 degrees 38 minutes 15 seconds East, 9.78 feet to the point of beginning. Created by Easement recorded in Liber 7740, Page 91, Oakland County Records.

LOADING EASEMENT:

An easement for loading and unloading over and across part of Lots 3, 6 and 7, Assessor's Plat No. 25, as recorded in Liber 54A of Plats, Page 73, Oakland County Records, described as commencing at the Northwest corner of said Lot 3; thence along the Southerly right-of-way line of Merrill Street (60 feet wide), South 87 degrees 38 minutes 15 seconds West 9.78 feet; thence South 23 degrees 40 minutes 33 seconds East, 119.72 feet to the point of beginning; thence North 69 degrees 51 minutes 30 seconds East, 102.28 feet; thence South 20 degrees 08 minutes 30 seconds East, 12.00 feet; thence South 69 degrees 51 minutes 30 West, 99.34 feet; thence North 36 degrees 13 minutes 40 seconds West, 10.08 feet; thence North 23 degrees 40 minutes 33 seconds West, 2.32 feet to the point of beginning. Created by Easement recorded in Liber 7740, Page 91, Oakland County Records.

ACCESS TO BROWN STREET:

A 15 foot wide easement for ingress and egress described as the Westerly 15.00 feet of Lots 19 and 20 and part of Lots 3, 7, 8, 9 and 18 of Assessor's Plat No. 25, as recorded in Liber 54A of Plats, Page 73,

Oakland County Records, described as beginning at the Southeasterly corner of said Lot 20; thence South 61 degrees 38 minutes 00 seconds West, along the Southerly line of said Lots 19, 20 and part of Lot 18, a distance of 120.00 feet; thence North 36 degrees 13 minutes 40 seconds West, 229.0 feet; thence North 69 degrees 51 minutes 30 seconds East, 124.34 feet; thence South 36 degrees 00 minutes 48 seconds East, 47.0 feet; thence South 35 degrees 56 minutes 29 seconds East, 43.96 feet; thence South 36 degrees 07 minutes 40 seconds East, 120.0 feet to the point of beginning. Created by Easement recorded in Liber 7740, Page 91, Oakland County Records.

LOADING EASEMENT:

An easement for loading and unloading over and across part of Lots 3, 7, 8 and 9, Assessor's Plat No. 25, as recorded in Liber 54A of Plats, Page 73, Oakland County Records, described as commencing at the Southeast corner of said Lot 20; thence along the Southerly lot line of Lots 20, 19 and part of Lot 18, also being the Northerly right-of-way line of Brown Street, South 61 degrees 38 minutes 00 seconds West, 120.00 feet; thence North 36 degrees 13 minutes 40 seconds West, 182.62 feet to the point of beginning; thence North 36 degrees 13 minutes 40 seconds West, 46.38 feet; thence North 69 degrees 51 minutes 30 seconds East, 99.34 feet; thence South 08 degrees 38 minutes 00 seconds East, 17.00 feet; thence South 81 degrees 22 minutes 00 seconds West, 35.00 feet; thence South 56 degrees 43 minutes 20 seconds West, 10.00 feet; thence South 36 degrees 13 minutes 40 seconds East, 20.00 feet; thence South 53 degrees 46 minutes 20 seconds West, 46.56 feet to the point of beginning. Created by Easement recorded in Liber 7740, Page 91, Oakland County Records.

Exhibit B to Warranty Deed

Permitted Exceptions

1. Taxes and assessments that are not yet due and payable.
2. Easements over subject property as shown on the recorded plat.
3. Rights of tenants under any unrecorded leases.
4. Easement to Detroit Edison Company to construct, operate and maintain its lines for transmission and distribution of electrical light and power over the Easterly 12 feet of the subject property as recited in deed recorded in Liber 6430, Page 616, Oakland County Records, which easement has been partially released by Release recorded in Liber 7411, Page 554, Oakland County Records.
5. Agreement to create common easements for ingress, egress and loading as recorded in Liber 7740, Page 91, Oakland County Records.
6. Agreement for creation of limited easement to provide light and air and to satisfy zoning set back requirements as recorded in Liber 7740, Page 99, Oakland County Records.
7. Underground Easement in favor of The Detroit Edison Company as recorded in Liber 7896, Page 162, Liber 7896, Page 164, Liber 7896, Page 165 and in Liber 8006, Page 84, Oakland County Records.
8. Resolution regarding special assessment recorded in Liber 8715, Page 137, Oakland County Records.

Previously Approved Plans

220 Merrill
Birmingham, MI. 48009



Plantings



Elevation



Paving



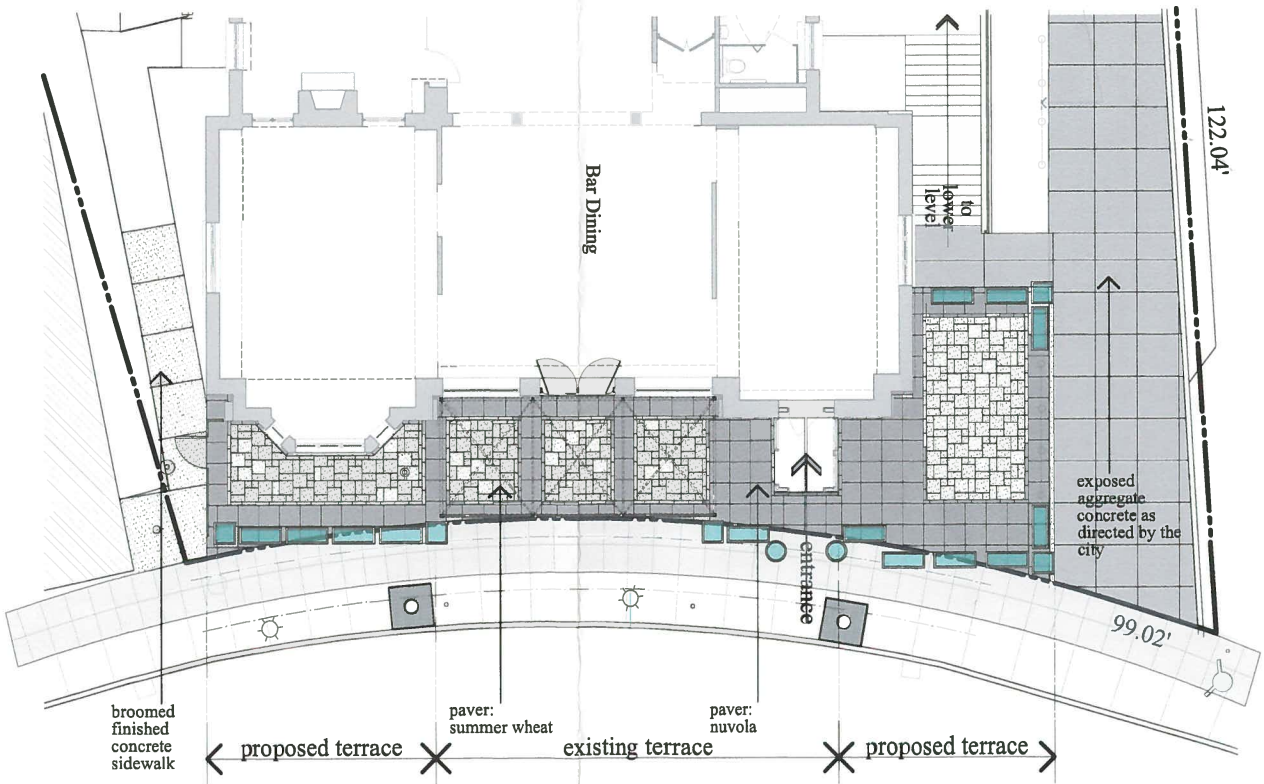
CONTAINER GARDEN
CAST STONE PLANTER
ARABESQUE WINDOW BOX
48.75"Wx18.25"Hx16.75"H



CONTAINER GARDEN
CAST STONE PLANTER
ARABESQUE MEDIUM PLANTER
24.00"W x 20.00"H

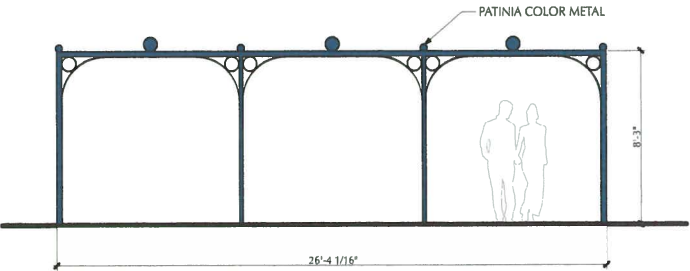
CONTAINER GARDEN
CAST STONE PLANTER
ARABESQUE SQUARE PLANTER
25.00"W x 20.50"H

Planters



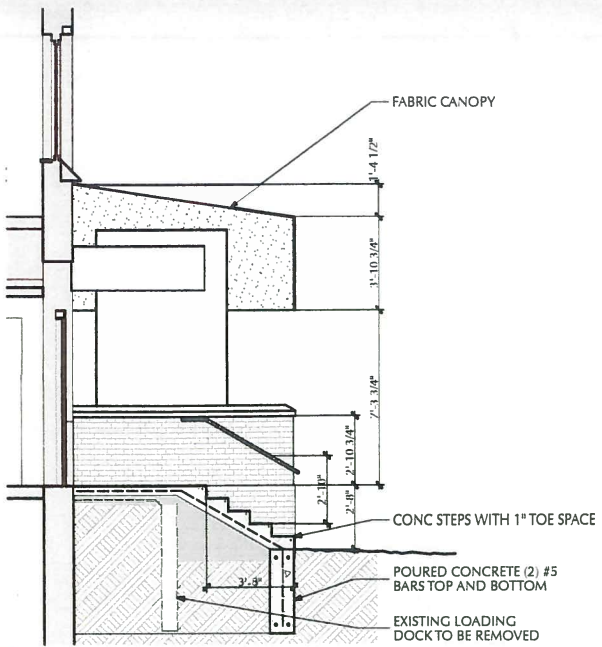
Site Plan

CHRISTOPHER J. LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

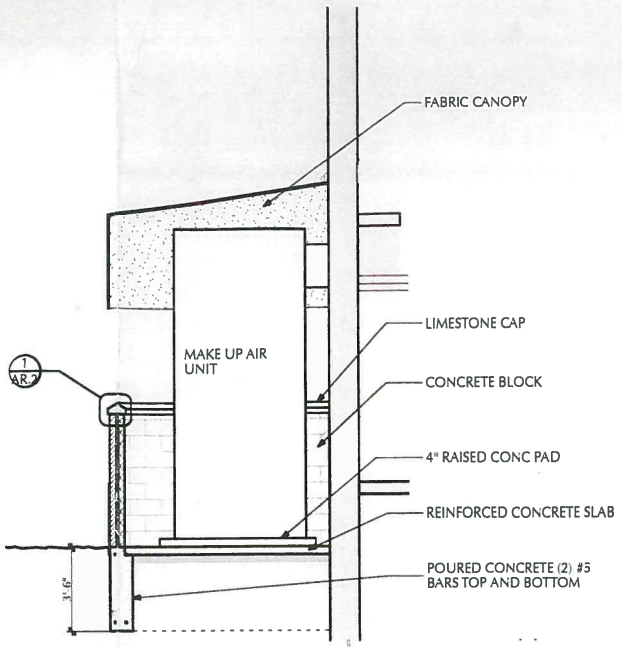


Pergola

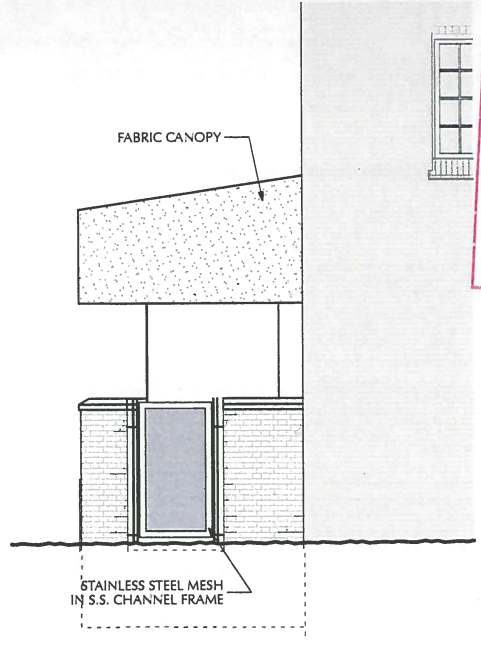
Previously
Approved Plans



4 Stair Section
AR.1 SCALE: 1/4" = 1'-0"



5 Section at Screen
AR.1 SCALE: 1/4" = 1'-0"



6 East Elevation
AR.1 SCALE: 1/4" = 1'-0"

RECEIVED
JUN 10 2014
CITY OF BIRMINGHAM
COMMUNITY DEVELOPMENT DEPARTMENT

124 Pea
Birming
Mich
4

CHRISTOPHER J. LONGE A
ARCHITECTUR
INTERIOR

T. 248.258.
F. 248.258.

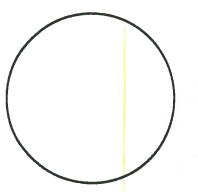
Project Title

220 Merrill
220 Merrill
Birmingham, MI. 48009

Date 6.7.2014
preliminary bids/permits construction

Revisions		

Sealed By

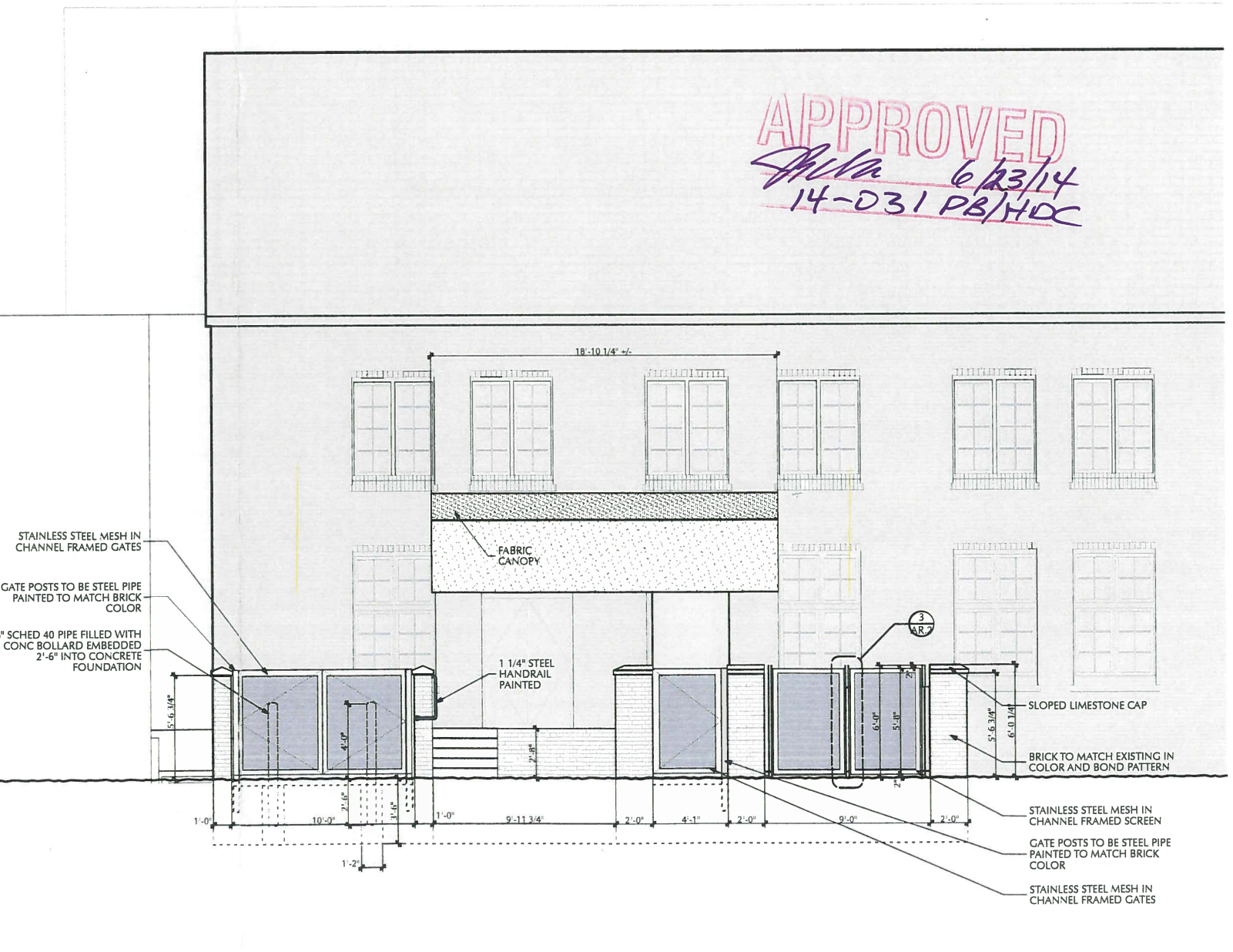
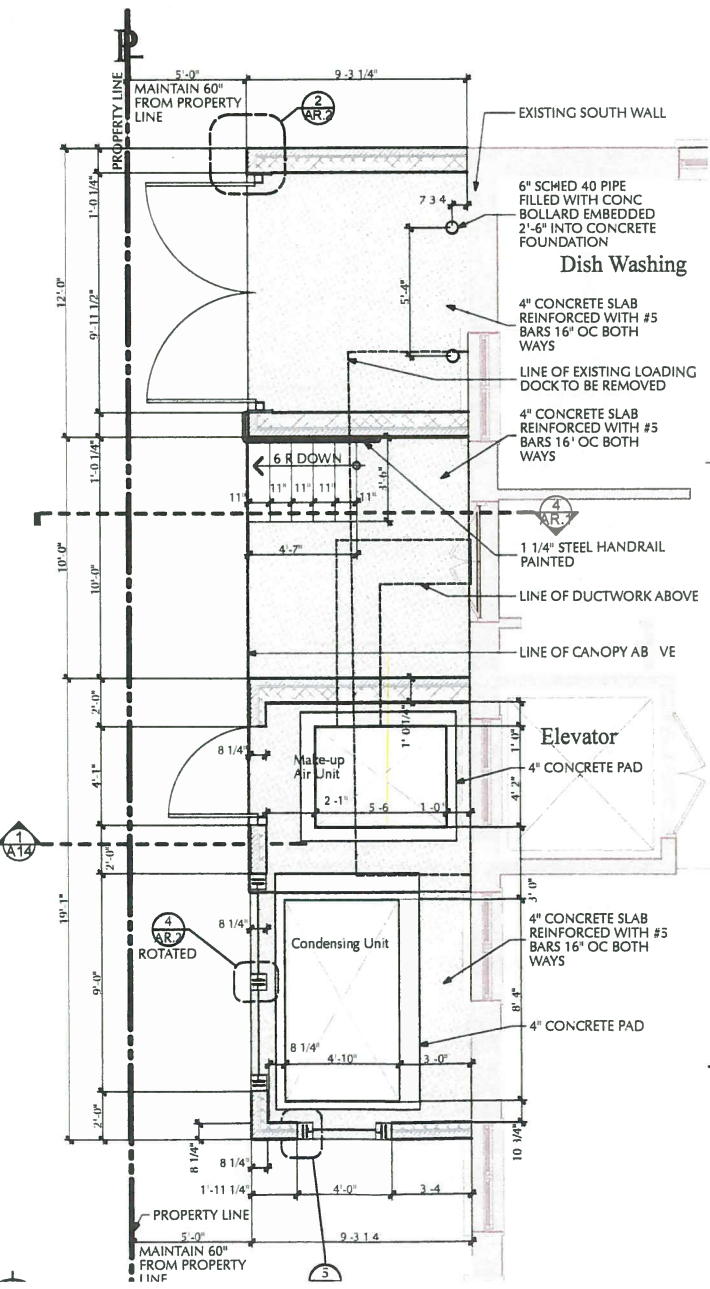
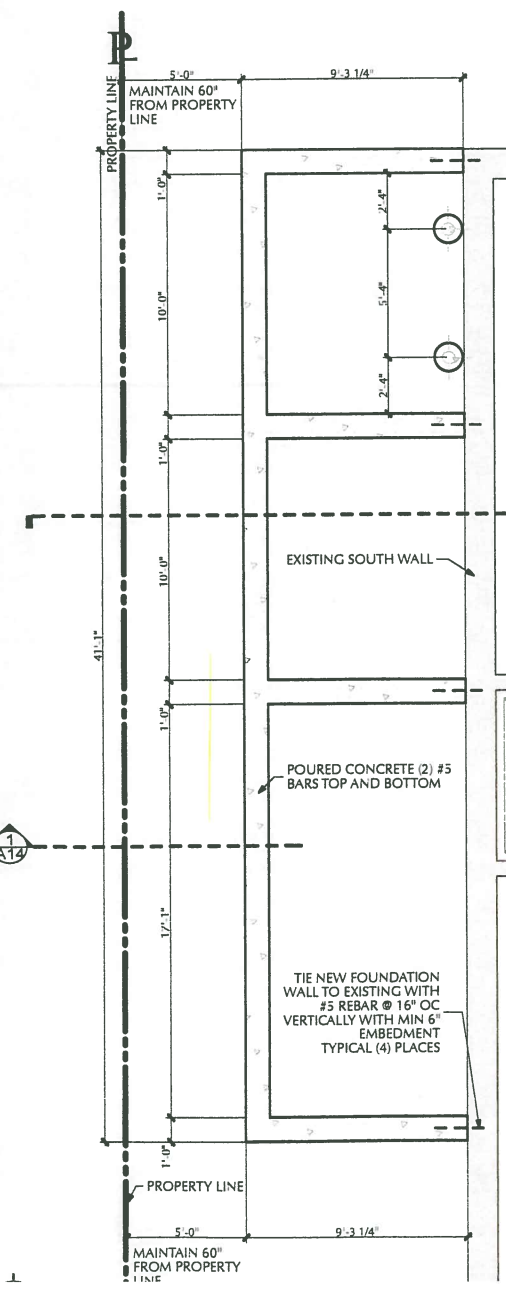


Christopher J. Longe A.I.A. Architect No. 3178
Signed:
PROJECT NO: 1
DRAWN BY: CE, C
CHK'D BY:

Sheet Title
Rear Elevation

Sheet

AD 1



HISTORIC DISTRICT COMMISSION
MINUTES OF June 17, 2015

HISTORIC DESIGN AND SIGN REVIEW

220 E. Merrill

220 Restaurant Legendary Steaks

CBD Historic District

Zoning: B-4 Business Residential

Proposal: The applicant proposes to renovate the tenant space front elevation of a one-story, multi-tenant non-contributing building in the CBD Historic District. The tenant space is currently occupied by Max and Erma's. The applicant proposes to extend the façade toward the sidewalk and apply new finishes and add a new canopy. The applicant also proposes to install planters and outdoor dining. The project requires a Special Land Use Permit (SLUP), so the applicant will be reviewed for the SLUP application, additional square footage, signage and the outdoor dining at the November 14, 2012, Planning Board Meeting. The applicant will receive final review at a City Commission meeting in December.

Design: The applicant proposes to demolish the existing façade and construct a new façade. The east half of the new facade will extend an additional 6 ft. out to the edge of the existing second-story overhang. Artificial timber planks stained with Sherwin Williams Woodscape Plum Mahogany are proposed to be mounted over the main entrance, and the bays east and west of it. A Heritage Cast Stone arch in Greystone is proposed and is to be mounted in the wall beneath the wood timber plank, and a matching stone is proposed to be applied at the base of the existing columns. The applicant proposes to add Sturgis Natural Thin Stone Veneer in Crystal Ridge to the new façade and existing columns of the building.

A new storefront window system will be installed in the new facade. Kawneer aluminum windows in Boysenberry will have aluminum detailing in Light Bronze. Six windows with transoms are proposed on the east side of the recessed entrance which consists of a set of three windows on either side of the column. The proposed recessed entry will have a single window placed perpendicular to the east side of the Marvin Windows glass double door stained to match the timber plank. An additional single window is proposed west of the double doors.

Two windows and a door with transoms are proposed for the west end of the façade.

The applicant proposes to install a canopy over the entire length of the main entrance. The canopy finish will match the Boysenberry window frame. A door with a transom and stained to match the timber is proposed for the east elevation of the new addition.

Illumination: The applicant proposes to install two Hinkley Casa Extra Large wall lanterns.

Mr. Henry Clover, Clover Architects, Kansas City, and Mr. Fred Timm, President of 220 Restaurant Legendary Steaks, were present. Mr. Clover explained that the intent of their proposed design is to add life to the front facade by pulling the building out flush with the

second floor. He went on to highlight the design and pass around material samples. Mr. Timm described 220 Restaurant as being a high-end steak restaurant.

Ms. Bashiri advised that the applicant will need to present cut views of the signage that show how it is mounted. Mr. Clover indicated the sign will be back-lit.

Mr. Willoughby urged the applicant to construct the arch out of the same stone so that it is not yet another element on a building that already has too much decoration. Mr. Clover agreed to check if it is possible to do that with the stone.

Motion by Mr. Willoughby

Seconded by Mr. Goldman to approve the design for 220 E. Merrill, 220 Restaurant Legendary Steaks, with capability of getting administrative approval should they be able to successfully change the arch to fieldstone, and to make sure that the 220 Restaurant sign complies with the Ordinance.

Motion carried, 4-0.

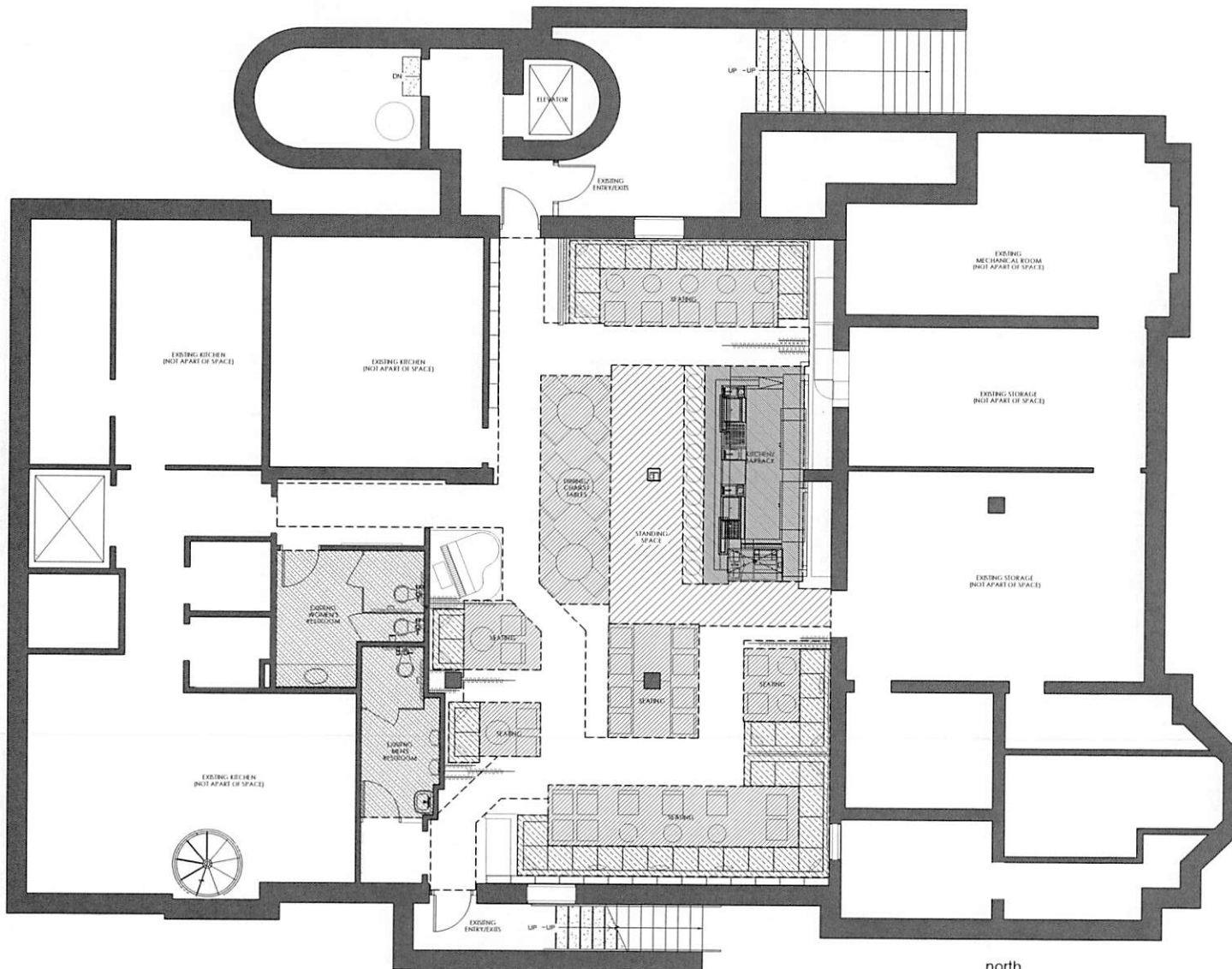
Mr. Timm said their price point is half or less than a lot of high priced restaurants in town. The entire inside will be renovated.

VOICE VOTE

Yeas: Willoughby, Goldman, Lekas, Gehringer

Nays: None

Absent: Henke, Deyer, Weisberg



CONCEPTUAL FLOOR PLAN

SCALE: 1/4" = 1'-0"

EGRESS DATA		
OCCUPANCY CALCULATIONS		
TOTAL FLOOR AREA *		1,930 SF
ASSEMBLY STANDING SPACE (17' x 15' = 255 SF)	34 OCCUPANTS	
ASSEMBLY UNCONCENTRATED (EAT & CHAIRS) (10' x 15' = 150 SF)	29 OCCUPANTS	
ASSEMBLY FRIED SEATING WITH/OUT DIVIDER AREA (15' x 10' PER OCCUPANT)	10 OCCUPANTS	
ASSEMBLY SEATING BOOTH (10' x 10' PER OCCUPANT)	35 OCCUPANTS	
KITCHEN BAR/BACK (10' x 10' = 100 SF)	2 OCCUPANTS (ACTUAL)	
CORRIDOR/WALKWAY (40' x 5' = 200 SF)		
RESTROOMS *		110 OCCUPANTS
TOTAL OCCUPANTS		110 OCCUPANTS



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:

220

INTERIOR BUILD-OUT

220 E MERRILL ST.
BIRMINGHAM, MICHIGAN
48009

SHEET TITLE:

CONCEPTUAL
FLOOR PLAN

DO NOT SCALE DRAWINGS
USE FIGURED DIMENSIONS ONLY

DATE: ISSUE:

09.12.17 DESIGN DEVELOPMENT

KNAUER

Project Incorporated
720 Westinghouse Road, Suite 200
Oxford, MI 48364
(248) 344-9000
(248) 344-9000
www.knauser.com

PROJECT NO:

080717

SHEET NO:

A1.0

220 Merrill
Birmingham, Michigan 48009



Elevation

CHRISTOPHER J. LONGE AIA
ARCHITECTURE
INTERIORS
124 Peabody, Birmingham, Michigan 48009 248.258.6940

9.21.2017

220 Merrill
Birmingham, Michigan 48009



West Elevation

CHRISTOPHER J. LONGE AIA
ARCHITECTURE
INTERIORS
124 Peakbody, Birmingham, Michigan 48009 248.258.6940

9.26.2017



LAW OFFICES

ADKISON, NEED, ALLEN, & RENTROP

PROFESSIONAL LIMITED LIABILITY COMPANY

PHILLIP G. ADKISON
KELLY A. ALLEN
JESSICA A. HALLMARK
GREGORY K. NEED
G. HANS RENTROP

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

OF COUNSEL:
KEVIN M. CHUDLER
SARAH J. GABIS
LINDA S. MAYER

September 28, 2017

Via Hand Delivery and Electronic Mail

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

**Re: Special Land Use and Final Site Plan Application for
220 Merrill Street Lower Level**

Dear Ms. Ecker:

220 Restaurant Hospitality, LLC requests City approval for a Special Land Use Permit and a Final Site Plan to enable the lower level of the building (f/k/a Edison's) to reopen.

The plan is to open the lower level for special events, private parties, and the public. The hours would be the same as the hours for the main restaurant. A food menu will be offered.

The lower level may have low-key entertainment, such as jazz music and a piano bar.

There will be no changes to the façade or layout of the lower level. There will be upgrades of the plumbing, electrical, and HVAC systems.

The Michigan Liquor Control Commission has approved the lower level as part of the licensed premises, as well as the following permits: Add Bar, Sunday Sales (AM and PM), Dance/Entertainment, and Outdoor Service.

Enclosed for your review are the following:

1. Special Land Use Permit Application;
2. Elevations;
3. Floor plan;
4. Deed; and

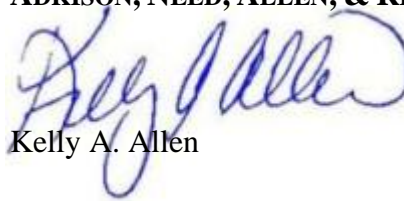
5. Check for \$2,800.00.

Please contact me if you need any further information or documentation. We would appreciate being placed on the Planning Board agenda as soon as possible.

Thank you, as always, for your assistance.

Very truly yours,

ADKISON, NEED, ALLEN, & RENTROP, PLLC



Kelly A. Allen

/kjf
Enclosures

Cc: Matt Baka
Zaid Elia



Special Land Use Permit Application

Planning Division

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

1. Applicant

Name: 220 Restaurant Hospitality, LLC
Address: 124 S Old Woodward, Birmingham, Michigan 48009

Phone Number: _____
Fax Number: _____
Email Address: zaid@theeliagroup.com

Property Owner

Name: 220 Park Place, LLC
Address: Same as applicant

Phone Number: _____
Fax Number: _____
Email Address: _____

2. Applicant's Attorney/Contact Person

Name: Kelly Allen
Address: 39572 Woodward, Suite 222, Bloomfield Hills, Michigan 48304

Phone Number: (248) 540-7400
Fax Number: (248) 540-7401
Email Address: kallen@anafirm.com

Project Designer/Developer

Name: _____
Address: _____

Phone Number: _____
Fax Number: _____
Email Address: _____

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

- 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

4. Project Information

Address/Location of Property: 220 Merrill Street

Name of Development: 220 Park Place, LLC

Sidwell #: _____

Current Use: Commercial/bar/restaurant

Proposed Use: Commercial/bar/restaurant

Area in Acres: _____

Current Zoning: B-4

Zoning of Adjacent Properties: B-4

Is there a current SLUP in effect for this site?: Yes

Is property located in the floodplain? No

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: 6/23/14

Will proposed project require the division of platted lots? _____

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

The applicant intends to open the lower level of the building, to be used for special events, and to be open to the public during the same hours as the main restaurant upstairs. The only changes will include updated plumbing, HVAC, and electrical.

6. Buildings and Structures

Number of Buildings on site: 1
Height of Building & # of stories: 2

Use of Buildings: Restaurant/Bar/Office
Height of rooftop mechanical equipment: N/A

7. Floor Use and Area (in square feet)

Commercial Structures:

Total basement floor area: 3,500
 Number of square feet per upper floor: 6,400
 Total floor area: _____
 Floor area ratio (total floor area divided by total land area): _____
 Open space: _____
 Percent of open space: _____

Office space: _____
Retail space: _____
Industrial space: _____
Assembly space: _____
Seating Capacity: _____
Maximum Occupancy Load: 110

Residential Structures:

Total number of units: N/A

Number of one bedroom units: _____

Number of two bedroom units: _____

Number of three bedroom units: _____

Open space: _____

Percent of open space: _____

Rental units or condominiums?: _____
 Size of one bedroom units: _____
 Size of two bedroom units: _____
 Size of three bedroom units: _____
 Seating Capacity: _____
 Maximum Occupancy Load: _____

8. Required and Proposed Setbacks

Required front setback: N/A
Required rear setback: _____
Required total side setback: _____
Side setback: _____

Proposed front setback: _____
 Proposed rear setback: _____
 Proposed total side setback: _____
 Second side setback: _____

9. Required and Proposed Parking

Required number of parking spaces: N/A
 Typical angle of parking spaces: _____
 Typical width of maneuvering lanes: _____
 Location of parking on the site: _____
 Location of off site parking: _____
 Number of light standards in parking area: _____
 Screenwall material: _____

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

Location of landscape areas: N/A

Proposed landscape material:

11. Streetscape

Sidewalk width: N/A
Number of benches: _____
Number of planters: _____
Number of existing street trees: _____
Number of proposed street trees: _____
Streetscape Plan submitted?: _____

Description of benches or planters: _____

Species of existing street trees: _____
Species of proposed street trees: _____

12. Loading

Required number of loading spaces: No change
Typical angle of loading spaces: _____
Screenwall material: _____
Location of loading spaces on the site: _____

Proposed number of loading spaces: _____
Typical size of loading spaces: _____
Height of screenwall: _____

13. Exterior Trash Receptacles

Required number of trash receptacles: No change
Location of trash receptacles: _____
Screenwall material: _____

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

14. Mechanical Equipment

Utilities & Transformers:

Number of ground mounted transformers: No change
Size of transformers (LxWxH): _____

Number of utility easements: _____
Screenwall material: _____

Location of all utilities & easements: _____

Height of screenwall: _____

Ground Mounted Mechanical Equipment:

Number of ground mounted units: No change
Size of ground mounted units (LxWxH): _____

Screenwall material: _____

Location of all ground mounted units: _____

Height of screenwall: _____

Rooftop Mechanical Equipment:

Number of rooftop units: No change
Type of rooftop units: _____

Screenwall material: _____
Location of screenwalls: _____

Location of all ground mounted units: _____
Size of rooftop units (LxWxH): _____

Height of screenwall: _____
Percentage of rooftop covered by mechanical units: _____
Distance from units to rooftop units to screenwall: _____

15. Accessory Buildings

Number of accessory buildings: No change
Location of accessory buildings: _____

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

16. Building Lighting

Number of light standards on building: No change
Size of light fixtures (LxWxH): _____

Type of light standards on building: _____
Height from grade: _____

Maximum wattage per fixture: _____
Light level at each property line: _____

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: _____

Date: 9-28-17

Print Name: Zaid Elia

Signature of Applicant: _____

Date: 9-28-17

Print Name: Zaid Elia

Signature of Architect: _____

Date: _____

Print Name: _____

Office Use Only

Application #: _____ Date Received: _____ Fee: _____

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



MEMORANDUM

Planning Division

DATE: November 1, 2017

TO: Planning Board

FROM: Sean Campbell, Assistant City Planner

APPROVED BY: Jana Ecker, Planning Director

SUBJECT: 220 E. Merrill, 220 Restaurant – Final Site Plan and Special Land Use Permit Amendment

Executive Summary

The subject site, currently 220 Restaurant, is located at 220 E. Merrill, on the south side of Merrill west of Old Woodward. The parcel is located in the B-4, Business-Residential zoning district and is also zoned D-4 in the Downtown Overlay District, and is located in a historic district. At this time, the applicant is proposing to utilize a portion of the basement of the building (formerly Edison's) to use for special events, private parties, and the public as an extension to 220 restaurant on the first floor. The applicant has indicated that the proposed lower level of 220 Restaurant will offer a food menu (the same as that offered on the main floor of the existing restaurant) and will host low-key entertainment, such as jazz music and piano music, in the space. Business hours would be the same as those of the main restaurant. No changes to the existing building facade or first floor plan are proposed.

As no exterior changes are proposed to the building, historic review by the Historic District Commission is not required at this time.

The subject site currently operates under a Special Land Use Permit ("SLUP") as 220 restaurant serves alcoholic beverages under a Class C liquor license. No changes are proposed to the name of the establishment or to the ownership of the existing establishment. The only change proposed at this time is to amend the SLUP to include the lower level as part of 220 restaurant. The Michigan Liquor Control Commission has already approved the basement of the 220 E. Merrill as part of the licensed premises, and thus no licensing changes are required with the State of Michigan.

However, in accordance with Article 06 section 6.02 Continuance of Nonconformity, A(5) of the Zoning Ordinance, any establishment with alcoholic beverage sales (on-premises consumption) shall obtain a Special Land Use Permit upon change in ownership or name of establishment, or upon application for a site plan review. As the applicant is proposing to expand the square footage of the restaurant operating under the existing SLUP, site plan review is required. Accordingly, the applicant is required to obtain a recommendation from the Planning Board on the Final Site Plan

and SLUP Amendment, and then obtain approval from the City Commission for the Final Site Plan and SLUP Amendment.

1.0 Land Use and Zoning

- 1.1 Existing Land Use – The existing site is used for retail and commercial purposes, including an eating establishment with alcoholic beverage sales. Land uses surrounding the site are also retail and commercial, with multi-family residential to the north.
- 1.2 Existing Zoning – The property is currently zoned B-4, Business Residential and D-4 in the Downtown Overlay District. The existing use and surrounding uses appear to conform to the permitted uses of each Zoning District.
- 1.3 Summary of Land Use and Zoning - The following chart summarizes existing land use and zoning adjacent to and/or in the vicinity of the subject site.

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

2.0 Screening and Landscaping

- 2.1 Screening – No screening is required, nor proposed at this time. The applicant was previously required to screen mechanical equipment and a dumpster at the rear of the building, which was completed.
- 2.2 Landscaping – No changes are proposed at this time.

3.0 Parking, Loading, Access, and Circulation

- 3.1 Parking – No changes are proposed. Parking is not required as the site is located within the Parking Assessment District.
-

-
- 3.2 Loading – No changes are proposed. Existing loading occurs from the adjacent alleys to the west and south of the building.
 - 3.3 Vehicular Access & Circulation - Vehicular access to the building will not be altered.
 - 3.4 Pedestrian Access & Circulation – No changes are proposed to either pedestrian circulation or the existing outdoor dining layout.
 - 3.5 Streetscape – The applicant is not proposing to alter the existing sidewalk, street trees, or light poles. **However, there is one street tree missing from a tree well in front of the existing 220 restaurant which the applicant was required to plant as part of their previous approval. This was not done, and thus the applicant will be required to add the required street tree to the existing open tree well. At the time of planting, the new tree must measure at least 3" DBH. The species of tree must be approved by the Department of Public Services.**

4.0 Lighting

No new lighting is proposed at this time to the exterior of the building.

5.0 Departmental Reports

- 5.1 Engineering Division – The Engineering Division has no concerns.
- 5.2 Department of Public Services – The DPS has stated that the applicant still owes the City a new tree in the tree well located in front of the building on E. Merrill.
- 5.3 Fire Department – The Fire Department has no concerns with the **concept** of occupying this lower level space. **However, a readable set of floor plans, with all required information, will need to be submitted before approval of any occupancy of this space, and for the evaluation of this space, for the allowable occupant load. This space is only approved for storage at this time. Additionally this space will require a full final inspection before occupancy.**
- 5.4 Police Department - **No comments have been received at this time, but will be provided prior to the Planning Board meeting on November 8, 2017.**
- 5.5 Building Division – **No comments have been received at this time, but will be provided prior to the Planning Board meeting on November 8, 2017.**

6.0 Design Review

The applicant is not proposing any design changes to the exterior of the subject building.

The interior of the existing restaurant on the first floor currently has 145 seats in the dining room, 17 seats at the bar, and 8 seats in a lounge area near the front entrance, for an

existing total of 170 interior seats on the first floor. No interior changes are proposed for the first floor at this time. The applicant is now proposing to incorporate the lower level of the building (formerly Edison's) into the existing 220 restaurant on the first floor. The addition of the lower level will add 77 seats in the open area around the bar, and 9 seats at the bar. A piano is also proposed to provide low key entertainment for guests. The applicant has stated that the lower level will be an extension of the first floor restaurant, but it may be used for private events at times, and open to the general public at other times. The furniture plan for the lower level appears to be lounge style seating with cocktail tables. Only 3 full size dining tables are provided in the area between the bar and the piano, thus suggesting more of a lounge atmosphere than the first floor restaurant space. With the addition of the lower level to the restaurant, a total of 256 seats will be provided between the dining areas, lounge areas and the upper and lower bar areas.

7.0 Downtown Birmingham 2016 Overlay District

The site is located within the D-4 zone of the DB 2016 Regulating Plan, and is within the Downtown Birmingham Overlay District. The proposed plans conform to the provisions of the D-4 overlay zoning district, and continue to implement the goals of the 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 amendment for 220 E. Merrill, 220 Restaurant to enable the restaurant to reopen the basement for food and alcoholic beverage sales, public use, special events, private parties, and low-key entertainment.

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 Amendment for 220 E. Merrill, 220 Restaurant with the following conditions:

1. Add the required street tree to the existing open tree well, with a minimum caliper of 3" DBH at the time of planting; and
2. Complete and legible plans, with all required information, will need to be submitted before approval of any occupancy of this space, and for the evaluation of this space for the allowable occupant load; and
3. Compliance with the requests of all departments.

OR

Motion to recommend DENIAL of the Final Site Plan and SLUP Amendment to the City Commission for 220 E. Merrill, 220 Restaurant for the following reasons:

1. _____
2. _____

OR

Motion to recommend POSTPONEMENT of the Final Site Plan and SLUP Amendment for 220 E. Merrill, 220 Restaurant, pending receipt of the following:

1. _____
2. _____

**Planning Board Minutes
November 8, 2017**

UNFINISHED BUSINESS

**SPECIAL LAND USE PERMIT ("SLUP") AMENDMENT
FINAL SITE PLAN REVIEW**

1. 220 E. Merrill, 220 Restaurant

Request for approval of a Final Site Plan and SLUP Amendment to expand the establishment into the lower level of the building

Ms. Ecker advised the subject site, currently 220 Restaurant, is located on the south side of Merrill, west of Old Woodward Ave. The parcel is located in the B-4 Business-Residential Zoning District and is also zoned D-4 in the Downtown Overlay District, and is located in a Historic District.

She explained there are two issues, the State Licensing issue and the City zoning issue. At the State, the lower level is already included in the applicant's licensed premises area and they have a Class C Liquor License with an Entertainment Permit. From the City's standpoint, the approval of 220 Restaurant did not include the basement.

At this time, the applicant is proposing to utilize a portion of the basement of the building for special events, private parties, and the public as an extension of the 220 Restaurant on the first floor. The applicant has indicated that the proposed lower level of the restaurant will offer a food menu (the same as that offered on the main floor of the existing restaurant) and will host low-key entertainment, such as jazz music and piano music, in the space.

Business hours would be the same as those of the main restaurant.

The only issue outside has been called out by the Dept. of Public Services ("DPS") who says the applicant has not added the required street tree to the existing open tree well in the front,

No changes to the existing building facade or first floor plan are proposed. As no exterior changes are proposed to the building, historic review by the Historic District Commission is not required at this time.

Design Review

No interior changes are proposed for the first floor at this time. The applicant is now proposing to incorporate the lower level of the building (formerly Edison's) into the existing 220 Restaurant on the first floor.

The addition of the lower level will add 77 seats in the open area around the bar, and nine seats at the bar. A piano is also proposed to provide low key entertainment for guests. The furniture plan for the lower level appears to be lounge style seating with cocktail tables. Only three full size dining tables are provided in the area between the bar and the piano, thus suggesting more of a lounge atmosphere than the first floor restaurant space. With the addition of the lower level to the restaurant, a total of 256 seats will be provided between the dining areas, lounge areas and the upper and lower bar areas.

Ms. Kelly Allen, Attorney, was present with Mr. Zaid Elia on behalf of 220 Restaurant. She explained for Mr. Boyle that an Entertainment Permit allows 220 to have music, karaoke, closed

circuit television, and stand-up comedians. An entertainment agreement with the City is pretty strict with regard to what kind of entertainment is allowed.

There were no comments from the public at 8:26 p.m.

Motion by Mr. Williams

Seconded by Mr. Boyle that based on a review of the site plans submitted, the Planning Board recommends approval to the City Commission of the applicant's request for Final Site Plan and a SLUP Amendment for 220 E. Merrill, 220 Restaurant, with the following conditions:

- 1. Add the required street tree to the existing open tree well, with a minimum caliper of 3 in. DBH at the time of planting;**
- 2. Complete and legible plans, with all required information, will need to be submitted before approval of any occupancy of this space, and for the evaluation of this space for the allowable occupant load; and**
- 3. Compliance with the requests of all City departments.**

No one from the public commented on the motion at 7:27 p.m.

Motion carried, 6-0.

VOICE VOTE

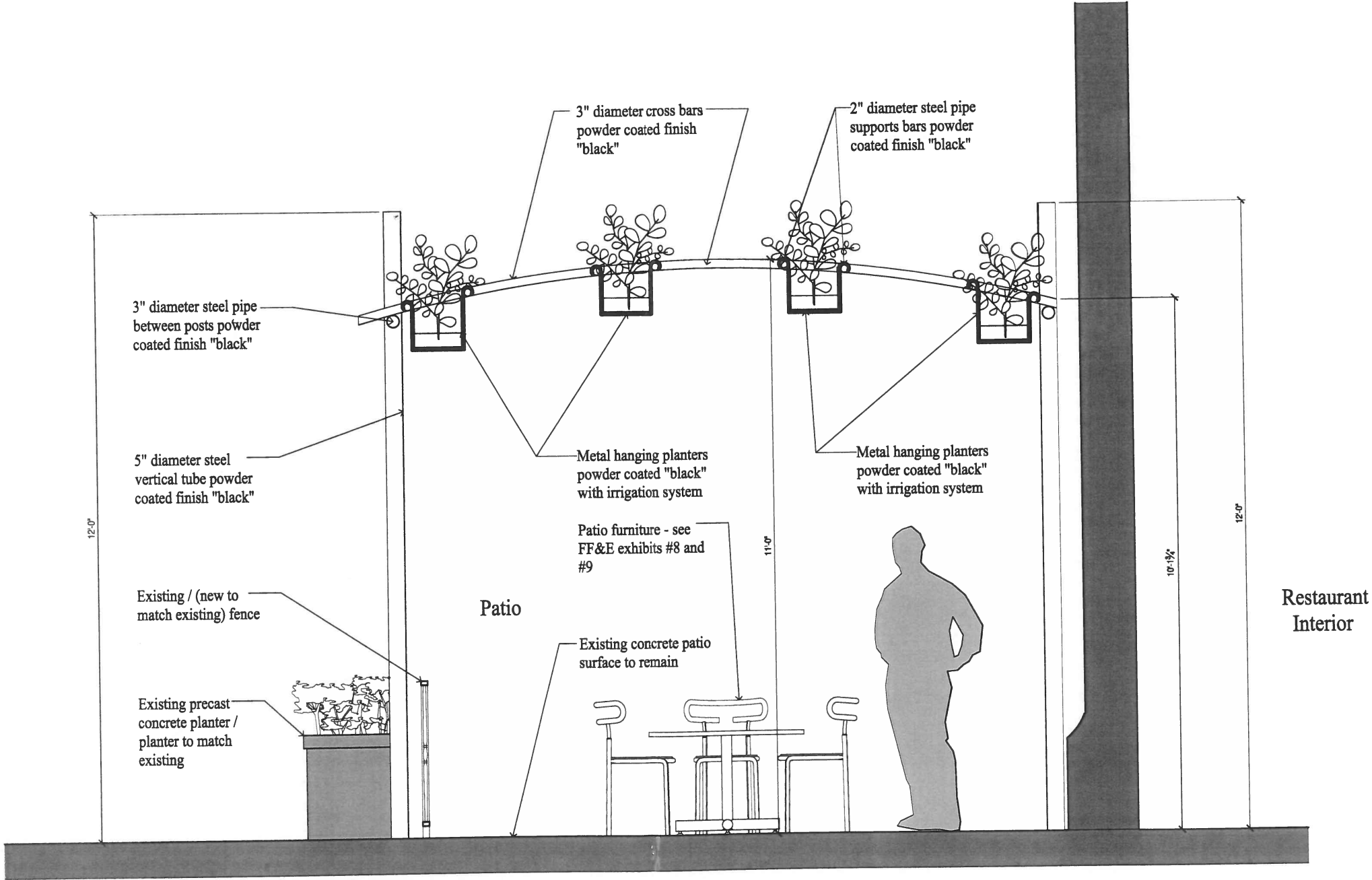
Yeas: Williams, Boyle, Jeffares, Koseck, Lazar, Whipple-Boyce

Nays: None

Absent: Clein

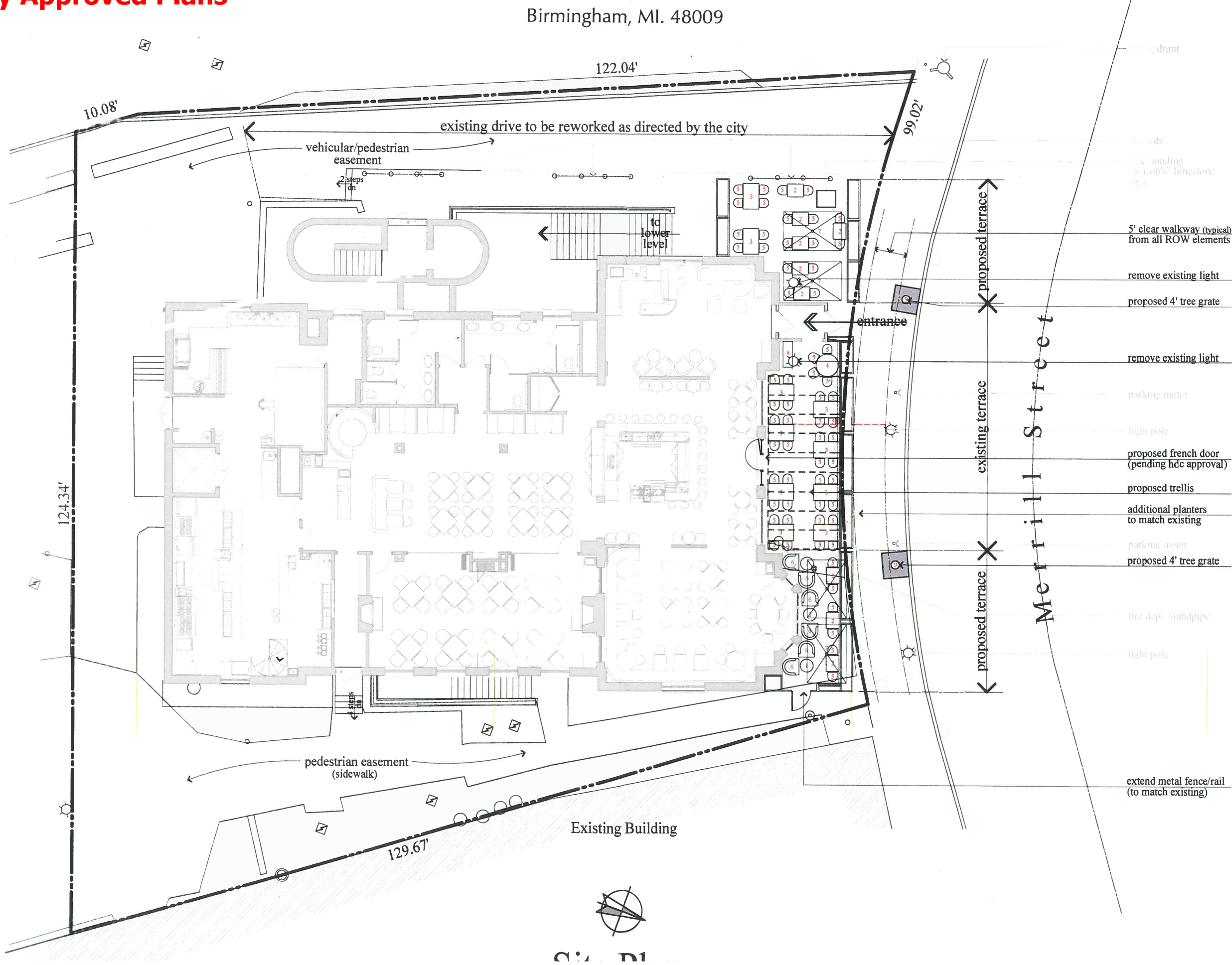
Previously Approved Plans

220 Merrill
Birmingham, MI. 48009



Previously Approved Plans

220 Merrill
Birmingham, MI. 48009



Previously Approved Plans

220 Merrill
Birmingham, MI. 48009



Previously Approved Plans

220 Merrill
Birmingham, MI. 48009



220 Restaurant





MEMORANDUM

Department of Public Services

DATE: December 4, 2017

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services

SUBJECT: Birmingham Little League – Donation Agreement

The City of Birmingham was approached by the Birmingham Little League earlier this year in February about renovating two ball fields in Kenning Park. Birmingham Little League wishes to make a donation to the City of Birmingham for the renovation and/or redesign of the two easterly Little League baseball fields (Fields 2 and 3). As discussions have been underway regarding the donation to the City for the improvements to fields #2 and #3, the attached letter dated April 13, 2017 confirmed this commitment by Birmingham Little League.

In turn, the City of Birmingham prepared a Donation Agreement detailing the specifics of such a donation in the amount of \$219,000. Since such time, staff has been working with Johnson Hill Land Ethics Studio (JHLE) to determine optimal layout and estimated costs per field. Find attached a preliminary "draft" of the two field concept layout specific to fields #2 and #3 consistent with the Master Plan. The remaining park fields will continue to function under existing conditions and uses. The estimated costs to renovate the two little league fields is \$302,228. As a result, BLL previously committed to \$219,000 and they were asked to revise their contribution based on the latest cost estimates, for which they have done so in the amount of \$303,000.

At the July 11, 2017 Parks and Recreation Board meeting the Board considered and supported the Donation Agreement between the City of Birmingham and Birmingham Little League (BLL) in the amount of \$219,000 for improvements to Fields #2 and #3 at Kenning Park. However, since the donation amount changed based on estimated construction costs, a revised Donation Agreement was recently submitted to the Parks and Recreation Board for their review at the December 5, 2017 meeting. After their review and a few minor suggested changes, the recommended language changes by the Parks and Recreation Board was incorporated into the document and accepted by the Birmingham Little League. One member of the public raised concern that the 20 year period on the first right of refusal was too long. This period was based on the normal life span of a ballfield.

Enclosed is the Donation Agreement prepared for and signed by the Birmingham Little League which details the arrangements for this donation. A copy of the Kenning Park Concept Master Plan is enclosed for your reference. As you will recall, the Kenning Park Concept Master Plan was prepared for the reconstruction of the parking lot which took place during 2014. The Kenning Park Concept Master Plan is considered a placeholder for a variety of proposed features and elements garnered from the multiple public workshops and meetings during 2013.

BACKGROUND

Birmingham Little League has been using the fields at Kenning Park since 1947; typically utilizing one softball and three Little League baseball fields during the months of April through July each year. The ages of the registrants in the Little League program range between ages 4-13 with a five year average of 529 participants per year.

The purpose of the Donation Agreement is to identify the terms and conditions for the Birmingham Little League to provide a donation to the City of Birmingham to accomplish the renovation of two ballfields at Kenning Park, along the easterly edge of the park facility. This improvement is in keeping with the current concept plan and the current uses at the park. This Donation Agreement only addresses these two ballfields for the purposes of field improvements.

The request by the Birmingham Little League was to contribute to the improvements of the two existing fields on the easterly edge of the park property. This renovation to the two fields referred to fields 2 and 3 will include some of the following field improvements; they will be in their current location, they will be rotated to achieve optimal positioning and layout, infield grass construction, irrigation, new fencing, grading/shaping and other site enhancements for the reconfiguration of the existing two 200 foot fields.

NEXT STEPS

After the Donation Agreement is accepted by the City Commission, the City would have Nowak & Fraus Engineers perform a boundary, topographic and tree survey for the east half of the park. They already performed a survey for the north end of the property for the parking lot reconstruction project. The new survey will be incorporated into the existing property survey. An estimated cost for the survey is \$14,000. This survey will then allow JHLE to prepare a final design, construction drawings and bid documents for the two field enhancements.

SCHEDULE

If the project is awarded, after bids are received, we anticipate construction to begin after the 2018 baseball season ends and all uses of the City fields at Kenning Park concludes. Based on the proposed schedule, it is our intent to have the two renovated fields ready for play for the start of the 2019 season.

Also, included in this packet are all of the communications and petitions received on this matter, to date. These were also provided to the Parks and Recreation Board.

SUGGESTED RESOLUTION:

To accept the Donation Agreement between the City of Birmingham and the Birmingham Little League in the amount of \$303,000 for improvements as it relates to Fields #2 and #3 at Kenning Park. Further, to authorize the City Manager to execute the Donation Agreement on behalf of the City.

Birmingham Little League

April 13, 2017

Mr. Joseph Valentine, City Manager
cc: Lauren Wood, Director of Public Services
City of Birmingham
151 Martin Street
Birmingham, MI 48009

RE: Birmingham Little League (BLL)/Kenning Park Financial Commitment

Dear Mr. Valentine,

Thank you again for taking the time to meet with us. We are totally committed to the City of Birmingham and Kenning Park! We are hopeful that this much-talked about project over the years will finally come to fruition. We want Kenning Park to become a beacon of the city that will flourish with activity and become a park that the City of Birmingham and all of its residents and guests are proud of.

We are pleased to write this letter confirming BLL's financial commitment to Phase II of the Kenning Park Master plan. We are prepared to donate to the cost of renovation, not to exceed \$219,000.00. This commitment to the City will be aligned exclusively with the re-design of Fields 2 & 3 as indicated on the Kenning Park Master Plan (dated 4/30/14) along with the estimates provided by various vendors. Furthermore, these funds are specifically to be used for the construction and re-design of these fields with the following stipulations:

- Kenning Park retains a design that includes 4 ball fields intended for BLL use
- BLL will have first right of refusal of field usage and field permits in perpetuity
- Maintenance of the fields/park to be performed by the City of Birmingham
- Field naming rights – this would be used to honor and commemorate donors as well past BLL volunteers. BLL would garner approval from the City of Birmingham prior to implementation.

As you know, the Little Leaguers of Birmingham have been gracing the fields at Kenning Park since its inception in 1947. We hope that this tradition will continue another 70 years. The kids need Kenning Park and Kenning Park needs the kids.

We are committed and ready to move forward with the hopes of this project beginning as soon the terms of this agreement are reached.

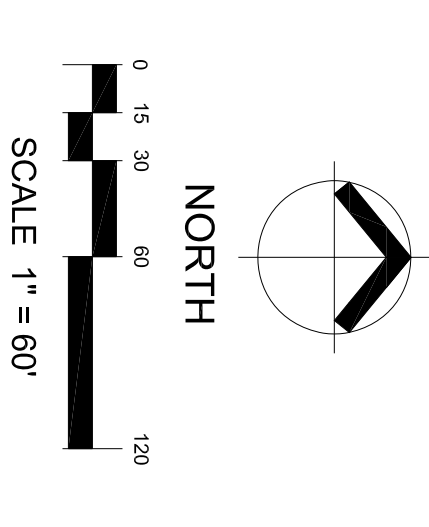
I would like to thank you and Lauren for all of the work you have done and I will continue to strive to see that this dream becomes a reality. You can certainly contact me at any time to discuss this matter.

Best Regards,



Pat O'Neill
President
Birmingham Little League

KENNING PARK MASTER PLAN UPDATE

[illegible]

17BRM01

TITLE
2 FIELD LAYOUT

SEAL

DONATION AGREEMENT

THIS DONATION AGREEMENT made on this 6TH day of DECEMBER, 2017, by and between **THE CITY OF BIRMINGHAM**, 151 Martin Street, Birmingham, MI, 48009 (hereinafter "Birmingham") and **BIRMINGHAM LITTLE LEAGUE**, P.O. Box 2536, Birmingham, Michigan 48012 (hereinafter "BLL").

WHEREAS, a 21.71 acre community park, Kenning Park is located in the southeast portion of the City adjacent to Lincoln Road. The site is the primary recreation sports complex in the community and includes both indoor and outdoor recreational facilities; and,

WHEREAS, the indoor facilities include a regulation sized ice rink with bleacher seating for 920 spectators and a smaller, studio arena used for skating lessons and skate parties within the complex; and,

WHEREAS, the outdoor facilities at Kenning Park include three Little League baseball diamonds and one softball diamond, four tennis courts, open space and playground equipment with an ADA accessible path leading from the 251 parking spaces area to the playground. Also included is a skate park facility on the northeast edge of the park property and a private tennis club at the northwest edge of the park property; and,

WHEREAS, the City of Birmingham has the authority, pursuant to Birmingham City Charter, Chapter II, Section 2(1) to receive donations; and,

WHEREAS, BLL has typically utilized the one (1) softball and three (3) Little League baseball fields in Kenning Park during the months of April through July each year; and,

WHEREAS, BLL wishes to make a donation to Birmingham for the renovation and/or redesign of the two easterly Little League baseball fields (Fields 2 and 3) as outlined in Phase II of the Kenning Park Master Plan; and,

WHEREAS, Birmingham wishes to accept this donation for the renovation and/or redesign of the two easterly Little League baseball fields (Fields 2 and 3) in accordance with the terms specified herein.

NOW, THEREFORE, Birmingham and BLL hereby agree as follows:

1. BLL will donate to Birmingham up to \$303,000 and will be exclusively used for the renovation and design of Fields 2 & 3 including, but not limited to, all construction drawings, surveys and engineering. Furthermore, these funds are specifically to be used for the construction and re-design of these fields with the following terms and conditions:
2. Phases. This project will be undertaken in two phases, as follows:
 - a) Phase 1. The City shall have Fields 2 and 3 redesigned in preparation for construction drawing, bid specifications and cost estimates. This work shall be undertaken and paid for by the City. The services performed shall be

directed at the sole discretion of the City. After this initial work is complete, and cost estimates secured, the City will share this information with BLL and either party shall have the right to terminate this Agreement without any further obligation to the other. Should either party wish to terminate, written notice shall be given to the other within thirty (30) days of the delivery of the written cost estimates. All notices shall be delivered by U.S. First Class Mail, as follows:

Notice to City:

Mr. Joseph A. Valentine
City Manager
City of Birmingham
151 Martin Street
Birmingham, MI 48009

Notice to BLL:

Mr. Pat O'Neill
President
Birmingham Little League
P.O. Box 2536
Birmingham, MI 48012

- b) Phase II. If neither party terminates the Agreement in the manner described herein, then the BLL shall make its donation of Three Hundred Three Thousand and 00/100 Dollars (\$303,000) within 30 days to the City. The City, after the receipt of the funds, shall undertake construction drawing and bid specifications for the bidding of the project. Should the bids be substantially over the cost estimates, in the City's sole discretion, the City may terminate the Agreement. In such event, the donated funds shall be returned to the BLL.

If the bids are reasonable, in the City's judgment and sole discretion, the project shall proceed as described on Exhibit A, and the construction drawings and bid specification shall then be added to this Agreement as Exhibit B.

3. Exhibit A. The parties agree that Exhibit A contains the description of the donation and specific terms and conditions thereto.

4. Maintenance. The City shall be responsible for the maintenance of the fields.

5. City's Responsibility. The City shall be responsible for any claims arising out of or in connection with the City's access to and use of the Property and from any act or negligence of the City or the City's Authorized Personnel.

6. Governing Law. This Agreement shall be governed by the laws of the State of Michigan. The parties acknowledge that this Agreement pertains to property located in the State of Michigan, and the parties submit to the jurisdiction of the courts of Oakland County, Michigan.

7. Entire Agreement. This Agreement constitutes the entire agreement between the parties. No change, addition or modification to this Agreement shall be effective unless signed in writing by both parties.

8. Waiver. Any waiver by either party of any provision or condition of this Agreement shall not be construed or deemed to be a waiver of any other provision or condition of this Agreement, nor a waiver of a subsequent breach of the same provision or condition, unless such waiver is expressed in a writing signed by the party to be bound.

9. Severability. If any provision of this Agreement shall be finally adjudged illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of the remaining provisions of this Agreement.

10. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and the assigns.

11. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original.

12. Effective Date. The Effective Date of this Agreement shall be the date the last party executes this Agreement.

WHEREFORE, the parties have executed this Agreement as of the date first written above.

CITY OF BIRMINGHAM, a Michigan
Municipal Corporation

By: _____
Joseph A. Valentine, City Manager

BIRMINGHAM LITTLE LEAGUE

By:  _____
Pat O'Neill, President

EXHIBIT A

General Terms

- 1) The donation of up to Three Hundred Three Thousand Dollars (\$303,000) shall be used for the renovation of the two easterly Little League baseball fields comprised of Fields 2 and 3 in Kenning Park. Said renovations shall be in accordance with the City's specifications, processes and its sole approval. Should the total project cost come in less than the donation amount, any excess funds shall be returned to BLL.
- 2) Kenning Park shall be renovated and/or designed for the intended use of the public.
- 3) Maintenance of the fields and parks will be performed by the City in accordance with its standards and practices.
- 4) The donation from BLL to renovate two Little League baseball fields comprised of Fields 2 and 3 in Kenning Park shall not limit or restrict the City in any planned future uses of Kenning Park.
- 5) All construction activities with respect to Phase II of this Agreement shall be at the sole discretion of the Birmingham City Commission.

Field Usage

- 1) In consideration of their donation to renovate two Little League baseball fields (Fields 2 and 3) at Kenning Park, BLL shall have the first right of refusal for use of these fields for the next 20 years (thru 2038), subject to BLL continuing to be the most frequent user of these fields based on permits issued. This usage is typically during the months of April through July.
- 2) In consideration of their donation to renovate two Little League baseball fields (Fields 2 and 3) at Kenning Park, the City agrees to make available 4 baseball fields in Kenning Park for the use of BLL, notwithstanding the fields will also be available for public use and subject to BLL continuing to be the most frequent user of these fields based on permits issued. The City reserves the right to change the utilization of the unimproved ballfields in Kenning Park after a 10 year period (2028), should the City revise its plans for Kenning Park. If the City revises its Kenning Park Master Plan during this period and this affects the number of baseball fields, the City agrees to make fields available at other parks in the City for use by BLL.

Timeframe

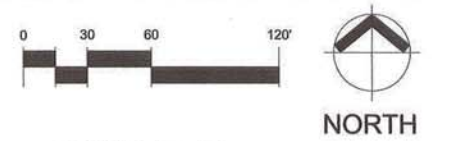
- 1) Should Phase II of this Agreement be effectuated by June 30, 2018, the City shall plan to implement the renovations to Fields 2 and 3 of Kenning Park in 2018.

Field Naming Rights

1) In consideration of their donation to renovate Fields 2 and 3 of Kenning Park, BLL shall be entitled to name both Fields 2 and 3 at Kenning Park with a plaque mounted to the backstop at each field. The design and content of the plaques are subject to approval by the City. The cost of the plaque shall be paid by BLL in addition to its donation. Additional opportunities for naming rights at Kenning Park shall be at the discretion of the City and subject to the City's Parks Donation Policy.

EXHIBIT B

Construction Drawings and Bid Specifications



KENNING PARK MASTER PLAN

January 2014



Connie Folk <cfolk@bhamgov.org>

Fwd: BLL Donation Agreement - Signed Petitions

Lauren Wood <lwood@bhamgov.org>

Tue, Nov 28, 2017 at 2:51 PM

To: "Folk, Connie" <cfolk@bhamgov.org>, "Laird, Carrie" <Claird@bhamgov.org>

Attachment for the agenda under Communications.

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
direct dial: [248.530.1702](tel:248.530.1702)

----- Forwarded message -----

From: **Patrick O'Neill** <poneill@signaturesothebys.com>

Date: Tue, Nov 28, 2017 at 1:26 PM

Subject: BLL Donation Agreement - Signed Petitions

To: Lauren Wood <Lwood@bhamgov.org>, Joe Valentine <jvalentine@bhamgov.org>Cc: Dave Palmeri <davep@rcwa.net>

HI JOE/LAUREN,

ATTACHED ARE SIGNED PETITIONS SUPPORTING THE DONATION AGREEMENT. THEY REPRESENT ALL COMMUNITIES THAT ARE WITHIN OUR BLL BOUNDARY. PLEASE ENSURE THAT THESE ARE ADDED TO THE PARKS & RECREATION BOARD'S PACKET FOR THE DECEMBER 5TH MEETING.

IF YOU NEED ORIGINALS PLEASE LET ME KNOW AND I CAN GET THEM TO YOU.

THANK YOU,

PAT



Signature | Sotheby's
INTERNATIONAL REALTY
415 South Old Woodward | Birmingham, MI | 48009

Pat O'Neill
(248) 521-0207
poneill@signaturesothebys.com

Communication/Discussion Item #2

 Signed Petitions - Donation Agreement.pdf






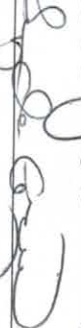







Petition to approve donation agreement between Birmingham Little League and the City of Birmingham

Petition summary and background

The baseball fields at Kenning Park are unsafe and becoming unplayable. Birmingham Little League has played at Kenning Park for over 70 years! BLI would like to donate \$303,000.00 to improve 2 of the 4 fields. The fields would not only be improved (new fencing, new dugout areas, grass infields, irrigation, etc.) but they would be rotated. This would make the park safer regarding foul balls, etc. and it would also allow for a better, more efficient flow of the park.

Action petitioned for

We, the undersigned, are concerned citizens who urge our leaders to act now to **APPROVE THIS DONATION AGREEMENT**

Printed Name	Signature	Address	Date
Ann Liebler		591 Ridgesdale Ave	11-22-17
Ian Macouhen		757 Tennyson Downs	11/22/17
Darren Clark		32840 Robinhood Ave Beverly Hills	11/22/17
Kelly Luegar		3449 Beach Troy	11/22/17
Cathy Furtan		1248 Yoshnute Blvd	11/22/17
Lynda Green		421 Madison St.	11/22/17
Michael Green		421 Madison St.	11/22/17
Michael Green			
Dan Forester		5068 more university	11/22/17
Denny Luegar		3449 Beach Rd, Troy	11/22/17
Lynda Furtan		5068 more university	11/22/17
Carla Green		2400 Hampton Ln, Troy	11/22/17
Pat O'Dell		2400 Hampton Ln, Troy	11/22/17

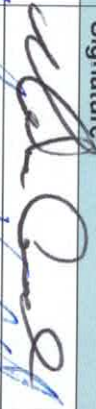
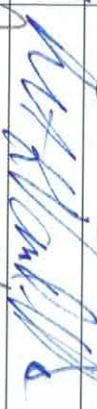










Petition to approve donation agreement between Birmingham Little League and the City of Birmingham

Petition summary and background

The baseball fields at Kenning Park are unsafe and becoming unplayable. Birmingham Little League has played at Kenning Park for over 70 years! BLL would like to donate \$303,000.00 to improve 2 of the 4 fields. The fields would not only be improved (new fencing, new dugout areas, grass infields, irrigation, etc.) but they would be rotated. This would make the park safer regarding foul balls, etc. and it would also allow for a better, more efficient flow of the park.

Action petitioned for

We, the undersigned, are concerned citizens who urge our leaders to act now to **APPROVE THIS DONATION AGREEMENT**

Printed Name	Signature	Address	Date
Michael Carroll		4611 Barclay Dr. Bloomfield Hills 48304	11/22/17
Robert K. White		3052 Muddleton CT Troy, MI 48064	11-22/17
Janice K. Carroll		3514 Blomfield Clubby Bloomfield Hills	11/24/17
John H. Sieken		597 Wellesley, Birmingham 48009	11/27/17
Mary Lou Sieken		597 Wellesley, Birmingham 48009	11-27-17
Doug Daniel		420 Berwyn St. Birmingham MI 48009	11/27/17
Scott Appleford		464 S. Bates Bham MI 48009	11/27/17
Chris Mustill		4555 Beverly Drive Birmingham 48009	11/27/17
Julie Mustill		4595 Burnley Dr. Bloomfield Hills 48304	11/27/17
Alex Lovell		416 Ruston Bham MI 48009	11/27/17
LARRY BONGIOVANNI		2800 Pickett Way, MT 48098	11/27/17
Amy Bongiovanni		2800 Pickett Way, MT 48098	11/27/17

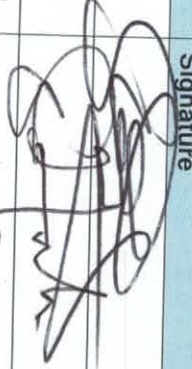
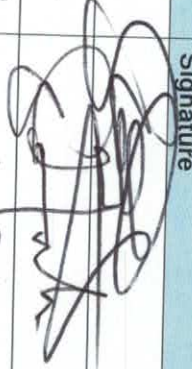
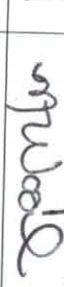








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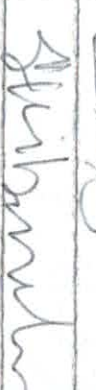
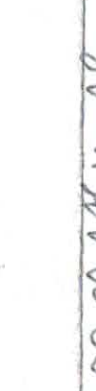
Action petitioned for

We, the undersigned, are concerned citizens who urge our leaders to act now to **APPROVE THIS DONATION AGREEMENT**

Printed Name	Signature	Address	Date
Scott MacPhee		4730 TULLAMORE DR Bloomfield Hills, MI 48304	11/27/17
SONIA TAPPEL		4730 TULLAMORE DR Bloomfield Hills MI 48304	"
Meredith Wood		4507 Burnley Dr Bloomfield Hills, MI 48304	11/27/2017
Dean Wood		4507 Burnley Dr Bloomfield Hills MI 48304	11/27/2017
Lindy Grom		4631 Burnley Dr Bloomfield Hills MI 48304	11/27/2017
JEFF MURSEDER		4555 Whitley Ct Bloomfield Hills 48304	11/27/2017
Heather Murtfeldt		4555 Whitley Ct Bloomfield Hills 48304	11/27/17
STEPHANIE CARROLL		4611 Burnley Drive Bloomfield Hills 48304	11/27/17
Jodie Seilheimer		3118 Oakhill Dr. Troy, MI 48064	11/27/17
David Seilheimer		3118 Oakhill Drive Troy, MI 48064	11/27/17
Patti Carroll		3711 W. Bradford, Bloomfield Hills MI 48301	11/28/17
Nathan Sylva		3421 W. Bradford, Bloomfield Hills MI 48301	11/28/17

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Printed Name	Signature	Address	Date
Thas Anderson		1786 S. Bates St, Birmingham	11/27/17
BRUCE JACKSON		1763 S. BATES, B'HAM	11-27-17
SANDY ALSTADT		1754 S. BATES, B'HAM	11-27-17
JOHN ALSTADT		1754 S. BATES, B'HAM	11-27-17
Charlie Shupe		1740 S. Bates, Bham	11-27-17
John Estoril		1680 S. Bates Bham	11-27-17
Andrew Sheppard		1721 S. Bates Bham	11-27-17
Jenny Chapman		1208 S. Bates St	11/28/17
LAURA KEATON		1762 Bowers	11-28-17
Bruce Richards		1822 Washington	11-28-17
Chris Rogers		1562 S. Bates	11-28-17
Simon Liberman		1741 Pierce	11-28-17

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Printed Name	Signature	Address	Date
Tiffany Gline	Tiffany Gline	1731 S. Bates St. Birmingham	11/24/17
Jacki. Smith	Jacki Smith	170 Kirkwood Court, Blount Hills	11/26/17
Thane Linn	Thane Linn	911 Henrietta Blvm MI	11-26-17
Tom Wardone	Tom Wardone	1408 S Bates St. Birmingham	11-26-17
Gillian R. Kim	Gillian R. Kim	1930 Fairview Birmingham MI	11-26-17
Sean Roberts	Sean Roberts	1196 Henrietta Birmingham MI	11-26-17
David French	David French	1640 Marylane Blvd Birmingham, MI 48229	11-26-17
Jessica Wertz	Jessica Wertz	749 Henrietta St, Birmingham 48201	11-27-17
Lisa Wardone	Lisa Wardone	1408 S Bates Street Birmingham 48204	11/27/17
HEIKO LEIBENHORN	Heiko Leibenhorn	1748 PLEACE ST. BIRMINGHAM 48209	11/27/17
Hannah Rinkes	Hannah Rinkes	212 Catalpa Dr Birmingham 48209	11/27/17
Katie Pearce	Katie Pearce	1698 S. Bates St. Birmingham Birmingham MI	11/27/17

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Printed Name	Signature	Address	Date
CECIL PETERSON	C.P.	592 CATALPA DR BIRMINGHAM, MI 48009	11/27/17
PETER LAYER	Peter Layer	1710 PEECE, BIRMINGHAM MI 48009	11/27/17
Beth Schrock	Beth	1711 Hennesta St Bham MI 48009	11/27/17
Rachel Thomas	Rachel Thomas	1469 Pierce St. Birmingham MI 48009	11/27/17
Isit Walters	Isit Walters	1436 Pierce St., Bham 48009	11/27/17
Beth Kiefer	Beth Kiefer	1480 Pierce St Bham 48009	11/27/17
Anastasiakozar	Anastasiakozar	1400 Pierce St. Bham 48009	11-27-17
Kendra Mathison	Kendra Mathison	1654 Smith Ave, Birmingham MI 48009	11/27/17
Silvia Acciaoli	Silvia Acciaoli	624 Smith Ave, Birmingham MI 48009	11/27/17
Sarah Madigan	Sarah Madigan	458 Smith Ave Birmingham MI 48009	11/27/17
Leora Taper	Leora Taper	1736 Pierce St, Birmingham MI 48009	11/27/17
Jon Demcke	Jon Demcke	1866 Pierce St, Birmingham MI 48009	11/27/17

Sullivan

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Printed Name	Signature	Address	Date
Kathy Sullivan	Kathy Sullivan	647 Madison Street	11/27/17
Teri Marowski	Teri Marowski	684 Madison St.	11/27/2017
Paul Cullen	Paul Cullen	756 Madison St.	11/27/2017
James McNulty	James McNulty	435 Madison St	11/27/2017
Margaret Wright	Margaret Wright	459 Madison	11/27/17
Brian Koval	Brian Koval	545 Madison St	11/27/17
Patrick Lester	Patrick Lester	591 Ridgmonte, B'ham	11/27/17
Kim Williams	Kim Williams	776 Ridgmonte Ave	11/27/17
John Mueller	John Mueller	840 Ridgmonte Ave	11/27/17
Jess Turner	Jess Turner	812 Ridgmonte Ave	11/27/17
Libby Jarrard	Libby Jarrard	812 Ridgmonte Ave	11/27/17
Debbie	Debbie	676 Ridgmonte Ave	11/27/17

William

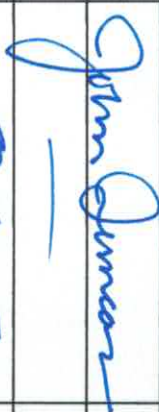










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Printed Name	Signature	Address	Date
Anne McElarthy	Anne McElarthy	724 Madison, 48009	11/26/17
John Fugazzi	John Fugazzi	655 Madison, 48009	11/27/17
John Tetter	John Tetter	612 Madison, 48009	11/27/17
Jeffrey	Jeffrey	888 Madison 48009	11/27/17
Drew Yare	Drew Yare	Sk1 Madison 48009	11/27/17
Rafael	Rafael	1063 Madison 48009	11/27/17
Julia Cosgrove	Julia Cosgrove	4871 Tenney St. 48009	11/27/17
Mike Derman	Mike Derman	207 Abbey 48001	11/27/17
Edin Deigman	Edin Deigman	207 Abbey 48009	11/27/18
Erin Terwill	Erin Terwill	709 Tottenham 48009	11/27/17
MAT Fugazzi	MAT Fugazzi	760 Tottenham 48007	11/27/17
Richard Kelly	Richard Kelly	956 Putney St. 48009	11/27/17
Lisa Kelly	Lisa Kelly	950 Putney St. 48009	11/27/17

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Printed Name	Signature	Address	Date
John Duncan		90416lock 1@gmail.com	11/23/17
—	—	4455 PARKSTONE LN BLOOMFIELD HILLS, MI 48301	—
Guillermo Casichio		2875 TROY CT. Drive Troy, MI 48064	11/24/17
William Melina		461 Drexel Drive Troy, MI 48064	11/27/17
Jennifer Byrne		1245 Hermitage St Birmingham, AL 35209	11/27/17
Mark Fugua		1471 Greenfield Rd. Birmingham MI 48009	11/27/17
Ang Cole		1471 Greenfield Rd. Birmingham MI 48009	11/27/17
Tim Colosimo		13521 Wilbur Ave Bloomfield Hills, MI 48304	11/27/17
Nathan Masda		576 Chestnut Hill Ave Birmingham, MI 48008	11/27/17
SHAMON M. ESKIN		211 E Meade St, 13th Floor MI 48003	11/27/17
Dan Ahurst		554 Bannockburn Dr Bloomfield Hills, MI 48304	11/28/17
Mike Tanski		1090 Saxon, Birmingham MI 48009	11/28/17



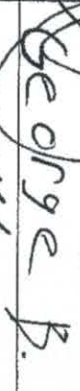

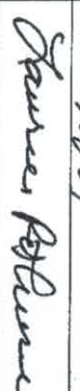







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Printed Name	Signature	Address	Date
Tou Baranowski		1745 Cole	11/24/17
Susan Baranowski		1745 Cole	11/24/17
George Baranowski		1745 Cole	11/24/17
ANDREW ROTHWEIL		1707 COLE STREET	11-26-2017
Laurie Rothweil		1707 Cole Street	11/26/17
Renee Grimmer		1731 Cole St.	11/26/17
Richard Morton		1746 Cole St.	11-26-17
EMILIE MORTON		1746 COLE ST.	11-26-17
Joshua Kramer		1688 Cole	11-26-17
Donna Kramer		1688 Cole	11-26-17
Dan Jordan		1650 Cole ST	11-26-17
Bandy Jordan		1650 Cole Street	11-26-17






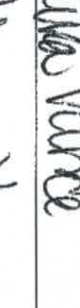






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Printed Name	Signature	Address	Date
Petina Hone		2648 Pembroke	11/27/17
Justin Hone		2648 Pembroke	11/27/17
Tamara Roubert		484 Linden	11/27/17
Quinn Roubert		484 Linden	11/27/17
Adam Kaelce		1212 Edgewood	11/27/17
Enka Vance		1760 Cole St.	11/26/17
Sharon Vance		1760 Cole St.	11/26/17
Joseph Vance		1760 Cole St.	11/26/17
Robert Beaver		1760 Cole St.	11/26/17
Matt Wilde		935 Madison	11/27/17
Hi Wilde		935 Madison	11/27/17
David Carroll		183 Strickland	11-27-17

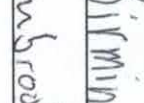
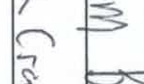










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Printed Name	Signature	Address	Date
Ron Myers		400 Pilgrim Birmingham, MI 48009	11-22-2017
Greg Girdler		187 North Cranbrook, Bloomfield Village	11-22-2017
Cathy Girdler		187 N. Cranbrook Bloomfield Vlg	11-22-2017
Graham Girdler		187 N. Cranbrook Bloomfield Village	11-22-2017
Brett Stice		2359 Broadway Blvd. Bloomfield Village, MI 48301	11-22-2017
Sharon Myers		400 Pilgrim Ave Birmingham, MI 48009	11-22-2017
Chuck Scrafano		1165 Suffolk Ave Birmingham, MI 48099	11-27-2017
Susan Scrafano		1165 Suffolk Ave Bham	11-27-17
Mare Miller		1137 Sufferd Ave Bham 48009	11-27-17
Beth Hoedes		1133 Westwood Bham 48009	11-27-17
Martina Ford		1755 Fairman St Bham 48009	11/27/17
Todd Sugar		320 Tilbury Road Bham 48301	11/27/17












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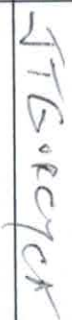
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Printed Name	Signature	Address	Date
Joe Hedger		113 Westwood, Birmingham, MI 48009	11-21-17
BRANDY STICE	Brandy Stice	2559 BRADLEY, BLOOMFIELD, MI 48301	11-27-17
Meredith Lovell		416 Fountain, Birmingham, MI 48009	11/27/17
Tom Chivers		330 N. Canby, Detroit, MI 48201	11/27/17
Mr Chinnis		320 N. Cranbrook Rd. Bloomfield Hills, MI 48301	11/27/17
JEFF CARRIN		1002 PLEASANT AVE BIRMINGHAM	11/27/17
Tracey Catlin		1002 Pilgrim Ave Birmingham 48009	11/27/17
STAN ANDREWS		2545 BROADWAY BLDG. B.H. 48301	11-27-17
MATTHEY ANDREWS		2545 BROADWAY B.H. 48301	11-27-17
Angela Spencer		455 Overhill Bloomfield Hills 48301	11-27-17
Eric Spencer		455 Overhill Bloomfield Hills 48301	11-27-17
LUCY BRIDGEMAN		531 Kimberly Birmingham 48009	11-27-17

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Printed Name	Signature	Address	Date
Stephanie Schmidt		1817 Wilburplace Bham	11/27/17
Kathy Valente		3570 Tucker Rd Bham AL 35215	11/27/17
Emily Womack		115 Wood Crest Bham AL 35201	11/27/17
Eric DeMont		2707 Endsleigh Bhamfield Hills 48301	11/27/17
Tarah Ehler		28505 Inverness Farmington Hills 48334	11/27/17
Geoff Kotica		1463 W. Lincoln St Bham 36009	11/27/17
Larrie Dobson		2451 Broadway Blvd Bloomfield 11/27/17	11/27/17
Amy Slawek		1765 Fairview Birmingham MD	11/27/17
Traci Henderson		1810 Fairview Birmingham MT	11/27/17
		1939 Fairview Bham MI	11/28/17

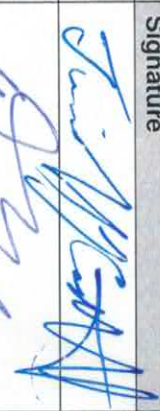









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Printed Name	Signature	Address	Date
Timothy Conaughton		2862 Sunridge Troy 48084	11/22/17
Dave Truitt		1055 Pilgrim, Birmingham AL 35209 4/24/14	
Bridget Matthews		1512 Bernacille Ave. Birmingham MI 48009	11/22/17
Todd Grabel		270 S. Glenhurst R 46009	11-25-17
Erin Grabel			
Garrah Dodge		1370 W. Lincoln Birmingham MI 48009	11-20-2017
Brian Kinnle		4906 Chavine Cross Bloomfield 48304	11/26/17
Matt Sullivan		6417 Jackson St. Birmingham MI 48009	11/26/17
Phil Bassel		1085 Hickman Hwy AL Troy 37044 48304	11/26/17
Nicole Conaughton		2862 Sunridge Dr Troy MI 48084	11/26/17









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Printed Name	Signature	Address	Date
Robert Kernen		1387 Smith, B'ham 48009	11/25/17
Dan Weiss		1319 Smith B'ham 48009	11-25-17
Frankie Elward		1305 Smith 48009	11-25-17
Erica Tanashi		1275 Smith	11/25/17
Amy Marti		1205 Smith Ave 48009	11/25/17
Anthony Lord		1080 Smith Ave 48009	11/25/17
McCormick McCormick		1205 Smith Ave 48009	11/25/17
Patty McCormick		1387 Smith Ave 48009	11/25/17

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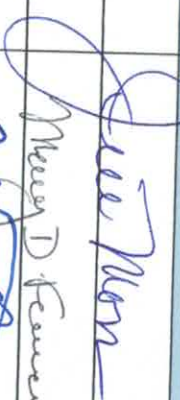





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Printed Name	Signature	Address	Date
Tom Lennon	Tom Lennon	128 North Glenarry B. Hills 48301	11/22/17
Hudrey Faust	Al Faust	3231 E Baddford 48301	11/21/17
John Lamarche	Joseph Lamarche	5065 Hamilton Rd. B. Hills 48301	11/25/17
Craig Dunaway	Car Dun	1000 Westchester Birmingham, MI 48009	11/25/17
XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXXXXXXXXXXXX	11-25-17
Cestina Spencer	Estina Statepole	915 Norwest way, MI 48084	11/26/17
Vicki PARRISH	EL	1576 COLLE Birmingham	11/24/17
Joy Faust	Joy Faust	2505 AVALONCREST, way	11/28/17







Petition to approve donation agreement between Birmingham Little League and the City of Birmingham

Petition summary and background	The baseball fields at Kenning Park are unsafe and becoming unplayable. Birmingham Little League has played at Kenning Park for over 70 years! BLL would like to donate \$303,000.00 to improve 2 of the 4 fields. The fields would not only be improved (new fencing, new dugout areas, grass infields, irrigation, etc.) but they would be rotated. This would make the park safer regarding foul balls, etc. and it would also allow for a better, more efficient flow of the park.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to APPROVE THIS DONATION AGREEMENT

Printed Name	Signature	Address	Date
Jill Moss		340 Hupp Cross, B. Hills, MI 48301	11/23/17
Mary Ferrar		5208 Collington Dr, Troy, MI 48098	11/22/17
Colin Watts		3841 Wedgwood Dr. Bln Twp MI 48301	11/22/17
Till Watts		" " " "	11/22/17
Luisa Branstrom		531 Kimberly, Birmingham, 4809	11/24/17
MATT FAUST		353 Concho Pl, Browns 48304	11/27/17

Petition to approve donation agreement between Birmingham Little League and the City of Birmingham





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Printed Name	Signature	Address	Date
M. David Gerasimov		3228 E. Bradford Rd. Bloomfield Hills MI 48301	11/26/17
Melanie Gerasimov		3228 E. Bradford Rd. Bloomfield Hills MI 48301	11/26/17
Cathy Gerasimov		3228 E. Bradford Bloomfield Hills, MI 48301	11/26/17
Bridget Gerasimov		3228 East Bradford Drive Bloomfield Hills, MI 48301	11/26/17
Justin Gerasimov		3228 East Bradford Bloomfield Hills MI 48301	11/26/17
Jack Gerasimov		3228 East Bradford Bloomfield Hills MI 48301	11/26/17

Petition summary and background

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We, the undersigned, are concerned citizens who urge our leaders to act now to **APPROVE THIS DONATION AGREEMENT**

Printed Name	Signature	Address	Date
Paul Nystrom		882 Shady Hollow Circle Hills, AL ^{Blount Field}	11-27-17
Den Nystrom		882 Shady hollow ^{Blount}	11/27/2017
Katie Richards		845 Shady Hollow Circle ^{Blount Hills, MI}	11/27/17
Phil Richards		845 Shady Hollow Circle ^{Blount} Hills	11/27/17

Petition to approve donation agreement between Birmingham Little League and the City of Birmingham

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Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to APPROVE THIS DONATION AGREEMENT

Printed Name	Signature	Address	Date
Jeffrey Gumbis	[Signature]	695 Henrietta	11/27/17
Henry Gumbis	[Signature]	695 Henrietta St.	11/27/17
Laurice MORAN	[Signature]	3245 WINTERBEE DR. MOY 4888	11/27/17
Jean Becker	[Signature]	8025 Leslie Ct, Bldg, apt 4838	11/27/17

Petition to approve donation agreement between Birmingham Little League and the City of Birmingham

Petition summary and background	The baseball fields at Kenning Park are unsafe and becoming unplayable. Birmingham Little League has played at Kenning Park for over 70 years! BLL would like to donate \$303,000.00 to improve 2 of the 4 fields. The fields would not only be improved (new fencing, new dugout areas, grass infields, irrigation, etc.) but they would be rotated. This would make the park safer regarding foul balls, etc. and it would also allow for a better, more efficient flow of the park.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to APPROVE THIS DONATION AGREEMENT

[illegible]

Petition summary and background

Action petitioned for

Printed Name

Signature _____

Address

Date _____

Branden Leikensma

2025

1314 Villa, Blau

11/23/82

Sarah Kentkens

Frank Redburn

1316 Villa La., Birmingham

4/27/2018

[illegible]

Petition to approve donation agreement between Birmingham Little League and the City of Birmingham

<p>Petition summary and background</p>	<p>The baseball fields at Kenning Park are unsafe and becoming unplayable. Birmingham Little League has played at Kenning Park for over 70 years! BLL would like to donate \$303,000.00 to improve 2 of the 4 fields. The fields would not only be improved (new fencing, new dugout areas, grass infields, irrigation, etc.) but they would be rotated. This would make the park safer regarding foul balls, etc. and it would also allow for a better, more efficient flow of the park.</p>
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[illegible]

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[illegible]

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[illegible]

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[illegible]

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[illegible]

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Printed Name	Signature	Address	Date
WYNN WYNN	[Signature]	473 Lucian Birmingham MI 48009	11/22/17
Theresa Brooks	[Signature]	825 Thretnree Ct Bt MI 48304	11/22/17
John KAPLAN	[Signature]	1130 Leabury Lane Bt 48302	22/11/17
Tim Duen	[Signature]	150 George St Birmingham 48009	11/22/17
MARCE HARRIS	[Signature]	577 Woodwood Blk	11/22/17
Zene Klobley	[Signature]	921 Beckwood Bham 48009	11/22/17
Kim Feldman	[Signature]	673 South Ave	11/22/17
ARAM NASARIAN	[Signature]	4090 Oberlin Ct, Bt 48302	11/22/17
Timothy Cooper	[Signature]	1179 N. Gahurst Dr Bham 48009	11-22-17
MARK O'DONNELL	[Signature]	950 BROADVILLE AVE. BIRMINGHAM MI 48009	11-24-17
DAVID MEIR	[Signature]	444 Chester, Bham 48009	11-25-17
Gabriel Bedoya	[Signature]	959 Chapin Ave Bham 48009	11-25-17

Petition to approve donation agreement between Birmingham Little League and the City of Birmingham

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[illegible]




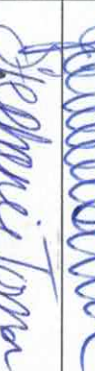



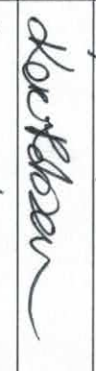
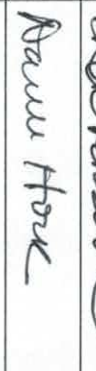
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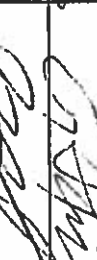


Action petitioned for

We, the undersigned, are concerned citizens who urge our leaders to act now to **APPROVE THIS DONATION AGREEMENT**

Printed Name	Signature	Address	Date
Randal Toms		1135 Maryland Blvd, Birmingham	11/27/2017
Scott Yalke		657 Greenwood, Birmingham	11-27-17
Tanellle Sharrat		784 Bird Ave, Birmingham	11-27-17
Stephanie Toms		1135 Maryland Blvd, Birmingham	11-27-17
Tania Yatomas		615 Emmons Ave Birmingham	11-27-17
Stephen Yatomas		615 Emmons Ave BIRMINGHAM	11-27-17
Keri Robson		993 Sottfield Ave	11/27/17
Danielle Hock		1155 West Lincoln Birmingham	11-27-17
Jaime Mario		17137 Better ^{Better} Braddock Ave Bev. Hills	11-27-17

Petition to approve donation agreement between Birmingham Little League and the City of Birmingham

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Printed Name	Signature	Address	Date
Daniel Rauter		3136 Birmingham	12/11/17
Shawn McLean		1235 Norfolk St	12/11/17
Lauren McLean		1235 Norfolk St	12/11/17
Amy Robinson		15525 Tenthon Rd N	12/11/17
Tahar Roubel		922 3rd Ave	12/11/17
Shawn Robinson		1914 Northlawn Blvd	12/11/17
Tiffany Harris		232 Algon 48009	12/11/17
Bryce Mulligan		80 Maryland Ave Brentwood Hills	12/11/17
Corrie Mulligan		80 Maryland Ave 48301	12/11/17
Curtis Stewart		954 Chestnut 48009	12/11/17
Ben Fisker		538 Pleasant Birmingham Miss	12/11/17
Megan Fishon		538 Pleasant Birmingham AL	12/11/17



Connie Folk <cfolk@bhamgov.org>

Fwd: Kenning Park Concept Master Plan

1 message

Lauren Wood <lwood@bhamgov.org>

Mon, Dec 4, 2017 at 10:53 AM

To: "Longes, The" <tmquattro@gmail.com>, Bill Wiebrecht <whw989@wowway.com>, Art Stevens <art2953@gmail.com>, John Meehan <john.meehan@att.net>, Lilly Epstein Stotland <lstotland@vescooil.com>, Ross Kaplan <rkaplan@neumannsmith.com>, ryan countryside <ryan.countryside@gmail.com>, elliecnoble@hotmail.com, John Rusche <jprusche@aol.com>

Cc: "Folk, Connie" <cfolk@bhamgov.org>, "Laird, Carrie" <Claird@bhamgov.org>

Good Morning,

I am sharing the following communications with you, the December 2, 2017 email from Larry Bertollini is addressed to the Parks and Recreation Board and City Commission.

A copy of this will be placed on the table for you tomorrow evening at the Board meeting.

Lauren

*****Open Meetings Act Caution*****

The above email and attachments have been provided to you for information purposes only. Do not reply to this email by the use of group email with your fellow elected or appointed officials because it may, unintentionally, create or give the appearance of a violation of the Michigan Open Meetings Act.

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
direct dial: 248.530.1702

----- Forwarded message -----

From: larry bertollini <lbartollini@att.net>

Date: Mon, Dec 4, 2017 at 9:17 AM

Subject: Re: Kenning Park Concept Master Plan

To: larry bertollini <lbartollini@att.net>, "Joe Valentine" <jvalentine@bhamgov.org>, J & S Jackson <jdsmjackson@sbcglobal.net>, andychapman2020@gmail.com" <andychapman2020@gmail.com>

Cc: L Wood <lwood@bhamgov.org>, Patty Bordman <pbordman@bhamgov.org>, Pierre Boutros <pboutros@bhamgov.org>, "Andrew M. Harris" <aharris@bhamgov.org>, Mark Nickita <mnickita@bhamgov.org>, Carroll DeWeese <cdeweese@bhamgov.org>, Racky Hoff <rackyhoff@hotmail.com>, Stuart Sherman <sshernan@bhamgov.org>

Joe,

Thank you for the response. I truly appreciate all your efforts in keeping our city running excellent. I do know of private soccer groups that would like to explore the Kenning Park open field improvements, as well as other Birmingham parks.

The City does yearly regrading of baseball fields which is rotated throughout all the Birmingham parks out of the maintenance funds. This past year it was done at Barnum Park. The City has subsidized baseball field fences, backstops, benches, bleachers, gravel at base pads, etc. The City maintains tennis courts. Is adding more soccer facilities, to me, should not be held back due to City funds so I am still not satisfied with a response that the City is looking into ways to get the money through the public private sectors. Soccer is growing and it is not being recognized as an important sport at our City parks. When the recent master plan for Poppleton Park was done & an area for soccer was proposed during one of the sessions, it was suggested by the residents to be located at Kenning Park. I was also informed by one of the owners, Andy Chapman of United Soccer, a well known travel soccer organization, that he was not notified or invited to participate in the new Birmingham 5 year parks master plan. Another great soccer contact is Joe Jackson who is heading up BAYSL. I have included their emails. I have also notified Lauren Wood about Andy Chapman's contact information. Our City parks haven't recognized or responded to the sport or soccer adequately in my opinion.

Larry Bertollini

On Mon, 12/4/17, Joe Valentine <jvalentine@bhamgov.org> wrote:

Subject: Re: Kenning Park Concept Master Plan

To: "larry bertollini" <lbartollini@att.net>

Cc: "L Wood" <lwood@bhamgov.org>, "Patty Bordman" <pbordman@bhamgov.org>, "Pierre Boutros" <pboutros@bhamgov.org>, "Andrew M. Harris" <aharris@bhamgov.org>, "Mark Nickita" <mnickita@bhamgov.org>, "Carroll DeWeese" <cdeweese@bhamgov.org>, "Racky Hoff" <rackyhoff@hotmail.com>, "Stuart Sherman" <ssherman@bhamgov.org>

Date: Monday, December 4, 2017, 8:27 AM

Larry,
Thank you
for your email and question regarding the prior Parks and Recreation bond. While it may seem that funds may still be available from the 2001 Parks and Recreation Bond Proposal, I have reviewed this previously with the City's Bond Counsel and unfortunately they are not given the timeframe since their authorization. The last issuance from the 2001 authorization was in 2008, so issuing bonds 16 years after authorization is not supported by Bond Counsel and therefore any funds from the 2001 authorization are no longer available. However, the City is exploring grant opportunities and public/private partnerships as ways to continue to enhance our park properties given our funding constraints from capital improvement planning.

I hope
you find this information helpful.

Best Regards, Joe
Valentine

On Sat, Dec 2, 2017 at
12:07 AM, larry bertollini <lbartollini@att.net>
wrote:

Dear
Chairman & Parks & Rec

Board, & City Commission

Kenning Park Proposal by Birmingham Little League

On December 5th the Parks & Rec Board is planning to
discuss Birmingham Little League's donation of
approximately \$300,000 to reconfigure two easterly baseball

diamonds. Sounds like a nice idea, however, there are strings attached. For one, the City will sign off on a twenty year agreement that includes keeping 4 baseball diamonds at Kenning Park. There are presently 4 baseball diamonds now however, the 2014 Kenning Park master plan added a dedicated open field for soccer & other sports of a similar nature. There was some shifting of the baseball fields to allow 4 diamonds instead of eliminating 1 of the baseball fields on the master plan to allow more diverse use of the park. The important point is that the Kenning Park master plan needs to be revised before any major developments are done so that baseball users do not dominate the use of the park. For the December 5th meeting the City has hired Johnson Hill to develop schemes that show how the Birmingham Little league's proposal can work with 4 diamonds.

Kenning Park is the only public park covering the residential areas east of Woodward Avenue and south of Maple Road yet it lacks a decent open field for soccer.

On April 7, 2008, the City Commission approved to issue \$ 4 million in park bonds of which \$ 650,000 was potentially to be used at Kenning Park. Why does Kenning Park have to rely on outside private funding to get improvements such as an open space for soccer?

Making proposals and improvements without a master plan the residents support is not in the best interest of the community. There is nothing to base conformance on and the park's vision becomes more and more subjective instead of objective. Please update the master plan & do not agree to keep 4 baseball fields if soccer cannot have a dedicated field.

Larry Bertollini

On Sat, 10/21/17, larry bertollini <lbartollini@att.net> wrote:

Subject: Kenning Park Concept Master Plan

To: "L Wood" <lwood@bhamgov.org>

Cc: jvalentine@bhamgov.org,
pbordman@bhamgov.org,
pboutros@bhamgov.org,
aharris@bhamgov.org,
mnickita@bhamgov.org,

cdeweese@bhamgov.org,
rackyhoff@hotmail.com,
ssherman@bhamgov.org

Date: Saturday, October 21, 2017, 5:18 PM

10-21-17

Dear Chairman & Parks & Rec
Board,

Kenning Park is the only City owned

public park covering the residential areas east of
Woodward

Avenue and south of Maple Road yet it currently lacks a

designated open space reserved for sports such as
soccer.

The 2014 Kenning Park concept master plan does include
this

as part of the overall program. To provide a large
reserved

space for soccer & similar open field sports at
Kenning

Park is in the best interest of the community & it
sends

the message that the City is mindful of providing
proper

balance & resources for all residents. Little
League

donations be used for Kenning Park should not jeopardize
the

Kenning Park Master Plan reserved soccer field area.
The

designated open field area should be it's own space
&

not a combined shared area as part of a baseball field.

Knowing that there is limited space at the park, three

baseball fields, total, is the reasonable plan to follow
for

Kenning. Provide a different City park location for

present

softball field or for the third Little League sized field.

Please follow the Kenning Park concept master plan in regards to preserving the designated soccer space. This will

ensure that Kenning Park is fairly balanced & that this

park can achieve a good balance for all the users & not

just baseball shareholders.

The Kenning Park Concept Master Plan

seems to have other areas that are raising concerns. The

plan proposes to relocate three public tennis courts to the

Northeast corner of Eton & Lincoln. This is a busy

intersection and this land does not seem to be a safe sport

activity location. Other concerns include the removal of

mature tree clusters to provide a baseball field. Also,

residents are concerned with any developments that will

cause users of the park that drive to choose parking along

the side streets instead of the Kenning parking lot.

Thank you for taking the time to review

my suggestions

Larry Bertollini

Webster Street

--
Joseph A. Valentine

City Manager

City of Birmingham

151 Martin Street

Birmingham, MI 48009

(248) 530-1809 Office Direct

(248) 530-1109 Fax

jvalentine@bhamgov.org

Twitter: @JoeValentine151

To get the latest information

regarding the City of Birmingham, please sign up for our
communication tools by clicking here www.bit.ly/bhamnews.



Connie Folk <cfolk@bhamgov.org>

Fwd: Kenning Park Concept Master Plan

Lauren Wood <lwood@bhamgov.org>

Mon, Dec 4, 2017 at 11:53 AM

To: "Folk, Connie" <cfolk@bhamgov.org>, "Laird, Carrie" <Claird@bhamgov.org>

Copy this chain for the Board.

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
direct dial: 248.530.1702

----- Forwarded message -----

From: **Lauren Wood** <lwood@bhamgov.org>

Date: Mon, Dec 4, 2017 at 11:52 AM

Subject: Re: Kenning Park Concept Master Plan

To: larry bertolini <lbertolini@att.net>

Cc: "Joe Valentine" <jvalentine@bhamgov.org>, J & S Jackson <jdsmjackson@sbcglobal.net>

andychapman2020@gmail.com" <andychapman2020@gmail.com>, Patty Bordman <pbordman@bhamgov.org>, Pierre Boutros <pboutros@bhamgov.org>, "Andrew M. Harris" <aharris@bhamgov.org>, Mark Nickita <mnickita@bhamgov.org>, Carroll DeWeese <cdeweese@bhamgov.org>, Racky Hoff <rackyhoff@hotmail.com>, Stuart Sherman <ssherman@bhamgov.org>, "Valentine, Joe" <jvalentine@bhamgov.org>

Hi Larry,

In regard to our conversation last week about soccer groups and the use of City park space, I reiterated that as part of the Recreation Master Plan process which began this past June meetings with stakeholders such as yourself and others is a key component in garnering good valuable information.

You were invited and participated as part of a Neighborhood Association representative for these meetings during the Roundtable discussions with McKenna. Also, invited to be part of the discussions were leagues/associations and recreation providers such as Birmingham United Soccer and the Birmingham-Bloomfield Soccer Club.

The City's point of contact with the above groups are Mary Phillips and Marcia Kaline; respectively. They were both invited for a specific day and time meeting during this vital process.

Also, as mentioned when we spoke, during this 30 day Master Plan review period, which is underway, additional correspondences will still be received. Plus, while on the phone I let you know Andy Chapman can submit a letter/email to us anytime.

We look forward to and welcome all views and opinions from any and all groups at any point of time.

Thanks,
Lauren

Lauren Wood

Director of Public Services

12/4/2017

City of Birmingham MI Mail - Fwd: Kenning Park Concept Master Plan

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
direct dial: 248.530.1702

[Quoted text hidden]



Connie Folk <cfolk@bhamgov.org>

December 5th Kenning Park proposal for the Master plan - resident input on the Little League

Andrew Haig <amhaig@yahoo.com>

Mon, Dec 4, 2017 at 4:39 PM

Reply-To: Andrew Haig <amhaig@yahoo.com>

To: "lwood@bhamgov.org" <lwood@bhamgov.org>, "claird@bhamgov.org" <claird@bhamgov.org>, "cfolk@bhamgov.org" <cfolk@bhamgov.org>, "jvalentine@bhamgov.org" <jvalentine@bhamgov.org>

Cc: "jvalentine@bhamgov.org" <jvalentine@bhamgov.org>

Unfortunately I do not have access to the email addresses of everyone from the Parks board, so please can you make sure that my thoughts are made known to the board prior to the meeting & any decisions tomorrow.

I made a short presentation of my thoughts on what is happening with respect to the other events going on in the neighbourhood & I find it of concern that they are not addressed in an obvious manner as the sum of the whole, rather as individual items that need to be tied together. I may be mistaken in this though, it is not obvious to me.

In short, the choice to permit Little League to pay the measly sum of \$300k for the rights that the City is giving away is grossly insufficient for the market rate for land use in the area. My evaluation with sources is given in the presentation. If they are at market rate, there is no reason why they should not have this opportunity, but as it stands, what they want to have versus what they would pay in the form of a donation is insufficient, especially when use with the terms 'lease'. Legally lease & donation are very different entities & this is effectively a lease they want in a backdoor manner.

I would appreciate some feedback to this, as the public view seems odd, even after reading the documents in depth.

Yours,

Andrew Haig

 Kenning Park 2017 - 12.pdf
1015K

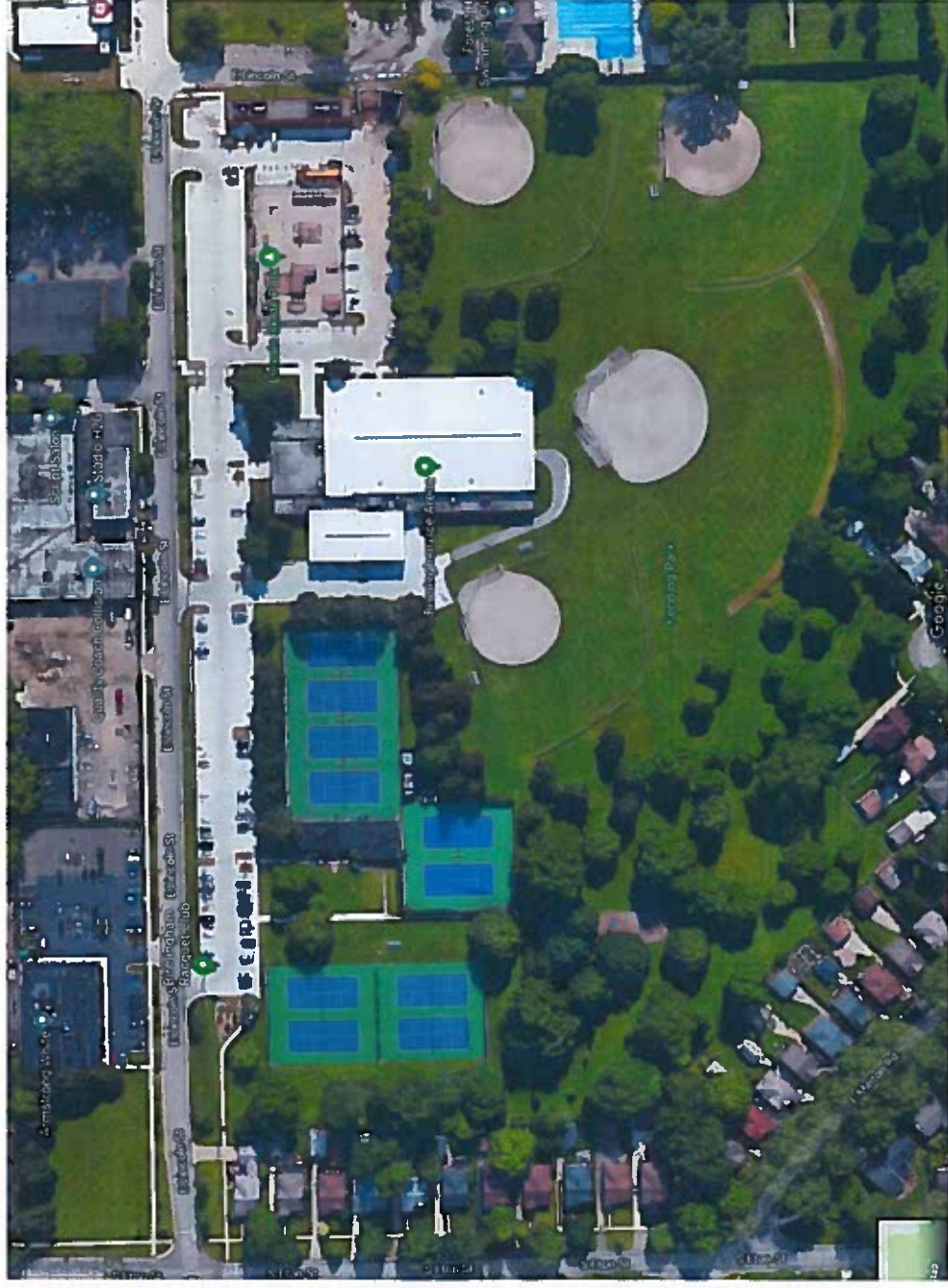
Kenning Park, Birmingham MI

December 2017 park proposals options & alternatives
As presented to the City board.

Current City website master plan proposal
http://www.bhamgov.org/DPS/Kenning_Park_master_plan_revised_04_30_2014.pdf



Current Google maps satellite view



City Parks plan excerpts

Goal #3: To create a community of healthy residents by providing opportunities that promote and encourage active lifestyles.

Birmingham has an active resident base that includes runners, cyclists, soccer players, walkers, skaters, hockey players, golfers, etc. The health of the aging population will need to be maintained through private and public efforts.

Goal #4: Provide recreation programming and facility opportunities that meet the needs and interests of the entire community.

City of Birmingham Schedule of Proposed Capital Improvements ("12 - '16)

	2012	2013	2014	2015	2016	Estimated Total Over Five Years (\$555)	Proposed Funding Source(s)	Built For Action
General Park Enhancements								
Continue general landscape and beautification	•	•	•	•	•	25,000	Donations/General Fund	Administration
General Baseball/Soccer field Maintenance	•	•	•	•	•	25,000	ALA Grant/General Fund	Administration Public Input
General Tennis Court Maintenance	•	•	•	•	•	45,000	General Fund	Administration Public Input
Installation of Blue Buds	•	•	•	•	•	10,000	General Fund	Administration Public Input
Installation of Drinking Fountains	•	•	•	•	•	35,000	Donations/General Fund	Administration Public Input
Installation of Electric Cycles	•	•	•	•	•	150	Donations/General Fund	Administration Public Input
Installation of Park Benches and Picnic Tables	•	•	•	•	•	40,000	Donations/General Fund	Administration Public Input
Installation of Park Shelters (Lacrosse TRO)	•	•	•	•	•	20,000	Donations/General Fund	Administration Public Input
Installation of Park Signage	•	•	•	•	•	100,000	Donations/General Fund	Administration Public Input
Land acquisition opportunities	•	•	•	•	•	750	Donations/General Fund	Administration Public Input
Open Space Maintenance, i.e., seeding, drainage and grading at various Parks	•	•	•	•	•	60,000	Donations/General Fund	Administration Public Input
Programmed Equipment Maintenance & ADA Replacement (equipment)	•	•	•	•	•	50,000	Donations/ADA/Access Grant/General Fund	Administration Public Input
Reforestation of Public Property	•	•	•	•	•	25,000	Donations/Grants/General Fund	Administration Public Input
Site furnishings (benches, trash receptacles, signs)	•	•	•	•	•	60,000	Donations/Grants/General Fund	Administration Public Input

City Parks plan excerpts, continued

City of Birmingham Participation Data

Activity	2004	2005	2006	2007	2008	2009	2010
Youth Skating Lesson	1,500	1,241	1,216	1,081	784	381	391
Figure Skating Club of Birmingham	150	150	100	100	100	100	100
Birmingham Hockey Association	560	531	519	501	384	349	320
Adult Softball Program	140	140	120	120	120	100	100
Junior Golf	299	239	336	396	378	420	341
Birmingham Little League	653	626	553	560	531	544	547
Springdale Golf Course	28,151	28,560	24,546	24,097	26,674	27,716	25,782
Lincoln Hills Golf Course	31,401	28,710	28,455	27,893	29,905	25,950	21,335
Birmingham United Soccer	N/A	110	129	178	103	156	126
Birmingham Bloomfield Soccer Club	1,221	1,291	1,360	2,580	2,539	2,327	2,478
Birmingham Racquet club	600	600	600	700	550	475	415
Forest Hill Swim Club	450	450	450	450	450	450	450

Source: City of Birmingham Facility Users and Participants

2009 Participation - Ranked by Total Participation
Participated more than once (in millions)
Seven (7) years of age and older

Basis For Action

Sport	Total	Percent Change *	Sport	Total	Percent Change *
Exercise Walking	93.4	-3.4%	Softball	11.8	-7.9%
Exercise w/Equipment	57.2	4%	Baseball	11.5	-13.5%
Camping	50.9	3%	Tennis	10.8	-14.5%
(vacation/overnight)	50.2	-8.1%	Volleyball	10.7	-14.5%
Swimming	45	0.6%	Football	8.9	-8.2%
Bowling	38.3	-2.6%	(hockey)	8.4	-13.6%
Workout @ Club	36.1	-1.5%	State/boarding		
Bicycle Riding	34.5	1.8%	Mountain		
Weight Lifting	34	2.8%	Biking		
Hiking	33.1	3%	(off road)		
Aerobic Exercising	32.9	-22%	Scooter		
Fishing	32.2	1%	Picking		
Running/Jogging	28.2	-11.1%	In-Line Roller		
Billiards/Pool	24.4	-5%	Skating		
Basketball	24	-13.9%	Archery		
Boxing	22.3	-3.9%	(target)		
Motor/Power	19.8	-2.4%	Shang (alpine)		
Golf	18.8	0.3%	Pistball		
Target Shooting (net)	16.7	20.9%	Games		
Hunting with Firearms	13.6	0.6%	Snowboarding		
Yoga	13.3	na	Hunting		
Soccer	12.3	-5.3%	w/flow &		
Table Tennis	12.2	na	Arrow		
Backpack/Wilderness Camp			Water Skiing		
Dart Throwing			Target		
			Shooting-Air gun		
			Kayaking		
			Gymnastics		
			Muzzle		
			banding		
			Hockey (ice)		
			Wrestling		
			Shing		
			(Cross Country)		

*Percent Change is from 2006
Source: Birmingham Parks & Recreation

[http://www.bhamgov.org/document center/Clerks Office/2012 2016 Master Plan.pdf](http://www.bhamgov.org/document%20center/Clerks%20Office/2016%20Master%20Plan.pdf)

Type	Name	Acres	Neighborhood Park	Community Park	Mrs. Park
Public Recreation Facilities	1 Adams Park	1.45			
	2 Oakshire Park	3.58			
	3 Pleasant Park	1.98			
	4 Linden Park	7.37			
	5 Elm South Park	2.04			
	6 Manor Park	8.47			
	7 Marjorie Belden Park	0.99			
	8 Pleasant Park	5.3			
	8 Overton Tennis Court	0.43			
	10 S. Jones Park	9.98			
	11 W. Lincoln West Side	7.24			
	12 Allen Hunter/Turner Courts	2.83			
	13 Barnum Park	6			
	14 South Park	3.93			
	15 West Sports Arena	0			
	18 Manning Park	21.71			
	17 Lincoln Men's Golf Course	37.15			
	18 Piquette Park	17.21			
	19 Overton Lake Park	27.03			
20 Swan Park	2.26				
21 Springdale Park & Golf Course	45.03				
22 Rock Hill Park	0.65				
23 Oak Hill Park	3.57				
24 Apple House Park	6.2				
25 Rocking Hill Park	0.38				
26 South Hill Park	0.84				
Total Average	23.3				
Public School Facilities	1 Oakley School	21.44			
	2 Jackson Park	10.80			
	3 Pleasant School	8.85			
	4 Overton High School	44.94			
	Total Average	23.72			
Private School Facilities	1 Elton Academy	4.43			
	2 Holy Name Catholic School	3.52			
	3 Our Blessed Mother (Terry)	9.17			
	4 Bishop School	2.02			
Total Average	19.14				
Private Recreation Facilities	1 Birmingham/Westfield Art Center	3.43			
	2 Community House	0.65			
	3 Forest Hills State Club	1.69			
	4 YMCA	1.52			
Total Average (see listed above)	7.8				

Little league field request (2014 plan) and usage evaluation

- Square footage requested by Little league from 2014 plan:
 - 2 x 200' outfield
 - 1 x 180' outfield
 - Area of a triangle = $\frac{1}{2} * (\text{base} * \text{height})$
 - $2 \times 20,000 \text{ ft}^2 = 40,000 \text{ ft}^2$
 - $1 \times 16,200 \text{ ft}^2$
 - Sum = 56,200 sq feet, reserved for unique Little League usage
 - 56,200 square feet = 1.29 acres
 - NOT including the Softball field, which adds 39,200 additional square feet or 0.9 acres for a total of 2.2 acres of dedicated space.
- City Parks plan shows a year over year general decrease in baseball participation within the City of Birmingham = -17% over the quoted 6 year period (approx. average -3% year over year reduction in participation)
- Other City data indicates other outdoor activities showed either less reduction in participation or an increase year over year.
- Questions:
 - Why would the City permit a unique land use at subsidized rate to an exclusionary group that is showing a significant reduction in participation, when other activities are not permitted at subsidized or even market rates?

Land use cost evaluation

- Similar land types:
- Royal Oak sold 10 acres of Normandy Oaks golf course in 2015 for approx. \$4M
- Royal Oak, Zillow.com home value index = \$219,100
(<https://www.zillow.com/royal-oak-mi/home-values/>)
- Birmingham, Zillow.com home value index = \$431,200
(<https://www.zillow.com/birmingham-mi/home-values/>)
- Single data point indicates homes & therefore property/land has a 196% value premium in Birmingham vs. Royal Oak.
- 10 acres of land in Birmingham would theoretically sell for \$4M * 196% = \$7.87M
- Indicates a per acre valuation of \$787,220 without accounting for actual land sales.
- Current check on Loopnet.com indicates land selling at over \$500,000 for 0.3 acre buildable commercial lots
- South East MI, district 9 farmland value, per 2017 MSU Ag. Econ report 650
(https://www.researchgate.net/publication/320024127_2017_Michigan_Land_Values_and_Leasing_Rates)
- = \$4,881 per acre, with a land lease rate of \$141 for field crop, tilled (irrigated = \$278)
- Extrapolate the Birmingham, MI drained land at \$787,200 / acre to \$4,881 / acre = a 161.3 multiplier in land value.
- Lease rate per acre should then be \$141 * 161.3 = \$22,740 per acre.
- Little league are effectively requesting the 20 year reserved use of 56,200 sq feet = 2.2 acres
- Annual lease rate should therefore be \$22,740 * 2.2 = \$50,028 for 3+1 baseball diamonds of the previously specified size.
- 20 year lease, prepaid is therefore \$1,000,560 with no discount taken for NPV or inflation adjustments, assuming that all payment is lump sum
- Annual payments with inflation adjustments result in the following payments to the city:

3% annual inflation adjustment			1% annual inflation adjustment		
Year	Lease payment		Year	Lease payment	
1	\$ 50,028.00		1	\$ 50,028.00	
2	\$ 51,528.84		2	\$ 50,528.28	
3	\$ 53,074.71		3	\$ 51,033.56	
4	\$ 54,666.95		4	\$ 51,543.90	
5	\$ 56,306.95		5	\$ 52,059.34	
6	\$ 57,996.16		6	\$ 52,579.93	
7	\$ 59,736.05		7	\$ 53,105.73	
8	\$ 61,528.13		8	\$ 53,636.79	
9	\$ 63,373.97		9	\$ 54,173.16	
10	\$ 65,275.19		10	\$ 54,714.89	
11	\$ 67,233.45		11	\$ 55,262.04	
12	\$ 69,250.45		12	\$ 55,814.66	
13	\$ 71,327.97		13	\$ 56,372.80	
14	\$ 73,467.80		14	\$ 56,936.53	
15	\$ 75,671.84		15	\$ 57,505.90	
16	\$ 77,941.99		16	\$ 58,080.95	
17	\$ 80,280.25		17	\$ 58,661.76	
18	\$ 82,688.66		18	\$ 59,248.38	
19	\$ 85,169.32		19	\$ 59,840.87	
20	\$ 87,724.40		20	\$ 60,439.27	
Total	\$ 1,344,271.09		Total	\$ 1,101,566.73	

Land use cost evaluation conclusion

- Based upon the reasonable evaluation of similar property valuations & land usage data, the request by Little League to have exclusive 20 year rights to have 3 baseball +1 softball dedicated use on Kenning park for a donation of \$300,000 represents an unfair deal for the City of Birmingham & it's residents by preventing all other land usage in the park as it unfairly provides the Little League with a sub-market rate & therefore taxpayer subsidized opportunity to use public land for private use.
- Little League is a registered non profit organization and as such must not generate a profit on an annual basis, but the granting of dedicated land use at a significant discount to market rate, while using taxpayer funds to subsidize such use represents a questionable use of public funds for the benefit of a private organization.
- Little League by it's own definition is:



- As such the Non Profit falls into the category of one whose mission is non charitable but one that exists strictly for the private benefit of the members.
- Therefore, if the Little League is to benefit from the exclusive use of the Kenning park 3 + 1 diamonds, they should be paying the prevailing market rates as detailed above.

Little League donation & lack of correlation to the plan

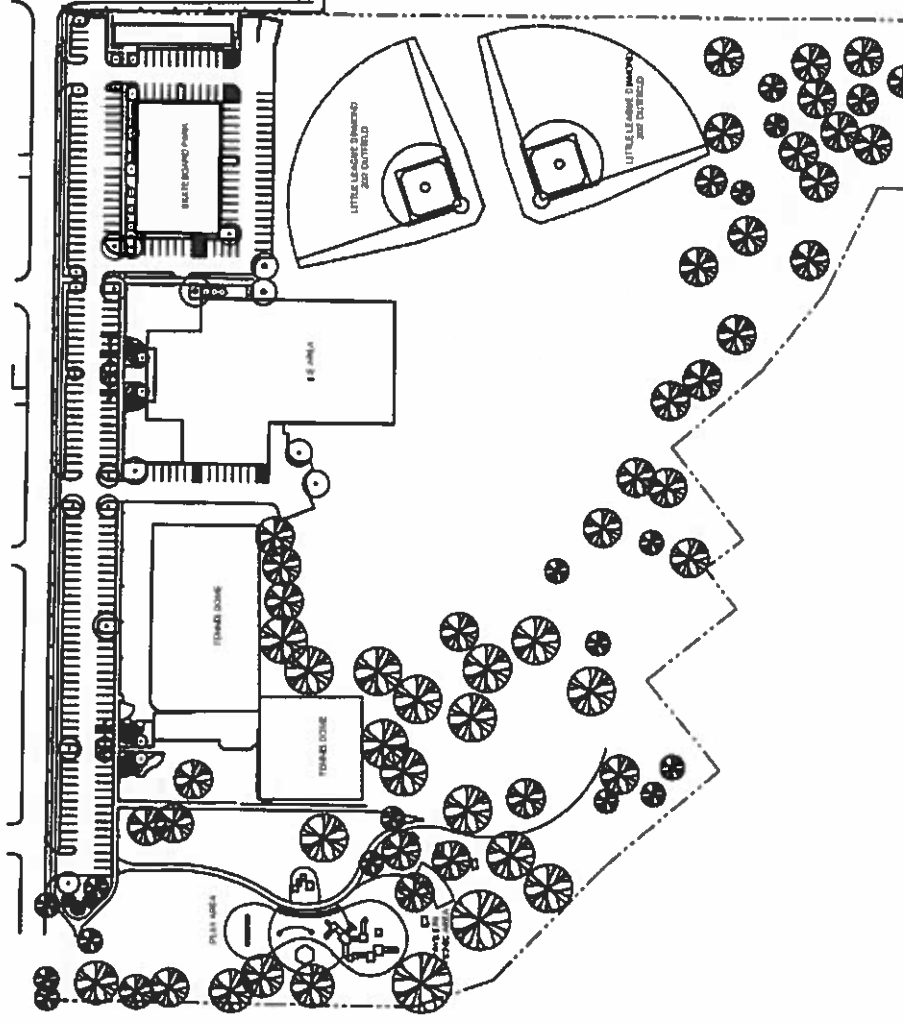
General Terms

- 1) The donation of Three Hundred Three Thousand Dollars (\$303,000) shall be used for the renovation of the two easterly Little League baseball fields comprised of Fields 2 and 3 in Kenning Park. Said renovations shall be in accordance with the City's specifications, processes and its sole approval. Should the total project cost come in less than the donation amount, any excess funds shall be returned to B.L.L.
- 2) Kenning Park shall be renovated and/or designed for the intended use of the public.
- 3) Maintenance of the fields and parks will be performed by the City in accordance with its standards and practices.
- 4) The donation from B.L.L. to renovate two Little League baseball fields comprised of Fields 2 and 3 in Kenning Park shall not limit or restrict the City in any planned future uses of Kenning Park.
- 5) All construction activities with respect to Phase II of this Agreement shall be at the sole discretion of the Birmingham City Commission.

Field Usage

- 1) In consideration of their donation to renovate two Little League baseball fields (Fields 2 and 3) at Kenning Park, B.L.L. shall have the first right of refusal for use of these fields for the next 20 years (thru 2038), subject to B.L.L. continuing to be the most frequent user of these fields based on permits issued.
- 2) In consideration of their donation to renovate two Little League baseball fields (Fields 2 and 3) at Kenning Park, the City agrees to make available 4 baseball fields in Kenning Park for the use of B.L.L., notwithstanding the fields will also be available for public use and subject to B.L.L. continuing to be the most frequent user of these fields based on permits issued. The City reserves the right to change the utilization of the unimproved ballfields in Kenning Park after a 10 year period (2028), should the City revise its plans for Kenning Park. If such circumstance exists, the City agrees to make fields available at other parks in the City for use by B.L.L.

Timeframe

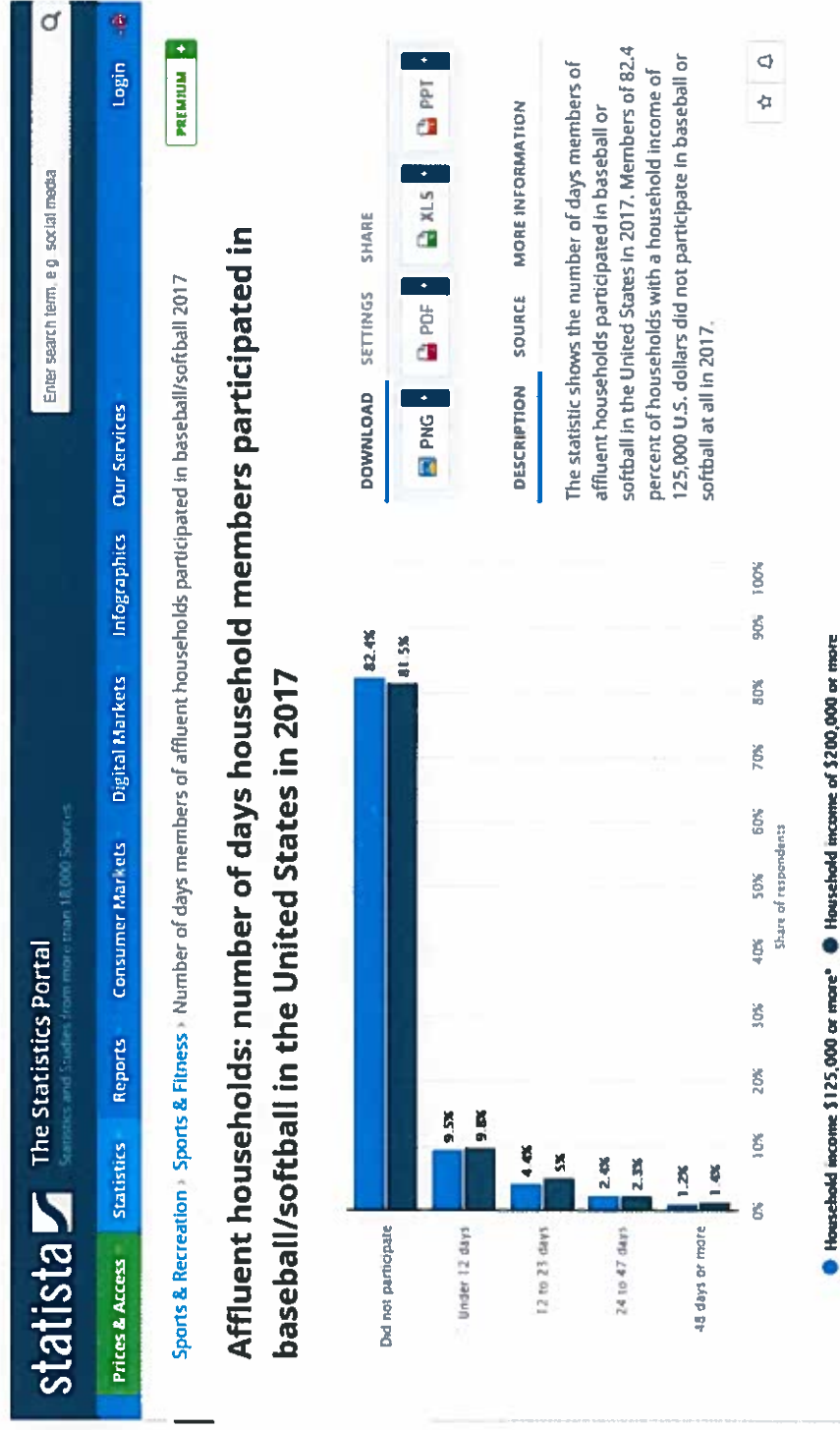


Little League donation & lack of correlation to the plan

- The City of Birmingham needs to explain how the proposed plan from the Little League correlates to the Kenning Master plan as the 2 provided views are not compatible with each other.
- It is the opinion of this resident that until the plans are complementary, there will be risk of significant waste of money & resources on the 2 noted fields in addition to the other noted concerns above.
- The decision to agree with Little League should be postponed until such time the Kenning Park master plan is approved so that the use of the field & funds allocation can be appropriately matched & utilized.
- To do otherwise would constitute a breach of fiduciary responsibility to the community for fair & optimum use of taxpayer funds.
- Your, Andrew Haig.

Baseball use statistics:

- Birmingham MI counts as an affluent household city.
- 2.2 acres of baseball fields in 1 park represent 1.7% of the total available non golf course park area within the City.
- Birmingham has a total of 12 baseball, softball & Little league diamonds within the city.
- City population is approx. 20,000 residents
- Per the graphic, only 19% participate in baseball = 3,800 residents wanting usage throughout the entire year.
- Is this value for the City compared to other usage options?



Kenning Park, Tennis courts & South Eton corridor improvements

- Tennis Courts as shown on the NE corner of Eton & Lincoln are in the proposed 2014 plan.
- South Eton corridor is under discussion for significant changes & improvements per the Multi Modal Board
- Residents obviously have a desire for tennis courts as evidenced by the 4 courts that currently exist & are in active use throughout the summer.
- Residents additionally have a strong desire for the childrens play area to be expanded and to have the pavilion & picnic area developed as shown on the plan.
- Any adjustments to the area adjacent to S. Eton should be postponed until the Multi Modal changes have been agreed and physically completed, to avoid any plan conflicts or any additional expense due to unforeseen issues with the roadway reconstruction & reconfiguration.
- 2014 Plan noted degradation of community facilities
- Removal of 1 public tennis court (4 to 3).
- Removal of the community compost & wood chip piles that are currently south of the police pistol range.
- Removal of the parking area east, south & west of the skateboard park
- Additional parking shown where the current tennis courts are located does not show any increase in parking availability, only a transfer of location
- Little League diamonds show the centre of the diamond to be grasses area, softball to be gravel. Current fields are all gravel, will the future plan be as drafted or as today's reality?
- Additional questions:
- The anticipated re-submission from Lincoln Yard restaurant for a large restaurant which has required additional parking in the same area will not provide for sufficient parking space for Little League plus Restaurant combined, unless this has been already studied & not added to the plan and distributed to the affected communities.



Connie Folk <cfolk@bhamgov.org>

Fwd: Re: Kenning Park Meeting Dec 5

1 message

Lauren Wood <lwood@bhamgov.org>

Tue, Dec 5, 2017 at 8:57 AM

To: "Laird, Carrie" <Claird@bhamgov.org>, "Folk, Connie" <Cfolk@bhamgov.org>

----- Forwarded message -----

From: "Joe Valentine" <jvalentine@bhamgov.org>

Date: Dec 5, 2017 8:40 AM

Subject: Re: Kenning Park Meeting Dec 5

To: "Charlie Forbes" <cforbes284@yahoo.com>

Cc: "lwood@bhamgov.org" <lwood@bhamgov.org>, "cmynsberge@bhamgov.org" <cmynsberge@bhamgov.org>, "Larry Bertollini" <lbartollini@att.net>

Charlie,

Thank you for your email. Lauren will share it with the Parks Board at their meeting tomorrow evening. Just for clarification, the Parks & Recreation Bond was passed in 2001 and the last issuance from the 2001 approval was in 2008. In previous discussion with the City's Bond Counsel, it was determined that attempting to issue bonds on an approval from 16 years ago was not appropriate and, therefore, there are not bond funds available for current park improvements. I thought you may find this of interest.

Regards,
Joe Valentine

On Mon, Dec 4, 2017 at 7:20 PM, Charlie Forbes <cforbes284@yahoo.com> wrote:

Dear Neighbors,

On December 5th @ 6:30pm (851 Eton St) the Parks & Rec Board is planning to discuss Birmingham Little League's donation of approximately \$300,000 to reconfigure two easterly baseball diamonds. Sounds like a nice idea, however, there are strings attached. For one, the City will sign off on a twenty year agreement that includes keeping 4 baseball diamonds at Kenning Park. There are presently 4 baseball diamonds now however, the 2014 Kenning Park master plan added a dedicated open field for soccer & other sports of a similar nature. There was some shifting of the baseball fields to allow 4 diamonds instead of eliminating 1 of the baseball fields on the master plan to allow more diverse use of the park. The important point is that the Kenning Park master plan needs to be revised before any major developments are done so that baseball users do not dominate the use of the park. For the December 5th meeting the City has hired Johnson Hill to develop schemes that show how the Birmingham Little league's proposal can work with 4 diamonds.

Kenning Park is the only public park covering the residential areas east of Woodward Avenue and south of Maple Road yet it lacks a decent open field for soccer.

On April 7, 2008, the City Commission approved to issue \$ 4 million in park bonds of which \$ 650,000 was

potentially to be used at Kenning Park. Why does Kenning Park have to rely on outside private funding to get improvements such as an open space for soccer?

Making proposals and improvements WITHOUT a "master plan" the residents support is not in the best interest of the community. There is nothing to base conformance on and the park's vision becomes more and more subjective instead of objective. Please update the master plan & do not agree to keep 4 baseball fields if soccer cannot have a dedicated field.

All voices would be much appreciated at the upcoming meeting. I know people are busy with life and work but this is the most important meeting of the year. Little League dropped out of the last meeting in November hours before because I feel they needed more time to prepare as they were facing some opposition. I am unfortunately unable to attend as I am out of the country on business. It is imperative that we get our voices heard.

I think the "Master Plan" is ridiculous and flawed and I need your help. If you agree with me please forward this email with or without thoughts to Lwood@bhamgov.org and jvalentine@bhamgov.org (Director of Public Services and City Manager) and feel free to CC it back to me.

Lauren Wood - please add this to your agenda tomorrow night.

Regards,

Charlie Forbes

—
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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Connie Folk <cfolk@bhamgov.org>

Fwd: Re: Kenning Park

Lauren Wood <lwood@bhamgov.org>

Tue, Dec 5, 2017 at 8:58 AM

To: "Folk, Connie" <cfolk@bhamgov.org>, "Laird, Carrie" <Claird@bhamgov.org>

----- Forwarded message -----

From: "Joe Valentine" <jvalentine@bhamgov.org>

Date: Dec 5, 2017 8:56 AM

Subject: Re: Kenning Park

To: "Todd Macintosh" <tmacintosh@comcast.net>

Cc: "Lauren Wood" <Lwood@bhamgov.org>

Todd,

Thank you for your email. We will be sure to share it with the Parks & Recreation Board at their meeting this evening.

Regards,
Joe Valentine

On Mon, Dec 4, 2017 at 9:35 PM, Todd Macintosh <tmacintosh@comcast.net> wrote:

Sent from my iPhone

Begin forwarded message:

From: Todd Macintosh <tmacintosh@comcast.net>

Date: December 4, 2017 at 9:29:43 PM EST

To: Lwood@bhamgov.org

Subject: Kenning Park

Hello. My name is Todd MacIntosh.
The following letter encourages me to
share thoughts on the future of Kenning Park.
My 2 Comments appeared on The Torry
Community Webpage, and follow the
Charlie Forbes letter. Thank You. TM

Dear Neighbors,

On December 5th @ 6:30pm (851 Eton St) the Parks & Rec Board is planning to discuss Birmingham Little League's donation of approximately \$300,000 to reconfigure two easterly baseball diamonds. Sounds like a nice idea, however, there are strings attached. For one, the City will sign off on a twenty year agreement that includes keeping 4 baseball diamonds at Kenning Park. There are presently 4 baseball diamonds now however, the 2014 Kenning Park master plan added a dedicated open field for soccer & other sports of a similar nature. There was some shifting of the baseball fields to allow 4 diamonds instead of eliminating 1 of the baseball fields on the master plan to allow more diverse use of the park. The important point is that the Kenning Park master plan needs to be revised before any major developments are done so that baseball users do not dominate the use of the park. For the December 5th meeting the City has hired Johnson Hill to develop schemes that show how the Birmingham Little league's proposal can work with 4 diamonds.

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I think the "Master Plan" is ridiculous and flawed and I need your help. If you agree with me please forward this email with or without thoughts to Lwood@bhamgov.org and Jvalentine@bhamgov.org (Director of Public Services and City Manager) and feel free to CC it back to me.

Please let me know if you are able to attend - we need to keep the park a park! Thank you.

Regards,
Charlie Forbes

Todd MacIntosh:
Its really a shame that our only hope of an Open Green Space, has been reduced to calling it a Soccer Field. Sounds like any chance of a Natural Park has been lost. This is a Commercial Development Sellout. Disneyland is for kids too, and they still call it a "Park."

Todd MacIntosh:
This Community is at a turning point. It's almost laughable to keep referring to Kenning as a "Park". Yes, this weirdly, reoccurring courtship between The Council, and The Little League® CORPORATION, is a land grab that assures Our Park becomes a 20 YEAR SPORTS COMPLEX. Traffic off of Eton, is out of control, residential parking on neighborhood streets is making them impassible. Let's make it WORSE. If Birmingham's "Master Plan" is to sell it all off and become Sterling Heights, they're heading in the right direction.

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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12/5/2017

City of Birmingham MI Mail - Fwd: Re: Kenning Park



Connie Folk <cfolk@bhamgov.org>

Fwd: Re: IMPORTANT Kenning Park meeting TOMORROW

1 message

Lauren Wood <lwood@bhamgov.org>

Tue, Dec 5, 2017 at 8:59 AM

To: "Laird, Carrie" <Claire@bhamgov.org>, "Folk, Connie" <Cfolk@bhamgov.org>

----- Forwarded message -----

From: "Joe Valentine" <jvalentine@bhamgov.org>

Date: Dec 5, 2017 8:42 AM

Subject: Re: IMPORTANT Kenning Park meeting TOMORROW

To: "Kathie Williams" <kathie113@yahoo.com>

Cc: "Lauren Wood" <Lwood@bhamgov.org>

Kathie,

Thank you for sharing your email.

Regards,
Joe Valentine

On Mon, Dec 4, 2017 at 8:30 PM, Kathie Williams <kathie113@yahoo.com> wrote:

Sent from my iPad

Begin forwarded message:

From: Charlie Forbes <cforbes284@yahoo.com>

Date: December 4, 2017 at 7:25:43 PM EST

To: "cforbes284@yahoo.com" <cforbes284@yahoo.com>

Subject: IMPORTANT Kenning Park meeting TOMORROW

Reply-To: Charlie Forbes <cforbes284@yahoo.com>

Dear Neighbors,

On December 5th @ 6:30pm (851 Eton St) the Parks & Rec Board is planning to discuss Birmingham Little League's donation of approximately \$300,000 to reconfigure two easterly baseball diamonds. Sounds like a nice idea, however, there are strings attached. For one, the City will sign off on a twenty year agreement that includes keeping 4 baseball diamonds at Kenning Park. There are presently 4 baseball diamonds now however, the 2014 Kenning Park master plan added a dedicated open field for soccer & other sports of a similar nature. There was some shifting of the baseball fields to allow 4 diamonds instead of eliminating 1 of the baseball fields on the master plan to allow more diverse use of the park. The important point is that the Kenning Park master plan needs to be revised before any major developments are done so that baseball users do not dominate the use of the park. For the December 5th meeting the City has hired

Johnson Hill to develop schemes that show how the Birmingham Little league's proposal can work with 4 diamonds.

Kenning Park is the only public park covering the residential areas east of Woodward Avenue and south of Maple Road yet it lacks a decent open field for soccer.

On April 7, 2008, the City Commission approved to issue \$ 4 million in park bonds of which \$ 650,000 was potentially to be used at Kenning Park. Why does Kenning Park have to rely on outside private funding to get improvements such as an open space for soccer?

Making proposals and improvements WITHOUT a "master plan" the residents support is not in the best interest of the community. There is nothing to base conformance on and the park's vision becomes more and more subjective instead of objective. Please update the master plan & do not agree to keep 4 baseball fields if soccer cannot have a dedicated field.

All voices would be much appreciated at the upcoming meeting. I know people are busy with life and work but this is the most important meeting of the year. Little League dropped out of the last meeting in November hours before because I feel they needed more time to prepare as they were facing some opposition. I am unfortunately unable to attend as I am out of the country on business. It is imperative that we get our voices heard.

I think the "Master Plan" is ridiculous and flawed and I need your help. If you agree with me please forward this email with or without thoughts to Lwood@bhamgov.org and Jvalentine@bhamgov.org (Director of Public Services and City Manager) and feel free to CC it back to me.

Please let me know if you are able to attend - we need to keep the park a park! Thank you.

Regards,

Charlie Forbes

--
Joseph A. Valentine
City Manager
[City of Birmingham](#)
[151 Martin Street](#)
Birmingham, MI 48009
[\(248\) 530-1809](#) Office Direct

12/5/2017

City of Birmingham MI Mail - Fwd: Re: IMPORTANT Kenning Park meeting TOMORROW

(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.



Connie Folk <cfolk@bhamgov.org>

Fwd: December 5 Parks & Rec Meeting regarding Birmingham Little League Proposal

Lauren Wood <lwood@bhamgov.org>

Tue, Dec 5, 2017 at 1:28 PM

To: "Folk, Connie" <cfolk@bhamgov.org>, "Laird, Carrie" <Claird@bhamgov.org>

Lauren Wood
Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
direct dial: 248.530.1702

----- Forwarded message -----

From: Lauren Wood <lwood@bhamgov.org>

Date: Tue, Dec 5, 2017 at 1:27 PM

Subject: Re: December 5 Parks & Rec Meeting regarding Birmingham Little League Proposal

To: larry bertollini <lbartollini@att.net>

Larry,

I am in receipt of your comments.

A copy will be provided to the Parks Board tonight.

Lauren

Lauren Wood
Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
direct dial: 248.530.1702

On Mon, Dec 4, 2017 at 5:01 PM, larry bertollini <lbartollini@att.net> wrote:

Dear Parks & Rec Board,

I am unable to attend the Parks & Rec meeting tomorrow night. The Birmingham Little League proposal site plan does not show how the plan works with the existing site conditions or Kenning Park 2014 master plan. The proposed fields on the site plan drawing provided by Birmingham Little League also appears to indicate a fence around the entire area- if this is the case are there alternatives to a fence? Also if the outfield does not have a fence around it would keeping the outfield in the same orientation be better so that the grass open space is able to be combined & larger. The proposal splits the outfields into two separate areas.

Again, as stated in my previous correspondence I am opposed the the City agreeing to a long term commitment to the 4 baseball fields at Kenning Park because we just do not know what the future demand or needs may be.

Thank you.

Larry Bertollini

12/5/2017

City of Birmingham MI Mail - Fwd: December 5 Parks & Rec Meeting regarding Birmingham Little League Proposal



Connie Folk <cfolk@bhamgov.org>

Fwd: Re: Kenning Park

Lauren Wood <lwood@bhamgov.org>

Tue, Dec 5, 2017 at 1:33 PM

To: "Folk, Connie" <cfolk@bhamgov.org>, "Laird, Carrie" <Claird@bhamgov.org>

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
direct dial: 248.530.1702

----- Forwarded message -----

From: **Lauren Wood** <lwood@bhamgov.org>

Date: Tue, Dec 5, 2017 at 1:33 PM

Subject: Re: Kenning Park

To: Rich Fiori <goingblue@gmail.com>

Cc: "Jvalentine@bhamgov.org" <Jvalentine@bhamgov.org>, Larry Bertollini <bertollini@att.net>, Charlie Forbes <cforbes284@yahoo.com>

Rich,

Thank you for sending the email. It will be provided to the Parks Board at their meeting tonight.

Lauren

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
direct dial: 248.530.1702

On Mon, Dec 4, 2017 at 8:03 PM, Charlie Forbes <cforbes284@yahoo.com> wrote:

Thank you Rich,

Lauren please make note of this email.

Thanks,
Charlie

From: Rich Fiori <goingblue@gmail.com>
To: Lwood@bhamgov.org; jvalentine@bhamgov.org
Cc: 'Charlie Forbes' <cforbes284@yahoo.com>
Sent: Monday, December 4, 2017 7:54 PM
Subject: Kenning Park

Hello,

I've been following the proposed changes to Kenning Park.

I live at [1392 East Melton Road](#). Across from the park. While I strongly support the upgrades... this plan to make it all baseball diamonds is kind of ridiculous. I did review the mapped layout and it just doesn't seem right.

Thanks for the donation, but I'm sure soccer fields, dog runs, maintaining open spaces and park area for recreation could be accommodated too - and the city/bond could afford it just fine. Really why not a dog park or run?

This is a great opportunity. Please Please Please don't screw it up. Don't rush it through. Leave the special interest out of this and do the right thing for the people that live in this area. I know things can get bogged down with too much bureaucracy and god bless the little league people – whoever they are – for getting the ball rolling here but there is plenty of space and plenty of time to make this way more awesome. Give the little league one more diamond or upgrade what they have and do the other things suggested. I'm sure there is other feedback on what could be nice in this area.

Can I just ask, why is the City of Birmingham dependent on private funding? I'm staring at my tax bill to live in this city as I write this – wondering where does the money go? I lived in Scottsdale and Ahwatukee in AZ, in a very nice city, with everything, and never paid one cent in City taxes. Just HOA fees. Just doesn't add up. But, fine, whatever.

Just please reconsider this plan and try to make more people happy. It's not that hard to do.

Richard Fiori
[1392 East Melton Rd.](#)
Birmingham, MI 48009

Rich Fiori | Birmingham, MI | Text/Phone: [2487437193](tel:2487437193) | goingblue@gmail.com



Connie Folk <cfolk@bhamgov.org>

Re: December 5th Kenning Park proposal for the Master plan - resident input on the Little League - additional data from City website

1 message

Andrew Haig <amhaig@yahoo.com>

Tue, Dec 5, 2017 at 2:20 PM

Reply-To: Andrew Haig <amhaig@yahoo.com>

To: "lwood@bhamgov.org" <lwood@bhamgov.org>, "claired@bhamgov.org" <claired@bhamgov.org>, "cfolk@bhamgov.org" <cfolk@bhamgov.org>, "jvalentine@bhamgov.org" <jvalentine@bhamgov.org>

Unfortunately the City website was updated last night with the new 2018 master plan draft, which has proved to be very helpful reading & also contributed a lot towards cementing the Community desires as a bigger picture.

Looking at the survey data it has actually further driven home the point that we are significantly over represented in a couple of area's & under represented in others, so using the data from the master plan I added a couple of points & have an alternative proposal that is trying to give a win-win for all. It is very clear from resident feedback that something is wanted at Kenning Park, but making it a baseball specific park is absolutely NOT that want.

If possible I would like to have this proposal reviewed & commented upon as any signing of a lease with Little League, after the survey data was made public would actually be a contravention of the community wants for that park & does merit a period of review, along with the master plan prior to any commitment being made.

Revised presentation attached.

Yours,

Andrew Haig.

From: Andrew Haig <amhaig@yahoo.com>

To: "lwood@bhamgov.org" <lwood@bhamgov.org>; "claired@bhamgov.org" <claired@bhamgov.org>; "cfolk@bhamgov.org" <cfolk@bhamgov.org>; "jvalentine@bhamgov.org" <jvalentine@bhamgov.org>

Cc: "jvalentine@bhamgov.org" <jvalentine@bhamgov.org>

Sent: Monday, December 4, 2017 4:39 PM

Subject: December 5th Kenning Park proposal for the Master plan - resident input on the Little League

Unfortunately I do not have access to the email addresses of everyone from the Parks board, so please can you make sure that my thoughts are made known to the board prior to the meeting & any decisions tomorrow.

I made a short presentation of my thoughts on what is happening with respect to the other events going on in the neighbourhood & I find it of concern that they are not addressed in an obvious manner as the sum of the whole, rather as individual items that need to be tied together. I may be mistaken in this though, it is not obvious to me.

In short, the choice to permit Little League to pay the measly sum of \$300k for the rights that the City is giving away is grossly insufficient for the market rate for land use in the area. My evaluation with sources is given in the presentation. If they are at market rate, there is no reason why they should not have this opportunity, but as it stands, what they want to have versus what they would pay in the form of a donation is insufficient, especially when use with the terms 'lease'. Legally lease & donation are very different entities & this is effectively a lease they want in a backdoor manner.

I would appreciate some feedback to this, as the public view seems odd, even after reading the documents in depth.

Yours,

Andrew Haig

 **Kenning Park 2017 - 12 v 2.pdf**
1155K

Kenning Park, Birmingham MI

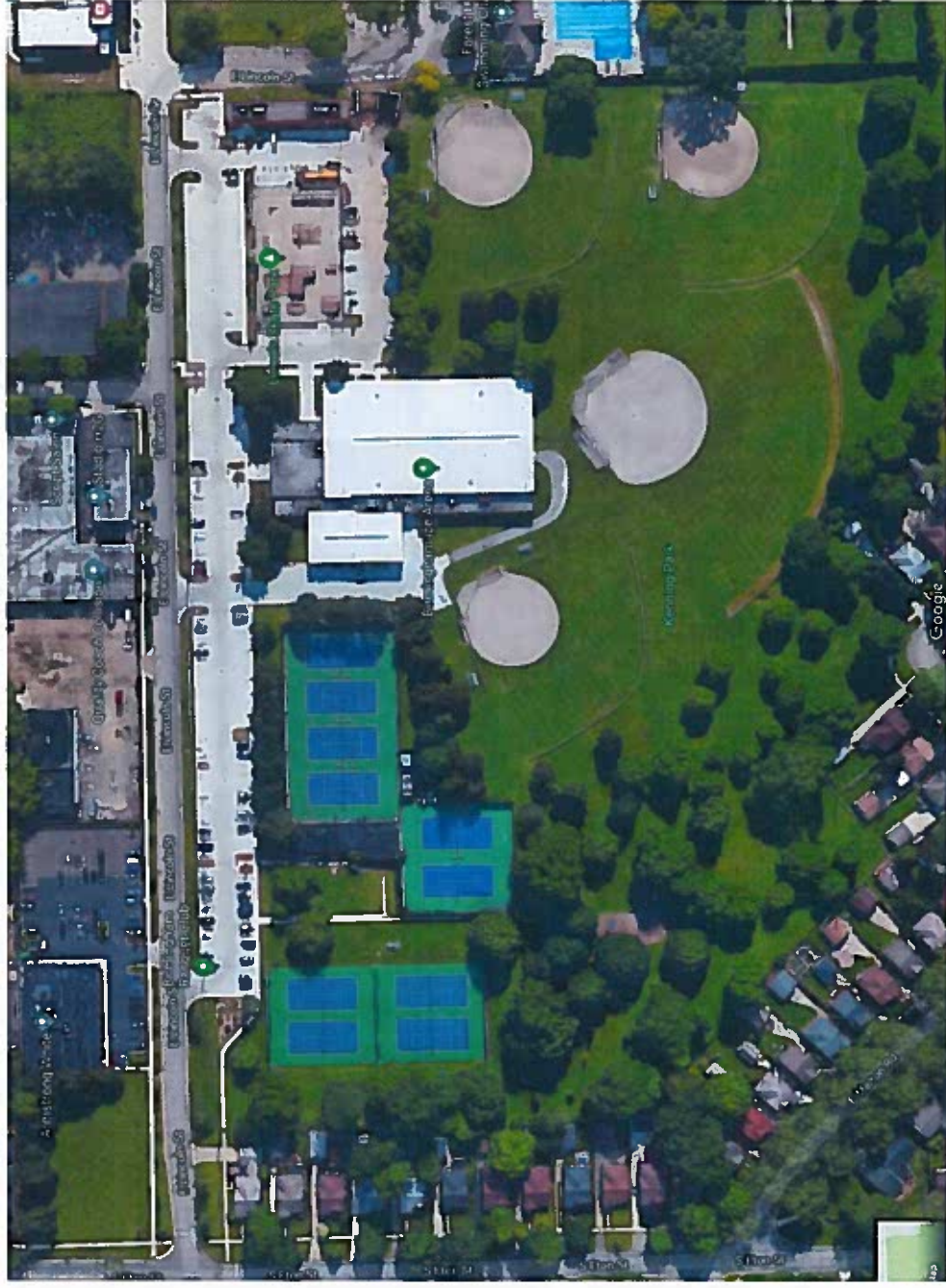
December 2017 park proposals options & alternatives
As presented to the City board.

Updated 12/5 with 2018 Parks Master plan draft data

Current City website master plan proposal
http://www.bhamgov.org/DPS/Kenning_Park_master_plan_revised_04_30_2014.pdf



Current Google maps satellite view



City Parks plan excerpts

Goal #3: To create a community of healthy residents by providing opportunities that promote and encourage active lifestyles.

Birmingham has an active resident base that includes runners, cyclists, soccer players, walkers, skaters, hockey players, golfers, etc. The health of the aging population will need to be maintained through private and public efforts.

Goal #4: Provide recreation programming and facility opportunities that meet the needs and interests of the entire community.

City of Birmingham Schedule of Proposed Capital Improvements ('12 - '16)

	2012	2013	2014	2015	2016	Estimated Total Over Five Years (\$155)	Proposed Funding Source(s)	Basis for Action
General Park Enhancements								
Continue general landscape and beautification	•	•	•	•	•	25,000	Donations/General Fund	Administration
General Baseball/Soccer Field Maintenance	•	•	•	•	•	25,000	AAA Grant/General Fund	Administration
General Tennis Court Maintenance	•	•	•	•	•	45,000	General Fund	Public Input, Administration
Installation of Bike Racks	•	•	•	•	•	18,000	General Fund	Public Input, Administration
Installation of Drinking Fountains	•	•	•	•	•	35,000	Donations/General Fund	Public Input, Administration
Installation of Electric Outlets	•	•	•	•	•	750	Donations/General Fund	Public Input, Administration
Installation of Park Benches and Plastic Tables	•	•	•	•	•	48,000	Donations/General Fund	Public Input, Administration
Installation of Port Shelters (Location TBD)	•	•	•	•	•	20,000	Donations/General Fund	Public Input, Administration
Installation of Park Signage	•	•	•	•	•	100,000	Donations/General Fund	Public Input, Administration
Land acquisition opportunities	•	•	•	•	•	750	Donations/General Fund	Administration
Open Space Maintenance, i.e., seeding, drainage and grading at various Parks	•	•	•	•	•	88,000	Donations/General Fund	Administration
Programmed Equipment Maintenance (e.g. ADA Replacement Equipment)	•	•	•	•	•	59,000	Donations/General Fund	Parks & Recreation Board
Rehabilitation of Public Property	•	•	•	•	•	25,000	Donations/General Fund	Administration
Site Furnishings (Benches, trash receptacles, tables)	•	•	•	•	•	88,000	Donations/General Fund	Administration

City Parks plan excerpts, continued

City of Birmingham Participation Data

Activity	2004	2005	2006	2007	2008	2009	2010
Youth Skating Lesson	1,500	1,241	1,216	1,081	784	381	391
Figure Skating Club of Birmingham	150	150	100	100	100	100	100
Birmingham Hockey Association	580	531	519	501	384	349	320
Adult Softball Program	140	140	120	120	120	100	100
Junior Golf	286	239	336	396	378	420	341
Birmingham Little League	653	626	553	560	531	544	547
Springdale Golf Course							
Rounds	28,151	28,560	24,546	24,097	25,674	27,716	25,782
Lincoln Hills Golf Course							
Rounds	31,401	28,710	29,455	27,893	29,905	25,950	21,335
Birmingham United Soccer	N/A	110	129	178	103	156	128
Birmingham Bloomfield Soccer Club	1,221	1,291	1,360	2,580	2,539	2,327	2,478
Birmingham Racquet club	600	600	600	700	550	475	416
Forest Hill Swim Club	450	450	450	450	450	450	450

Source: City of Birmingham Facility Users and Participants

2009 Participation --Ranked by Total Participation
Participation rates (per 1,000 residents)
Seven (7) years of age and older

Sport	Total	Percent Change *	Sport	Total	Percent Change *
Exercise Walking	93.4	-3.4%	Softball	11.8	-7.9%
Exercise w/Equipment	57.2	4%	Baseball	11.5	-13.5%
Camping	50.9	3%	Tennis	10.8	-14.5%
(vacation/overnight)	50.2	-8.1%	Volleyball	10.7	
Swimming	45	0.6%	Football	8.9	-8.2%
Bowling	38.3	-2.6%	(touch)	8.4	-13.6%
Workout at Club			Stateboarding Mountain		
Bicycle Riding	38.1	-1.5%	Biking (off road)	8.4	-17.8%
Weight Lifting	34.5	1.8%	Scooter	8.1	-19.9%
Hiking	34	2.8%	In-Line Roller Skating	7.9	-15.4%
Aerobic Exercising	33.1	3%	Archery (target)	7.1	na
Fishing	32.8	-22%	Slang (alpine)	7.0	7.3%
Running/Jogging	32.2	1%	Paintball	6.3	-8.5%
Billiards/Pool	28.2	-11.1%	Games	6.2	5.7%
Basketball	24.4	-5%	Snowboarding	6.2	
Boating	24	-13.9%	Hunting	6.2	0.2%
MotorPower	24	-13.9%	w/Blow & Arrow	5.2	-7.2%
Golf	22.3	-3.9%	Water Skiing	5.2	
Target Shooting (net)	19.8	-2.4%	Target Shooting-Air gun	5.2	4.3%
Hunting with Firearms	18.8	0.3%	Keyring	4.9	na
Yoga	16.7	20.8%	Gymnastics	3.9	na
Soccer	13.6	0.6%	Muzzle loading	3.8	11.6%
Table Tennis	13.3	na	Hockey (ice)	3.1	60%
Backpack/Wilderness Camp	12.3	-5.3%	Wrestling	3	na
Dart Throwing	12.2	na	Slang (Cross Country)	1.7	7.4%

*Percent Change is from 2008
Source: City of Birmingham

Basis For Action

[http://www.bhamgov.org/document_center/Clerks Office/2012 2016 Master Plan.pdf](http://www.bhamgov.org/document_center/Clerks%20Office/2012%20Master%20Plan.pdf)

[illegible]

Little league field request (2014 plan) and usage evaluation

- Square footage requested by Little league from 2014 plan:
 - 2 x 200' outfield
 - 1 x 180' outfield
 - Area of a triangle = $\frac{1}{2} \times (\text{base} \times \text{height})$
 - $2 \times 20,000 \text{ ft}^2 = 40,000 \text{ ft}^2$
 - $1 \times 16,200 \text{ ft}^2$
 - Sum = 56,200 sq feet, reserved for unique Little League usage
 - 56,200 square feet = 1.29 acres
 - NOT including the Softball field, which adds 39,200 additional square feet or 0.9 acres for a total of 2.2 acres of dedicated space.
- City Parks plan shows a year over year general decrease in baseball participation within the City of Birmingham = -17% over the quoted 6 year period (approx. average -3% year over year reduction in participation)
- Other City data indicates other outdoor activities showed either less reduction in participation or an increase year over year.
- Questions:
 - Why would the City permit a unique land use at subsidized rate to an exclusionary group that is showing a significant reduction in participation, when other activities are not permitted at subsidized or even market rates?

Land use cost evaluation

- Similar land types:
- Royal Oak sold 10 acres of Normandy Oaks golf course in 2015 for approx. \$4M
- Royal Oak, Zillow.com home value index = \$219,100
 • (<https://www.zillow.com/royal-oak-mi/home-values/>)
- Birmingham, Zillow.com home value index = \$431,200
 • (<https://www.zillow.com/birmingham-mi/home-values/>)
- Single data point indicates homes & therefore property/land has a 196% value premium in Birmingham vs. Royal Oak.
- 10 acres of land in Birmingham would theoretically sell for \$4M * 196% = \$7.87M
- Indicates a per acre valuation of \$787,220 without accounting for actual land sales.
- Current check on Loopnet.com indicates land selling at over \$500,000 for 0.3 acre buildable commercial lots
- South East MI, district 9 farmland value, per 2017 MSU Ag. Econ report 650
 • (https://www.researchgate.net/publication/320024127_2017_Michigan_Land_Values_and_Leasing_Rates)
 = \$4,881 per acre, with a land lease rate of \$141 for field crop, tilled (Irrigated = \$278)
- Extrapolate the Birmingham, MI drained land at \$787,200 / acre to \$4,881 / acre = a 161.3 multiplier in land value.
- Lease rate per acre should then be \$141 * 161.3 = \$22,740 per acre.
- Little league are effectively requesting the 20 year reserved use of 56,200 sq feet = 2.2 acres
- Annual lease rate should therefore be \$22,740 * 2.2 = \$50,028 for 3+1 baseball diamonds of the previously specified size.
- 20 year lease, prepaid is therefore \$1,000,560 with no discount taken for NPV or inflation adjustments, assuming that all payment is lump sum
- Annual payments with inflation adjustments result in the following payments to the city:

3% annual inflation adjustment			1% annual inflation adjustment		
Year	Lease payment		Year	Lease payment	
1	\$ 50,028.00		1	\$ 50,028.00	
2	\$ 51,528.84		2	\$ 50,528.28	
3	\$ 53,074.71		3	\$ 51,033.56	
4	\$ 54,666.95		4	\$ 51,543.90	
5	\$ 56,306.95		5	\$ 52,059.34	
6	\$ 57,996.16		6	\$ 52,579.93	
7	\$ 59,736.05		7	\$ 53,105.73	
8	\$ 61,528.13		8	\$ 53,636.79	
9	\$ 63,373.97		9	\$ 54,173.16	
10	\$ 65,275.19		10	\$ 54,714.89	
11	\$ 67,233.45		11	\$ 55,262.04	
12	\$ 69,250.45		12	\$ 55,814.66	
13	\$ 71,327.97		13	\$ 56,372.80	
14	\$ 73,467.80		14	\$ 56,936.53	
15	\$ 75,671.84		15	\$ 57,505.90	
16	\$ 77,941.99		16	\$ 58,080.95	
17	\$ 80,280.25		17	\$ 58,661.76	
18	\$ 82,688.66		18	\$ 59,248.38	
19	\$ 85,169.32		19	\$ 59,840.87	
20	\$ 87,724.40		20	\$ 60,439.27	
Total	\$ 1,344,271.09		Total	\$ 1,101,566.73	

Land use cost evaluation conclusion

- Based upon the reasonable evaluation of similar property valuations & land usage data, the request by Little League to have exclusive 20 year rights to have 3 baseball + 1 softball dedicated use on Kenning park for a donation of \$300,000 represents an unfair deal for the City of Birmingham & it's residents by preventing all other land usage in the park as it unfairly provides the Little League with a sub-market rate & therefore taxpayer subsidized opportunity to use public land for private use.
- Little League is a registered non profit organization and as such must not generate a profit on an annual basis, but the granting of dedicated land use at a significant discount to market rate, while using taxpayer funds to subsidize such use represents a questionable use of public funds for the benefit of a private organization.
- Little League by it's own definition is:



- As such the Non Profit falls into the category of one whose mission is non charitable but one that exists strictly for the private benefit of the members.
- Therefore, if the Little League is to benefit from the exclusive use of the Kenning park 3 + 1 diamonds, they should be paying the prevailing market rates as detailed above.

Little League donation & lack of correlation to the plan

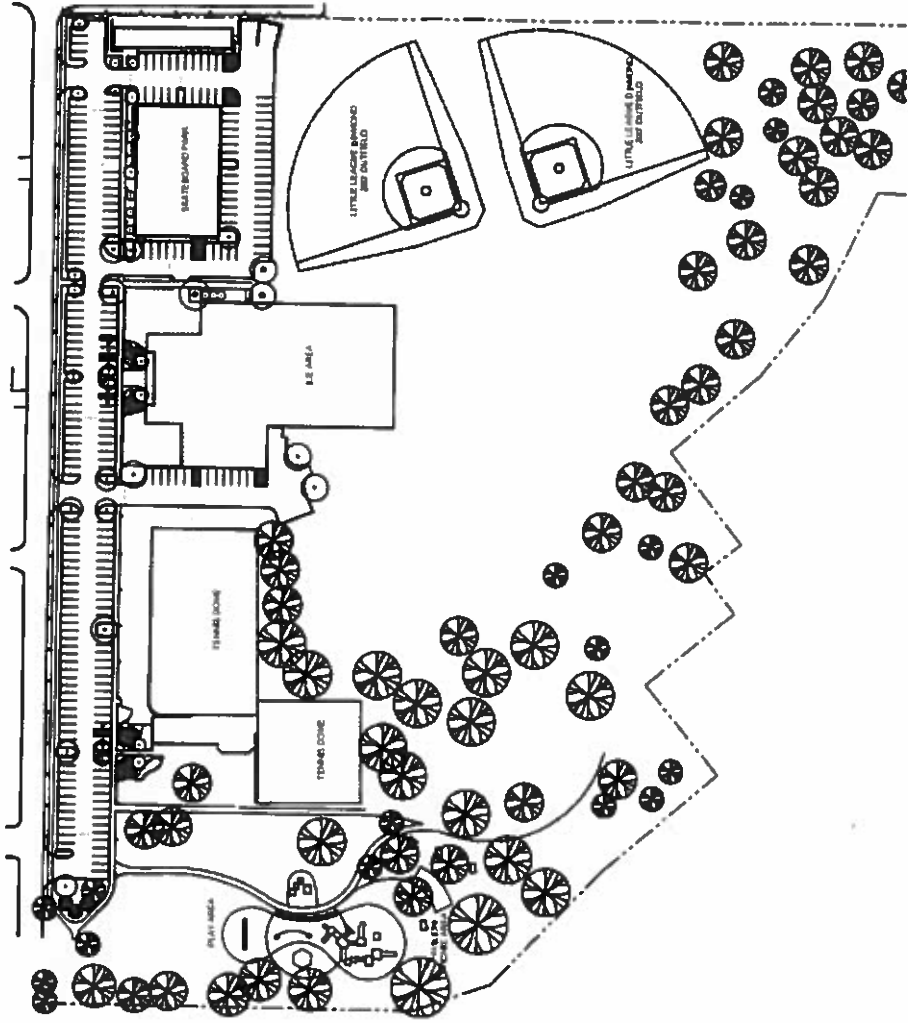
General Terms

- 1) The donation of Three Hundred Three Thousand Dollars (\$303,000) shall be used for the renovation of the two easterly Little League baseball fields comprised of Fields 2 and 3 in Kenning Park. Said renovations shall be in accordance with the City's specifications, processes and its sole approval. Should the total project cost come in less than the donation amount, any excess funds shall be returned to B.L.L.
- 2) Kenning Park shall be renovated and/or designed for the intended use of the public.
- 3) Maintenance of the fields and parks will be performed by the City in accordance with its standards and practices.
- 4) The donation from B.L.L. to renovate two Little League baseball fields comprised of Fields 2 and 3 in Kenning Park shall not limit or restrict the City in any planned future uses of Kenning Park.
- 5) All construction activities with respect to Phase II of this Agreement shall be at the sole discretion of the Birmingham City Commission.

Field Usage

- 1) In consideration of their donation to renovate two Little League baseball fields (Fields 2 and 3) at Kenning Park, B.L.L. shall have the first right of refusal for use of these fields for the next 20 years (thru 2038), subject to B.L.L. continuing to be the most frequent user of these fields based on permits issued.
- 2) In consideration of their donation to renovate two Little League baseball fields (Fields 2 and 3) at Kenning Park, the City agrees to make available 4 baseball fields in Kenning Park for the use of B.L.L., notwithstanding the fields will also be available for public use and subject to B.L.L. continuing to be the most frequent user of these fields based on permits issued. The City reserves the right to change the utilization of the unimproved ballfields in Kenning Park after a 10 year period (2028), should the City revise its plans for Kenning Park. If such circumstance exists, the City agrees to make fields available at other parks in the City for use by B.L.L.

Timeframe

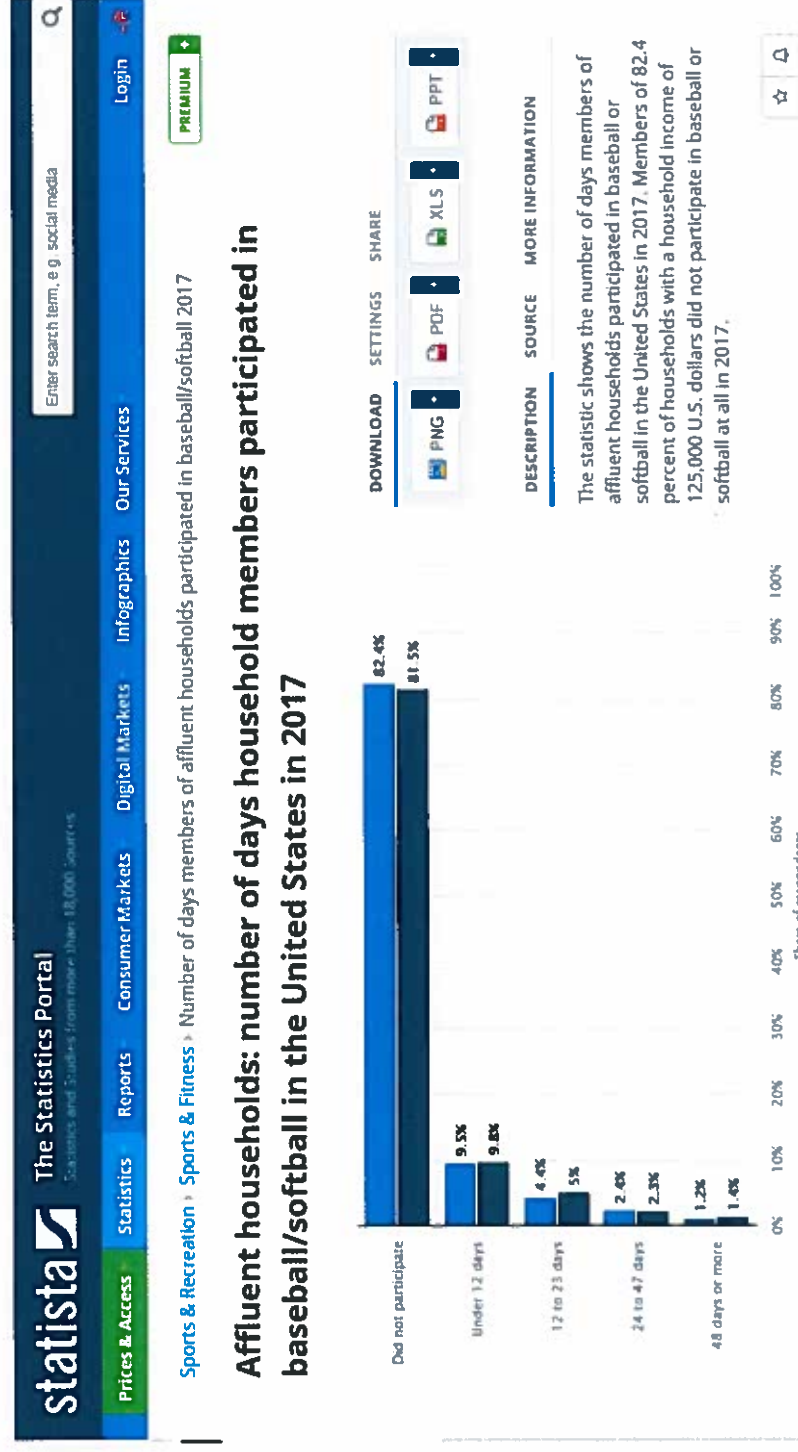


Little League donation & lack of correlation to the plan

- The City of Birmingham needs to explain how the proposed plan from the Little League correlates to the Kenning Master plan as the 2 provided views are not compatible with each other.
- It is the opinion of this resident that until the plans are complimentary, there will be risk of significant waste of money & resources on the 2 noted fields in addition to the other noted concerns above.
- The decision to agree with Little League should be postponed until such time the Kenning Park master plan is approved so that the use of the field & funds allocation can be appropriately matched & utilized.
- To do otherwise would constitute a breach of fiduciary responsibility to the community for fair & optimum use of taxpayer funds.
- Your, Andrew Haig.

Baseball use statistics:

- Birmingham MI counts as an affluent household city.
- 2.2 acres of baseball fields in 1 park represent 1.7% of the total available non golf course park area within the City.
- Birmingham has a total of 12 baseball, softball & Little league diamonds within the city.
- City population is approx. 20,000 residents
- Per the graphic, only 19% participate in baseball = 3,800 residents wanting usage throughout the entire year.
- Is this value for the City compared to other usage options?



Kenning Park, Tennis courts & South Eton corridor improvements

- Tennis Courts as shown on the NE corner of Eton & Lincoln are in the proposed 2014 plan.
- South Eton corridor is under discussion for significant changes & improvements per the Multi Modal Board
- Residents obviously have a desire for tennis courts as evidenced by the 4 courts that currently exist & are in active use throughout the summer.
- Residents additionally have a strong desire for the childrens play area to be expanded and to have the pavilion & picnic area developed as shown on the plan.
- Any adjustments to the area adjacent to S. Eton should be postponed until the Multi Modal changes have been agreed and physically completed, to avoid any plan conflicts or any additional expense due to unforeseen issues with the roadway reconstruction & reconfiguration.
- 2014 Plan noted degradation of community facilities
- Removal of 1 public tennis court (4 to 3).
- Removal of the community compost & wood chip piles that are currently south of the police pistol range.
- Removal of the parking area east, south & west of the skateboard park
- Additional parking shown where the current tennis courts are located does not show any increase in parking availability, only a transfer of location
- Little League diamonds show the centre of the diamond to be grasses area, softball to be gravel. Current fields are all gravel. will the future plan be as drafted or as today's reality?
- Additional questions:
- The anticipated re-submission from Lincoln Yard restaurant for a large restaurant which has required additional parking in the same area will not provide for sufficient parking space for Little League plus Restaurant combined, unless this has been already studied & not added to the plan and distributed to the affected communities.

Data added after 12/4/2017 upload of 2018 master plan draft

- Data from the 2018 draft plan, supporting the lack of need for 4 diamonds in Kenning park
- +12 diamonds compared to the recommendation, No resource mapping need, or word cloud mention of there being Baseball needed, playgrounds & open space featuring predominantly in the word cloud.

Facilities Analysis

In addition to park land, existing facilities were compared against the recommended guidelines set by the MRPA and the MDNR to determine if they are adequate to meet the needs of residents based on national averages. The analysis takes into account a variety of factors including specific needs and existing conditions in Birmingham. Information obtained during the public input opportunities, programming needs, site conditions, as well as national averages. Table 7 indicates the recommended guideline and facilities, the number of facilities in the Township, and the surplus or deficiency of facilities. The comments below the table provide further prospective and assist in identifying key issues related to specific facilities.

Table 7: Facilities Analysis

Park Classification	MRPA Guidelines*	Recommended Facilities†	Public School Facilities	Total Facilities	Surplus (deficiency)
Archeology Range	950,000	0	0	0	0
Baseball / Softball	95,000	4	9	7	+12

RESOURCE MAPPING RESULTS

PARK	RESOURCES MAPPED
Kenning Park	Playground (3)
Udden Park	Restrooms

"WHAT'S YOUR BIG IDEA?" FIELD DAY RESULTS

	COMMENT	TIMES MENTIONED
	Splash pad	12
	Swimming pool (outdoor)	3
	Restroom facilities	3
	Year-round/farmers market building	2
	Better parking for the market—parking structure	2
	More trails	2
	Dog park with swimming hole/beach	2
	Increase playground safety surfacing in parks	2

Generally, residents were familiar with the facilities and programs offered by Birmingham Parks and Recreation (88%). While most reported using parks for exercise, fitness, and casual sports (47%), followed by children's play and cultural events (45% each).

Overall the survey sought to gauge to what degree residents value the parks and recreation system, if the current parks and recreation facilities meet the needs of residents, and what should be the Department's future priorities.

Overwhelmingly, participants recognized the importance of parks and recreation programs to their quality of life, regardless of if they use the programs on a regular basis (99% of all respondents). Respondents largely rated the maintenance of parks and recreation facilities, availability of public spaces, and overall existing outdoor facilities to be excellent or good (over 80%). Similarly, over 60% of residents reported that the existing parkland, playgrounds, community and special events, and golf courses meet the needs of the community. However, over 50% of respondents reported that the existing walking and biking trails fall short of the needs of the community and over 30% agreed that the available WiFi connections, environmental/nature education programs, and aquatic programs also fall short of the needs of the community.

When asked what new or enhanced opportunities residents would like to see within the City, nearly 47% of all respondents choose hiking/walking trails, followed by restrooms (44%), adult fitness and wellness (36%), community gardens (33%), and bicycling (32%). These responses were similar to the open-ended questions that asked what residents felt are the top three recreational priorities for Birmingham in the next 10 years. The word cloud below shows the most frequently used phrases for respondents' number one priorities.

RESPONDENTS' WHAT DO YOU FEEL ARE THE TOP THREE (3) RECREATIONAL PRIORITIES FOR BIRMINGHAM IN THE NEXT 10 YEARS*

Fitness Splash Pad Community Ice Arena Access Road
Green Space Play Bike Paths Open Space Existing
Programs Walking Natural Parks Safe Trails Senior
Playgrounds Bicycle Facilities Traffic Restrooms
Golf Courses Center ^{Maple Grove} Current Swimming Pool

Counterpoint & alternative proposal

- Master plan illustrated that there is no need for any additional facilities for baseball, quite the opposite, there is statistical data indicating that the city is over weighted in facilities today.
- Study also indicated that leagues etc. appreciate the quality of Birmingham parks
- Study indicated the willingness of leagues etc. to donate & contribute to upkeep & improvements.
- Kenning park specific proposal adjustment:
- Little League donation is insufficient for the 20 year duration mentioned as shown by the maths provided but is more realistic for a normal practice of a 5 year agreement with option to extend at additional donation, at the current land value placed upon Birmingham real estate.
- Little League donation can be very well used in upgrading 2 of the diamonds in Kenning park to support Baseball & Softball & helping convert the remainder of space to be the community desired green space, walking paths & playgrounds.
- Little League would then have the usage rights they have requested for a more population appropriate and community desired recreational facility & would be able to fully partner with the community at large to help support the future City parks development.

October 4, 2017

Neighbors,

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[X] I/We JAMES VOORHEIS of 1515 CHELTENHAM,
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed [Signature] (signature).

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** ALSO - TRAFFIC @ ETON & E. LINCOLN*
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[X] I/We NORMAN & PAMELA WILLIS 1982 E. LINCOLN
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Norman & Pamela Willis (signature).

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[X] I/We Jared Schrader and Erin Schrader of 1609 Mansfield Rd. B
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Jared Schrader Erin Schrader (signature).

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Charlie Forbes

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[X] I/We BERTHA JONES of 2193 SHEFFIELD ROAD,
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Bertha Jones (signature).

Your Neighbor,

Charlie Forbes

Mrs Mrs. FORBES =

THANK YOU FOR YOUR EFFORTS TO MAINTAIN
OUR QUIET AND PEACEFUL NEIGHBOR -
GOOD LUCK

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[X] I/We Cynthia Miller of 1159 S. Eton,
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed [Signature] (signature).

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[X] I/We Anna Tschirhart of 1363 S. Eton, Birmingham MI 48009
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed A. Tschirhart (signature).

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Charlie Forbes

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[X] I/We Kathryn Hassel of 1387 E. Melton,
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Kathryn Hassel (signature).

Your Neighbor,

Charlie Forbes

1599 Cheltenham
Birmingham, MI 48009

October 4, 2017

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[X] I/We Phillip Jr & Margaret A. Brown of 1391 E. Melton Road, B'ham
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed _____ (signature).

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Last night (Oct. 3rd) I attended an open house, informational meeting, on the 'Parks and Recreation Master Plan.' McKenna, an urban planning firm outside of Birmingham, is working on plans to change our parks with Kenning Park being a 'priority.' In the presentation one "Goal" McKenna made was to "Provide Parks and Recreation facilities that are high quality that preserve open space and history, are well maintained and that are accessible to all residents of the community." This contradicts what they are trying to do to our local park.

The City of Birmingham is proposing to make some changes to Kenning Park that we should all be aware of since this park is in our neighborhood. I, like many, were unaware of what was going on until recently. Included in this packet is a copy of the 'Master Plan.'

Most importantly in the proposed plan is to move and reconfigure baseball diamonds and build a walking/running track around our park with street access for people to drive to access the track and baseball diamonds. You can see the changes on the following page ("Master Plan"). If you are aware of the quiet area of Cheltenham, Hanley, Sheffield, Melton and Eton the park has many mature trees and from the plan it looks like these beautiful mature trees would have to be cut down for "new" baseball diamonds to be built. The park has FOUR baseball diamonds – why not just clean them up? Why do they have to be moved where we like to walk our dogs and enjoy the quiet park with the great canopy of mature trees.

Reasons why this is not the best idea for the city/neighborhoods surrounding Kenning Park:

- parking: according to the 'master plan' street access to the park (and proposed track) would be at Cheltenham/Hanley/Sheffield/Melton/Eton which would increase parking on our quiet streets during baseball games & events, or even people wanted to walk on the proposed track
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Tuesday, November 14, 2017 there is a presentation of a draft plan to our parks at the Department of Public Services Building at 851 Eton. I am not completely sure of what is going to happen at the meeting but I feel it may be one of the last opportunities for our voices to be heard and our questions answered before these changes become a reality.

If you would be so kind to mail this sheet back to me (envelope attached) with your **dis-approval signature** of the proposed changes I will take it to the appropriate committee. Also, you may sign and scan it back to me at cforbes284@yahoo.com if that is easier.

[X] I/We Todd MacKintosh of 2287 DUNSTABLE
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Todd MacKintosh (signature).

Your Neighbor,

Charlie Forbes

THIS PROPOSAL WAS TRIED YEARS AGO. THERE'S EVEN MORE TRAFFIC IN OUR NEIGHBORHOOD NOW. THESE HOMES HAVE CARS PARKED ON STREETS ALREADY. THEY'RE TURNING OUR COMMUNITY INTO STERLING HEIGHTS. THIS SHOULD BE ON A BALLOT. WHY DO THESE PEOPLE HAVE TO "SELL" EVERYTHING.

October 4, 2017

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[X] I/We Steven Antwan of 1833 W. Melton,
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Steven Antwan (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

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[X] I/We Maria Giancotti of 1836 Humphrey Ave
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Maria Giancotti (signature).

Your Neighbor,

Charlie Forbes



October 12, 2017

Dear Ms. Wood and Ms. Laird,

I want to thank you for taking the time to update the Birmingham Park Master Plan. As a Birmingham resident and someone who works in the Parks and Recreation industry, I can appreciate the amount of time and effort that has gone into gathering information and formulating this long-range plan. There are two main features that I regularly brag about to family and co-workers, Birmingham's beautiful parks and the walkability of the Community. Both features, make it the perfect location for raising a family. I look forward to our trips to the parks, walks in the evening and all of the activities that our kids will ultimately participate in.

Our three most frequented parks are Kenning Park, Booth Park and Shain Park; each for different reasons. Kenning Park is only two blocks from our home and is awesome for little kids! We love going for an evening walk and stopping by the playground. There are usually only a couple games going on and it is usually pretty low-key; which is ideal for small children. Booth Park has a wonderful walking path and we enjoy the unique playground and the story time area. I really like that natural wildflower plots are scattered throughout; they are lovely and also supportive of wildlife. Shain Park is an icon of downtown and a good break from the shops. All of these spaces are well maintained and a true testament of a dedicated staff.

As to be expected, the Master Plan will ultimately result in updates to the parks. My hope is that some of our favorite features will not be lost in the updates. We greatly appreciate the quiet and natural features of Kenning Park. I understand the interest in adding walking paths, as it likely makes it more ADA accessible, bike and stroller friendly. However, I would be sad to see money invested in relocating courts and fields to accommodate parking. Would it not be easier to just put a parking lot in the space northeast of Lincoln/Eton? Also, pavilions may not be necessary in a highly shaded area; maybe just add more seating in the play space. We appreciate the opportunity to consider alternatives to the proposed reduction in passive recreation.

Over the past few years, we have been focusing on growing our family. I regret not having gotten more involved with the Parks and Recreation Committee, and do apologize for that. A regular part of my daytime work is updating plans and soliciting citizen input, so your project and hard work does not go without recognition. Should you have questions or need additional support, do let me know.

Sincerely,

Jeanette R Aiello

Jeanette R. Aiello, CPRE
P: 734/646-6815
E: jeanetterenee12@gmail.com
1587 Mansfield Rd, Birmingham MI



Jeanette R. Aiello, CPRE
Business Operations Coordinator

Canton Leisure Services
1150 S Canton Center Rd
Canton, MI 48188-1699

734/394-5479
734/394-5366 FAX
jaiello@canton-mi.org
www.canton-mi.org



Communication/Discussion Item #3

Connie Folk <cfolk@bhamgov.org>

Fwd: Kenning Park Concept Master Plan

Lauren Wood <lwood@bhamgov.org>

Mon, Oct 23, 2017 at 10:29 AM

To: "Laird, Carrie" <Claird@bhamgov.org>, "Folk, Connie" <Cfolk@bhamgov.org>

Please place this email chain on the next agenda under Communication.

As a point of reference, the Kenning Park Concept Master Plan was presented to the City Commission on March 24, 2014.

Thank you,

Lauren

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
office: 248.530.1702

----- Forwarded message -----

From: **Joe Valentine** <jvalentine@bhamgov.org>

Date: Mon, Oct 23, 2017 at 9:49 AM

Subject: Re: Kenning Park Concept Master Plan

To: larry bertollini <lbertollini@att.net>

Cc: L Wood <lwood@bhamgov.org>, Patty Bordman <pbordman@bhamgov.org>, Pierre Boutros <pboutros@bhamgov.org>, "Andrew M. Harris" <aharris@bhamgov.org>, Mark Nickita <mnickita@bhamgov.org>, Carroll DeWeese <cdeweese@bhamgov.org>, Racky Hoff <rackyhoff@hotmail.com>, Stuart Sherman <ssherman@bhamgov.org>

Larry,

Thank you for your email and outlining your concerns with the Kenning Park Concept Master Plan. As we discussed this morning, your concerns will be shared with the Parks & Recreation Board as they work to update the City's 5 Year Parks and Recreation Master Plan.

Best Regards,
Joe

On Sat, Oct 21, 2017 at 6:18 PM, larry bertollini <lbertollini@att.net> wrote:
10-21-17

Dear Chairman & Parks & Rec Board,

Kenning Park is the only City owned public park covering the residential areas east of Woodward Avenue and south of Maple Road yet it currently lacks a designated open space reserved for sports such as soccer. The 2014 Kenning Park concept master plan does include this as part of the overall program. To provide a large reserved space for soccer & similar open field sports at Kenning Park is in the best interest of the community & it sends the message that the City is mindful of providing proper balance & resources for all residents. Little League donations be used for Kenning Park should not jeopardize the Kenning Park Master Plan reserved soccer field area. The designated open field area should be it's own space & not a combined shared area as part of a baseball field. Knowing that there is limited space at the park, three baseball fields, total, is the reasonable plan to follow for Kenning. Provide a different City park location for

present softball field or for the third Little League sized field. Please follow the Kenning Park concept master plan in regards to preserving the designated soccer space. This will ensure that Kenning Park is fairly balanced & that this park can achieve a good balance for all the users & not just baseball shareholders.

The Kenning Park Concept Master Plan seems to have other areas that are raising concerns. The plan proposes to relocate three public tennis courts to the Northeast corner of Eton & Lincoln. This is a busy intersection and this land does not seem to be a safe sport activity location. Other concerns include the removal of mature tree clusters to provide a baseball field. Also, residents are concerned with any developments that will cause users of the park that drive to choose parking along the side streets instead of the Kenning parking lot.

Thank you for taking the time to review my suggestions

Larry Bertollini
Webster Street

--

Joseph A. Valentine

City Manager

[City of Birmingham](#)

[151 Martin Street](#)

Birmingham, MI 48009

[\(248\) 530-1809](#) Office Direct

[\(248\) 530-1109](#) Fax

jvalentine@bhamgov.org

Twitter: @JoeValentine151

To get the latest information regarding the [City of Birmingham](#), please sign up for our communication tools by clicking here www.bit.ly/bhamnews.



Connie Folk <cfolk@bhamgov.org>

Fwd: Letter to Parks and Recreation Committee

2 messages

Lauren Wood <lwood@bhamgov.org>

Mon, Oct 30, 2017 at 4:35 PM

To: "Laird, Carrie" <Claird@bhamgov.org>, "Folk, Connie" <Cfolk@bhamgov.org>

Please add this under Communications to the 11-14-17 PB agenda.

Thanks!

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
office: 248.530.1702

----- Forwarded message -----

From: **Lauren Wood** <lwood@bhamgov.org>

Date: Mon, Oct 30, 2017 at 4:33 PM

Subject: Re: Letter to Parks and Recreation Committee

To: Pastor Steve Woodfin <woodfins@ourshepherd.net>

Cc: "Valentine, Joe" <Jvalentine@bhamgov.org>

Hello Pastor Woodfin,

Thank you for the follow-up email today. We are in receipt of your previous correspondence written to the Parks and Recreation Board members.

I will provide this entire communication to the Board members as part of their next agenda for the November 14, 2017 meeting, it will be addressed at such time.

All Parks and Recreation Board meetings are held at 6:30 PM in the DPS conference room located at [851 S. Eton](#). Everyone is encouraged to attend.

I would also welcome the opportunity to discuss the issues you raise about the 2014 Kenning Park Master Plan, should you wish to call me.

Thanks again,
Lauren

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
[851 S. Eton](#)

Communication/Discussion Item #4

Birmingham, MI 48009
office: 248.530.1702

On Mon, Oct 30, 2017 at 3:36 PM, Pastor Steve Woodfin <woodfins@ourshepherd.net> wrote:

Dear Ms. Wood,

I sent this email in care of your email address on October 24. I apologize that I did not check with you first to make sure that was the appropriate path to follow in order to send an email to the members of the Board of Parks and Recreation.

If it is, please reply and let me know that the members of the Board have been sent this email. If it is not, please advise and I will follow your instruction.

Thank you very much for your help, and for all you do as you direct the excellent public services we receive as residents of Birmingham.

Best Regards,

Stephen Woodfin

2200 Dunstable

Rev. Stephen Woodfin

Executive Pastor
248.646.6100 ext. 106
woodfins@ourshepherd.net

Our Shepherd Lutheran Church, School, and Child Care

Openly Sharing the Loving Christ
Services: Saturday 6PM; Sunday 8:30 and 11 AM
Sunday Bible Study Hour 9:45 AM

Church Campus:

2225 E. 14 Mile Road
Birmingham, Michigan 48009

School Campus:

1658 E. Lincoln St.
Birmingham, Michigan 48009

On Tue, Oct 24, 2017 at 10:19 PM, Pastor Steve Woodfin <woodfins@ourshepherd.net> wrote:

October 24, 2017

To the esteemed members of the Parks and Recreation Committee for the city of Birmingham, Michigan:

Ross Kaplan

Therese Longe

John Meehan

Ryan Ross
Raymond Stevens
Lilly Stotland
William Wiebrecht
Ben Gould
Joseph Kummer
John Rusche
Eleanor Noble

RE: Proposed changes to Kenning Park as described in the "Parks and Recreation Master Plan" submitted by McKenna Co.

Dear Parks and Recreation Committee Members:

I am not in favor of the proposed changes to Kenning Park as outlined in the City of Birmingham Parks and Recreation Master Plan, particularly in regard to one element - the third ball diamond should not be moved into the space directly behind the houses on Cheltenham. It should remain where it is, near the ice rink and the parking lot, easily accessible and an appropriate distance away from the homes surrounding the park.

There are two key points to consider when looking at the south end of Kenning Park, in the space northeast of the houses on Cheltenham:

1. **YEAR-ROUND UTILIZATION:** The space is underutilized, but placing a ball diamond there would lock that space into a four-month-per-year utilization. Instead, consider this beautiful, natural area as a multi-use space that can be enjoyed throughout the year with the addition of a playground, picnic tables, walking trail with fitness elements, etc. And leave the beautiful trees where they are, so all can enjoy them.

2. **PARKING IMPACT ON NEIGHBORING STREETS:** If a ball diamond were to be located at the south end of the park, significant traffic and parking problems on Cheltenham, Dunstable, Sheffield, and Hanley Court would result. When several of my neighbors and I attended a Committee meeting on August 12, 2014, the concern about parking on the streets at the south end of the park was expressed by several residents. Those present were shocked by Pat Bordman's reply: she stated that parking and traffic impact on neighboring streets was not even considered in the plan, and that it would be up to the residents to petition a different government body if those residents wanted help in managing increased traffic and parking. Any park planning that does not consider impact to the surrounding area and residents is incomplete planning, and should not be acted upon.

Thank you for your good and conscientious work on behalf of our beloved community of Birmingham. It's my hope the decisions you make will be informed by this letter, and by the many others you receive. We are Birmingham residents who live in the space surrounding Kenning Park, and whose daily lives will be directly impacted by any changes you approve.

Sincerely,

Stephen Woodfin

2200 Dunstable

Rev. Stephen Woodfin

Executive Pastor

248.646.6100 ext. 106

woodfins@ourshepherd.net

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1658 E. Lincoln St.

Birmingham, Michigan 48009

Lauren Wood <lwood@bhamgov.org>

To: "Folk, Connie" <Cfolk@bhamgov.org>, "Laird, Carrie" <Claird@bhamgov.org>

Mon, Oct 30, 2017 at 5:19 PM

Lauren Wood

Director of Public Services

City of Birmingham

Department of Public Services

851 S. Eton

Birmingham, MI 48009

office: 248.530.1702

----- Forwarded message -----

From: **Pastor Steve Woodfin** <woodfins@ourshepherd.net>

Date: Mon, Oct 30, 2017 at 5:15 PM

Subject: Re: Letter to Parks and Recreation Committee

To: Lauren Wood <lwood@bhamgov.org>

Cc: "Valentine, Joe" <Jvalentine@bhamgov.org>

Dear Lauren,

11/1/2017

City of Birmingham MI Mail - Fwd: Letter to Parks and Recreation Committee

Thank you very much for your response. I appreciate your offer to talk via telephone, and I may take you up on that!

Best Regards,

Steve Woodfin

[Quoted text hidden]



Fwd: opposition to Kenning Park (1 of 6)

1 message

Lauren Wood <lwood@bhamgov.org>

Tue, Nov 7, 2017 at 11:59 AM

To: "Folk, Connie" <cfolk@bhamgov.org>, "Laird, Carrie" <Claird@bhamgov.org>

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
office: 248.530.1702

----- Forwarded message -----

From: **Charlie Forbes** <cforbes284@yahoo.com>

Date: Tue, Nov 7, 2017 at 11:30 AM

Subject: opposition to Kenning Park (1 of 6)

To: lwood@bhamgov.org

Cc: "jvalentine@bhamgov.org" <jvalentine@bhamgov.org>, "cmynsberge@bhamgov.org" <cmynsberge@bhamgov.org>

Dear Chairman & Parks Recreation Board,

I would like to get some documentation on the record.

Birmingham residents are opposed to ANY changes to Kenning Park. Attached are letters signed by residents stating opposition to changes. I think I can speak for them all that any updates to existing structures are of course welcomed and wanted.

Changes stated in the "Master Plan" that is not feasible and outdated are not welcomed by residents. I will be collecting many more letters from residents as I have found out that there is a **STRONG** opposition to any of this.

Cherilynn, maybe we could get this added to the agenda?

I will send this email several times with different attachments as the attachments are too large to have in one email. So far there are 50+ letters that will be attached with many more to come.

Thank you for adding this to the record and taking the time to review our suggestions.

Regards,
Charlie Forbes



kenning signatures 1.pdf
14497K

October 4, 2017

Neighbors,

I would like to introduce myself, my name is Charlie Forbes, my wife Erica and I moved into 1599 Cheltenham in 2013.

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If you would be so kind to mail this sheet back to me (envelope att it to the appropriate committee. Also, you may sign and scan it ba

I will take

Judy Francis
1547 Cheltenham

[X] I/We _____ of _____

Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed _____ (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

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Intessar Mansour-Winn
[X] I/We David Winn of 1581 Cheltenham
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Intessar Mansour-Winn (signature).
David Winn

Your Neighbor,

Charlie Forbes

October 4, 2017

Neighbors,

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[X] I/We Maria Berdy of 2292 Dunstable, Birmingham
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed [Signature] (signature).

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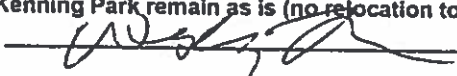
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[X] I/We Wesley B. Forbes of 1145 S Eton St Birmingham
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed  (signature).

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Charlie Forbes

October 4, 2017

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[X] I/We Hana Forbes of 1145 S. Eton St
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Hana Forbes (signature).

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[X] I/We Lorraine Butler of 1231 So. Eton
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Lorraine Butler (signature).

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What time is the meeting?

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[X] I/We Carole Tardie of 1849 South Eton 48009
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Carole Tardie (signature).

Your Neighbor,

Charlie Forbes

*Email ↘
Rupert_cyrkiel@yahoo*

October 4, 2017

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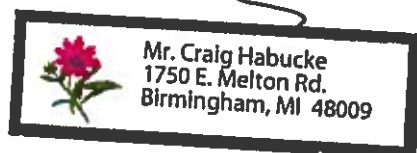
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[X] I/we Craig Habucke of 1750 E Melton,
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Charlie Forbes



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[X] I/we MARY LARIN of 1550 Cheltenham, Birmingham, AL 35209
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed M. E. Larin (signature).

Your Neighbor,

Charlie Forbes



Connie Folk <cfolk@bhamgov.org>

Fwd: opposition to Kenning Park (2 of 6)

1 message

Lauren Wood <lwood@bhamgov.org>

Tue, Nov 7, 2017 at 11:59 AM

To: "Laird, Carrie" <Claird@bhamgov.org>, "Folk, Connie" <Cfolk@bhamgov.org>

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
office: 248.530.1702

----- Forwarded message -----

From: **Charlie Forbes** <cforbes284@yahoo.com>

Date: Tue, Nov 7, 2017 at 11:31 AM

Subject: opposition to Kenning Park (2 of 6)

To: "lwood@bhamgov.org" <lwood@bhamgov.org>

Cc: "jvalentine@bhamgov.org" <jvalentine@bhamgov.org>, "cmynsberge@bhamgov.org" <cmynsberge@bhamgov.org>

Dear Chairman & Parks Recreation Board,

I would like to get some documentation on the record.

Birmingham residents are opposed to ANY changes to Kenning Park. Attached are letters signed by residents stating opposition to changes. I think I can speak for them all that any updates to existing structures are of course welcomed and wanted.

Changes stated in the "Master Plan" that is not feasible and out dated are not welcomed by residents. I will be collecting many more letters from residents as I have found out that there is a **STRONG** opposition to any of this.

Cherilynn, maybe we could get this added to the agenda?

I will send this email several times with different attachments as the attachments are too large to have in one email. So far there are 50+ letters that will be attached with many more to come.

Thank you for adding this to the record and taking the time to review our suggestions.

Regards,
Charlie Forbes

 kenning signatures 2.pdf
13857K

October 4, 2017

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[X] I/We Susan E. Siska of 1257 S. Eton St
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Susan E. Siska (signature).

Your Neighbor,

Charlie Forbes

Leave this park as it is!!!
No Changes!!!

October 4, 2017

Neighbors,

I would like to introduce myself, my name is Charlie Forbes, my wife Erica and I moved into 1599 Cheltenham in 2013.

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[X] I/We Mary Ann Odorn of 2284 Dunstable Rd.
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Mary Ann Odorn (signature).

Your Neighbor,
Charlie Forbes

*Why can't we preserve the few tranquil areas we have?
We have adequate facilities for listed activities*

October 4, 2017

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[X] I/We JAMES HOWELL of 2028 BRADFORD
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed [Signature] (signature).

Your Neighbor,

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October 4, 2017

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[X] We Daniel & Mary Jane Maselli of 1898 Humphrey Avenue
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Daniel & Mary Jane Maselli (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

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[X] I/We Donald + Alice Jendritz of 1669 Hanley Ct, Birmingham AL 35202
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Alice Jendritz / Donald Jendritz (signature).

Your Neighbor,

Charlie Forbes

Subject: Signature

From: Molly (mol7@comcast.net)

To: cforbes284@yahoo.com;

Date: Sunday, October 8, 2017 11:16 AM

Good morning Charlie,

Thank you for the information regarding the Park. I have lived in Mansfield for my entire life and am really bummed out about this plan. Improvements to the play are would. E great, but the ball fields create major traffic issues that are not appropriate for residential areas.

If you would please email me the form I would greatly appreciate it. I will return it to you as soon as possible.

Thank you for your community spirit!

The Mitchell Family

Sent from my iPhone

October 4, 2017

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[X] I/We Irene Hernandez & Kane Long of 1590 Cheltenham Rd
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed [Signature] / [Signature] (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

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[X] I/We Jody Romero Reyes of 1741 S Eton
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Jody Reyes (signature).

Your Neighbor,

Charlie Forbes

Thank you for
bringing this to my
attention

October 4, 2017

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[X] I/We Sutton Family of 1582 CHELTENHAM
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Charlie Forbes (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

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[X] I/We Jamie McLenaghan of 11005 S. Eton St.
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Jamie McLenaghan (signature).

Your Neighbor,

Charlie Forbes



Connie Folk <cfolk@bhamgov.org>

Fwd: opposition to Kenning Park (3 of 6)

2 messages

Lauren Wood <lwood@bhamgov.org>

Tue, Nov 7, 2017 at 12:00 PM

To: "Laird, Carrie" <Claird@bhamgov.org>, "Folk, Connie" <Cfolk@bhamgov.org>

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
office: 248.530.1702

----- Forwarded message -----

From: **Charlie Forbes** <cforbes284@yahoo.com>

Date: Tue, Nov 7, 2017 at 11:32 AM

Subject: opposition to Kenning Park (3 of 6)

To: "lwood@bhamgov.org" <lwood@bhamgov.org>

Cc: "jvalentine@bhamgov.org" <jvalentine@bhamgov.org>, "cmynsberge@bhamgov.org" <cmynsberge@bhamgov.org>

Dear Chairman & Parks Recreation Board,

I would like to get some documentation on the record.

Birmingham residents are opposed to ANY changes to Kenning Park. Attached are letters signed by residents stating opposition to changes. I think I can speak for them all that any updates to existing structures are of course welcomed and wanted.

Changes stated in the "Master Plan" that is not feasible and out dated are not welcomed by residents. I will be collecting many more letters from residents as I have found out that there is a **STRONG** opposition to any of this.

Cherilynn, maybe we could get this added to the agenda?

I will send this email several times with different attachments as the attachments are too large to have in one email. So far there are 50+ letters that will be attached with many more to come.

Thank you for adding this to the record and taking the time to review our suggestions.

Regards,
Charlie Forbes

 **kenning signatures 3.pdf**
14414K

Lauren Wood <lwood@bhamgov.org>
To: "Laird, Carrie" <Claird@bhamgov.org>, "Folk, Connie" <Cfolk@bhamgov.org>

Tue, Nov 7, 2017 at 12:00 PM

[Quoted text hidden]

 **kenning signatures 3.pdf**
14414K

October 4, 2017

Neighbors,

I would like to introduce myself, my name is Charlie Forbes, my wife Erica and I moved into 1599 Cheltenham in 2013.

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[X] I/We Scott + Alicia Hess of 1186 S. Eton St
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed [Signature] 10/10/17 (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

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[X] I/We JULIA L WEISS of 1765 MANSEFIELD BIRHAM MI 48
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Julia L Weiss (signature).
10/12/2017

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Charlie Forbes

October 4, 2017

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[X] I/We John Mayeish / Randy Madding of 1822 W. Melton
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed John Mayeish (signature).
Randy Madding

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Charlie Forbes

October 4, 2017

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[X] I/We Linda Peterson of 1532 E. Melton
Birmingham would like to see Kenning Park remain as is (no relocation of baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Linda Peterson (signature). 10/12/17

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[X] I/We Cristina & Rodrigo Bravo of 1193 S. Eton St
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Cristina Bravo (signature).

It would be a good idea to ask them to replace the trees they cut down last year
Your Neighbor, and improve quantity and condition of current little kids playing area

Charlie Forbes

October 4, 2017

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[X] I/We _____
Birmingham would like to see _____
removing of ANY trees) signed

 Diane L. Moritz
2279 Dunstable Rd
Birmingham, MI 48009


_____ diamonds, no track surrounding our homes, no
(signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

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[X] I/we Jan & Cheryl Rowe of 1605 Mansfield Rd, Birmingham, MI
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed [Signature] (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

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[X] I/We Julie Barclay of 1920 Bradford,
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Julie Barclay (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

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[X] I We Thomas & Jennifer Kaugle of 1575 Cheltenham Birmingham AL
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Jennifer Kaugle (signature).

Thomas D. Kaugle

Your Neighbor,

Charlie Forbes

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[X] I/We I, SHARON CAMERON of 1504 CHELTENHAM
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Sharon A. Cameron (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

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[X] I/We JANET GROSS of 1551 Cheltenham
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Janet Gross (signature).

Your Neighbor,

Charlie Forbes



Connie Folk <cfolk@bhamgov.org>

Fwd: opposition to Kenning Park (4 of 6)

1 message

Lauren Wood <lwood@bhamgov.org>

Tue, Nov 7, 2017 at 12:00 PM

To: "Folk, Connie" <cfolk@bhamgov.org>, "Laird, Carrie" <Claird@bhamgov.org>

Lauren Wood
Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
office: 248.530.1702

----- Forwarded message -----

From: **Charlie Forbes** <cforbes284@yahoo.com>

Date: Tue, Nov 7, 2017 at 11:33 AM

Subject: opposition to Kenning Park (4 of 6)

To: "lwood@bhamgov.org" <lwood@bhamgov.org>

Cc: "jvalentine@bhamgov.org" <jvalentine@bhamgov.org>, "cmynsberge@bhamgov.org" <cmynsberge@bhamgov.org>

Dear Chairman & Parks Recreation Board,

I would like to get some documentation on the record. Birmingham residents are opposed to ANY changes to Kenning Park. Attached are letters signed by residents stating opposition to changes. I think I can speak for them all that any updates to existing structures are of course welcomed and wanted. Changes stated in the "Master Plan" that is not feasible and out dated are not welcomed by residents. I will be collecting many more letters from residents as I have found out that there is a **STRONG** opposition to any of this.

Cherilynn, maybe we could get this added to the agenda?

I will send this email several times with different attachments as the attachments are too large to have in one email. So far there

are 50+ letters that will be attached with many more to come.

Thank you for adding this to the record and taking the time to review our suggestions.

Regards,
Charlie Forbes

 kenning signatures 4.pdf
16782K

October 4, 2017

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[X] I/We F. ARTHUR BYINGTON of 1607 HANLEY CT., B'HAM, MS, 38009
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed J. Arthur Byington (signature).

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Charlie Forbes

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[X] I/we MARY T. HIGGINBOTHAM of 2233 Dunstable
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Mary T. Higginbotham (signature).

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[X] I/We

Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed _____ (signature).

Fredericka Ann Finger

1527 Mansfield St.

Fredericka Finger

Birmingham

Your Neighbor,

Charlie Forbes

Mr. Lee Williams 1898 2 1900
uld like to see Kent (Park re main as is for location to baseball diamonds, no track surrounding our homes, no
(Y trees) signed

George H. Williams

Your Neighbor

Charlie Forbe

Adrian Tennis Court at 10th and E. Lincoln will
include the bridge and be being put in on the
street. We will be looking for a house, the
people on park street seem to have put out of the
land will be interested off West end drive.

October 4, 2017

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[X] I/we BILL & PATTI GIVEN of 2165 SHEFFIELD RD BTHAM
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Patti-Rae Given (signature).

Your Neighbor,

Charlie Forbes

OCT 15, 2017

William H. Glick,

Thank you so much for taking on this endeavor.

I have lived in my home on the park for over 32 years. I have personally fought with the city regarding several issues that have happened behind my home → proposed issues. I have participated in everything that can and will happen.

One thing that bothers me regarding current changes is the "spotlight" that shines on my house from the new Sunrise project (Senior & Memory Care home).

The open space (as you mentioned) is critical to the neighborhood. And of course the ball & soccer fields are private property.

The movement of existing structures

Especially the play area.

The track has been disused for many years. I don't think anyone has walked that area to determine the topography of the surrounding spring type land. If that becomes →

disturbed (in my opinion) there will be
homes. The City doesn't allow us
to do that in a new project. So
how could that be a consideration
for an open space "Natural" park.

There are many new families that
have come into our neighborhood.
The park may have drawn them here
as it did many years ago.

I don't think there are
other than keeping it moved & clean
will bring noise and unsafe conditions
for all homes (especially with children).
And if it does push them well you
(the city) can't do anything about it.
now be coming a public nuisance?

I praise you Erika & Charlie for
becoming involved. Hopefully this
O.H. may have a little eye for
to the issues you all will see
forsee.

Sincerely,

Patti Given

B'Ham 48009
pattigiven@yahoo.com

ps: sorry my server was down today & I wanted
to get this to you. ~~tomorrow~~ P.
pp: you can reach me by text or to the community
on 11/4/17 I'll try to be there. ☺

October 4, 2017

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[X] I/We Dusan Kovac of 1725 Mansfield
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Dusan Kovac (signature).

Your Neighbor,

Charlie Forbes

Money should be spent elsewhere.

October 4, 2017

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[X] I/We John & Sarah Jackson of 1589 E Melton Rd
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed John & Sarah Jackson (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

Neighbors,

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[X] I/we Karyn J. Holiday of 1996 W. Melton
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Karyn J. Holiday (signature).

Your Neighbor,

Charlie Forbes

the proposal, I am
thrilled to hear I was
never concerned and
during neighbors I hope
to meet you and Erica
Sunday!

Sincerely -

Kary Holiday

Kelly Marie
I'm Karen, and I just
closed last week on a
house on W. Nelson.

I am so excited to meet
you (this Monday!) and I
love your neighborhood
"as is"... thank you so
much for your time,
energy, and effort put
forth with the "P+R
Master Plan" issue. At the age
I'm not happy with

October 4, 2017

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[X] I/We Rita M. Krawczyk of 1532 Cheltenham, Birmingham MI
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Rita M. Krawczyk (signature).

Your Neighbor,

Charlie Forbes



Connie Folk <cfolk@bhamgov.org>

Fwd: opposition to Kenning Park (5 of 6)2 messages

Lauren Wood <lwood@bhamgov.org>

Tue, Nov 7, 2017 at 12:01 PM

To: "Folk, Connie" <cfolk@bhamgov.org>, "Laird, Carrie" <Claird@bhamgov.org>

Lauren Wood

Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
office: 248.530.1702

----- Forwarded message -----

From: Charlie Forbes <cforbes284@yahoo.com>

Date: Tue, Nov 7, 2017 at 11:34 AM

Subject: Re: opposition to Kenning Park (5 of 6)

To: "lwood@bhamgov.org" <lwood@bhamgov.org>

Cc: "jvalentine@bhamgov.org" <jvalentine@bhamgov.org>, "cmynsberge@bhamgov.org" <cmynsberge@bhamgov.org>

Dear Chairman & Parks Recreation Board,

I would like to get some documentation on the record.

Birmingham residents are opposed to ANY changes to Kenning Park. Attached are letters signed by residents stating opposition to changes. I think I can speak for them all that any updates to existing structures are of course welcomed and wanted.

Changes stated in the "Master Plan" that is not feasible and outdated are not welcomed by residents. I will be collecting many more letters from residents as I have found out that there is a **STRONG** opposition to any of this.

Cherilynn, maybe we could get this added to the agenda?

I will send this email several times with different attachments as the attachments are too large to have in one email. So far there are 50+ letters that will be attached with many more to come.

Thank you for adding this to the record and taking the time to review our suggestions.

Regards,
Charlie Forbes

 **kenning signatures 5.pdf**
13418K

Lauren Wood <lwood@bhamgov.org>

Tue, Nov 7, 2017 at 12:01 PM

To: "Folk, Connie" <Cfolk@bhamgov.org>, "Laird, Carrie" <Claird@bhamgov.org>

[Quoted text hidden]

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[X] I/We Donna & Joseph Hayes 1574 Mansfield
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Donna Hayes (signature).
Joseph Hayes

Your Neighbor,

Charlie Forbes

H. Charlie,

I just wanted you to know that we were successful in stopping the dog park from being a part of Kenning Park. It seems our part of town is the best place to put what no other neighborhood in Birmingham wants. We already have traffic problems with the brewery, and the senior building is "hidden" in such a poor spot near the skating rink. The residents near Quanton Lake would not welcome this much traffic encroaching on their spaces.

We have been on Mansfield for 30 yrs and have seen the traffic and safety in Eton change so much. We hope this proposal will be defeated.

Sincerely,

Donna & Joe Hayes

October 4, 2017

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[X] I/We Moshe Lerer / Karen Loh
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed M. Lerer Karen Loh (signature).

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[X] I/We Phyllis & Ron Ostroff of 1932 West Melton Rd.
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Phyllis T. Ostroff (signature).

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[X] I We Marc and Nichole Sunday of 1668 S. Eton,
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed [Signature] 10/11/17 (signature).

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Charlie Forbes

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[X] We, TIM HARDENBROOKS of 1604 E. MELTON RD,
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Allen B. Hardenbrook (signature).

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[X] I/We Carol L. Chupka of 1764 E. Melton Rd.
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Carol L. Chupka (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

Neighbors,

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[X] I/we Meredith Moran of 1726 Mansfield Rd.
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Meredith Moran (signature).

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[X] I/We

KEVIN + TERRI HESSEN of 1339 MELTON

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[X] I/We Cheryl M. Hyslop of 1700 Melton Road, Birmingham, MI 48009
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Cheryl M. Hyslop (signature).

Your Neighbor,

Charlie Forbes



Connie Folk <cfolk@bhamgov.org>

Fwd: opposition to Kenning Park (6 of 6)

Lauren Wood <lwood@bhamgov.org>

Tue, Nov 7, 2017 at 12:18 PM

To: "Laird, Carrie" <Claird@bhamgov.org>, "Folk, Connie" <Cfolk@bhamgov.org>

Lauren Wood
Director of Public Services

City of Birmingham
Department of Public Services
851 S. Eton
Birmingham, MI 48009
office: 248.530.1702

----- Forwarded message -----

From: **Charlie Forbes** <cforbes284@yahoo.com>

Date: Tue, Nov 7, 2017 at 11:35 AM

Subject: Re: opposition to Kenning Park (6 of 6)

To: "lwood@bhamgov.org" <lwood@bhamgov.org>

Cc: "jvalentine@bhamgov.org" <jvalentine@bhamgov.org>, "cmynsberge@bhamgov.org" <cmynsberge@bhamgov.org>

Dear Chairman & Parks Recreation Board,

I would like to get some documentation on the record. Birmingham residents are opposed to ANY changes to Kenning Park. Attached are letters signed by residents stating opposition to changes. I think I can speak for them all that any updates to existing structures are of course welcomed and wanted. Changes stated in the "Master Plan" that is not feasible and outdated are not welcomed by residents. I will be collecting many more letters from residents as I have found out that there is a **STRONG** opposition to any of this.

Cherilynn, maybe we could get this added to the agenda?

I will send this email several times with different attachments as the attachments are too large to have in one email. So far there are 50+ letters that will be attached with many more to come.

Thank you for adding this to the record and taking the time to review our suggestions.

Regards,
Charlie Forbes

 **kenning signatures 6.pdf**
16411K

October 4, 2017

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[X] I/we JAMES VOORHEIS of 1515 CHELTENHAM
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** ALSO - TRAFFIC @ ETON & E. LINCOLN*
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[X] I/We NORMAN & PAMELA WILLIS 1982 E. LINCOLN
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[X] I/We Jared Schrader and Erin Schrader of 1601 Mansfield Rd. B
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Jared Schrader Erin Schrader (signature).

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[X] I/We BERTHA JONES' of 2193 SHEFFIELD ROAD
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Mrs Mrs. FORBES =

Your Neighbor,

Charlie Forbes —

THANK YOU FOR YOUR EFFORTS TO MAINTAIN
OUR QUIET AND PEACEFUL NEIGHBOR-
HOOD. GOOD LUCK —

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[X] I We Cynthia Miller of 1159 S. Eton,
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[X] I/we Anna Tschirhart of 1363 S. Eton, Birmingham MI 48009
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed A. Tschirhart (signature).

Your Neighbor,

Charlie Forbes

October 4, 2017

Neighbors,

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[X] I/We Kathryn Hassel of 1387 E. Melton
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Kathryn Hassel (signature).

Your Neighbor,

Charlie Forbes

1599 Cheltenham
Birmingham, AL 38209

October 4, 2017

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[X] I/We Phillip Jr & Margaret A. Black of 1391 E. Melton Road, B'ham
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[X] I/We Todd MacKintosh of 2287 DUNSTABLE
Birmingham would like to see Kenning Park remain as is (no relocation to baseball diamonds, no track surrounding our homes, no removing of ANY trees) signed Todd MacKintosh (signature).

THIS PROPOSAL WAS TRIED YEARS AGO. THERE'S EVEN MORE TRAFFIC IN OUR NEIGHBORHOOD NOW. THESE HOMES HAVE CARS PARKED ON STREETS ALREADY. THEY'RE TURNING OUR COMMUNITY INTO STERLING HEIGHTS. THIS SHOULD BE ON A BALLOT. WHY DO THESE PEOPLE HAVE TO "SELL" EVERYTHING.

Your Neighbor,

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[X] I/We Steven Antwan of 1833 W. Melton
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[X] I/We Maria Giannotti of 1836 Humphrey Ave
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Your Neighbor,

Charlie Forbes



MEMORANDUM

Finance Department

DATE: December 1, 2017

TO: Joseph A. Valentine, City Manager

FROM: Mark Gerber, Director of Finance/Treasurer

SUBJECT: 48th District Court 2018 Budget

Attached is the proposed 2018 budget for the 48th Judicial District Court. In total, the Court is requesting an operating budget of \$4,670,920 which represents an increase of \$116,360, or 2.55%, from the 2017 budget. Increases are proposed for all the budgeted categories except for court expenses which is proposed to remain the same as the current year.

Salaries: For 2018 salaries are proposed to increase 2% from the 2017 budget.

Benefit Expenses: This budgeted category is proposed to increase by \$29,400, or 2.64% from the 2018 budget. The increase is the result of insurance and pension contributions.

Operating Expenses: For 2018, operating expenses are proposed to increase by \$16,000, or 1.25%. This is primarily the result of an increase in postage of \$11,000 and liability insurance of \$10,000. This was partially offset by a decrease in office supplies of \$5,000

Professional Fees: Overall this budgeted category is proposed to increase by \$31,100, or 31.26, as a result of outsourcing information technology services.

Court Expenses: This category is proposed to proposed to remain the same as 2017 at \$212,000.

Equipment & Capital: Expenditures for this category are proposed to increase by \$5,000, or 4.72%, as a result of an increase in equipment rental of \$1,000 and an increase in equipment maintenance of \$4,000.

In accordance with the 1985 agreement, revenues and Court expenditures are allocated to the four control units, which include the cities of Birmingham and Bloomfield Hills and the townships of Bloomfield and West Bloomfield, in the same proportion as the number of cases arising from each unit. At the end of each calendar year following the Court's audit, an adjustment is made for the difference between those amounts advanced based on the estimate and the actual caseload of each control unit under the agreement.

The City's percent of total projected caseload for 2017 (27.28%) is higher than 2016's actual caseload percentage (25.42%). Assuming the City funds the Court's 2018 budget at the same percentage as the projected 2017 caseload of 27.28%, the City would advance the Court \$1,274,227. No projected revenues were available from the Court for 2017 or 2018. In

calendar year 2016 the City received revenues of 1,071,498 from the Court and was allocated \$1,079,148 in Court expenditures for a net cost of \$7,650.

The Court is undergoing a security assessment and multiple security improvements are being considered. Once a capital improvement program is put together with these projects, a budget amendment is expected sometime next year to address the recommendations in the security assessment.

SUGGESTED RESOLUTION: To receive the 2018 proposed budget from the 48th Judicial District Court; and further, to approve the budget as submitted.

Proposed

STATE OF MICHIGAN 48TH JUDICIAL DISTRICT

2018 Budget



2018 Budget

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SECTION 1

2017 Review

THE COURT IN REVIEW

OVERVIEW

The 48th District Court serves the Charter Townships of Bloomfield and West Bloomfield, and the Cities of Birmingham, Bloomfield Hills, Keego Harbor, Orchard Lake Village and Sylvan Lake. The jurisdictions that fund the Court, per their own agreement, are: Bloomfield Township, West Bloomfield Township, Birmingham and Bloomfield Hills. The political subdivisions of Keego Harbor, Orchard Lake and Sylvan Lake use the Court's resources and receive reimbursements as reflected in Section 3. The role of the District Courts within the Judiciary, as defined by the Michigan Legislature in 1968, is to provide an independent third branch of government over:

- Arraignments – the setting of bond in Misdemeanor & Felony Cases.
- Misdemeanors – criminal cases punishable by imprisonment, not exceeding one year, written under state law or local ordinance. This includes: Operating While Intoxicated (1st and 2nd), Domestic Violence, Assault/Battery, Drug Possession, Stalking, Illegal Entry, Driving While License Suspended and all violations of probation for these cases.
- Preliminary Examinations – in felony cases. A preliminary exam is a hearing where testimony is heard for the judge to determine whether there is probable cause that a crime has been committed and that the defendant committed the crime. If the judge so finds, the case is bound over to the Circuit Court.
- Felony Pleas
- Civil Lawsuits – claims where the amount in controversy does not exceed \$25,000.
- Landlord/Tenant Disputes – Hearings which include eviction proceedings, land-contract and mortgage forfeitures.
- Small Claims – Claims where the amount in controversy does not exceed \$5,500 and litigants represent themselves.
- Civil Infractions – includes all informal and formal hearings.
- Search Warrants – Judges and Magistrates on call 24 hours a day.

The budget of the 48th District Court has two separate and distinct components. The first deals with caseload and monetary funds received by the Court. This information is provided for statistical purposes only. Fines and costs are assessed as appropriate. Funds received by the Court are subsequently distributed to the State, the County and local funding units. The communities of the 48th District Court receive quarterly distributions per the parameters decided by the funding units.

The second component of this budget analyzes the expenses incurred for the operation of the Court. The Court submits a lump-sum budget comprised of six account groupings. Any surplus is returned to the funding units upon completion of the annual external audit. Funds used to maintain the operation of the Court are reviewed and approved through an annual budget process with the funding units. Once approved, the funding units advance the Court monetary funds for operation on a quarterly basis, per the parameters decided by the funding units.

COURT OPERATIONS

The Judges and the entire staff of the 48th District Court understand the difficult budget issues facing all municipalities, courts, families and individuals. In preparing this budget, we continue to strive to ensure that public funds are used in the most efficient manner possible by reducing costs and maintaining a high standard of service, while honoring our constitutional duty to serve the public. The figures and data presented highlight the Court's commitment to the efficient use of the public's resources.

- Judicial caseload
 - Several years ago, the District Court's criminal jurisdiction over certain case types such as retail fraud, MDOP, and larceny from building, changed from \$100 to \$1000. Judges and staff must devote a significantly higher amount of time to these types of cases.
- The requirements relative to case disposition have changed.
 - The judges and the 48th District Court must submit quarterly reports to the State Court Administrator's Office (SCAO) regarding the disposition of cases and all matters submitted before them. They are effectively meeting or exceeding the guidelines specified by the Michigan Supreme Court.
- Magistrates handle arraignments, small claims cases, informal hearings and weddings. They are paid from the Court's General fund, but do not receive any benefits from the Court. Magistrates are utilized 3 days per week in the courthouse, and are on-call 24 hours a day to assist judges with search warrants. Arraignments are handled by the judges when the magistrates are not here.
- Collections –
 - The judges and staff of the Court are diligent in collecting fines and costs at the time of sentencing.
 - The Court has a closely monitored Collection System for delinquent civil infractions. The goal of the program is to enforce outstanding court orders and close old cases. Since the implementation of the program, the Court has collected in excess of \$2 million in revenue. The program is monitored with extreme efficiency at a minimal cost.
 - In 2014, the Court added another component to its Collection Program effort. Cases meeting certain criteria are forwarded to the Michigan Department of Treasury for tax garnishment. If a defendant is due an income tax refund, but has the garnishment order in place, money is forwarded to the Court from the State of Michigan.

EXPENSES REDUCTIONS & COURT IMPROVEMENTS

PERSONNEL

Knowing that employee salaries and benefits account for a substantial portion of its expenses, the Court has made significant changes over the past decade. We feel confident these changes and amendments have set a foundation, which will serve to save costs well into the future.

Building Lease

The Court's building lease was renewed in November 2016. Court Administration invested time analyzing the building, as well as assessing operational needs, in preparation for negotiations with our landlord, Bloomfield Township. The majority of the Court building is 26 years old; while an addition is 16 years old. Functional elements such as the heating and cooling (HVAC), plumbing, electrical and the roof have reached or exceeded their useful life. Structural components such as windows, entry-ways, and the parking lot need repairs and/or replacement. Cosmetic upgrades and replacement are needed for carpet, walls and offices due to normal wear and tear. Heightened security measures both inside and outside of the building are mandatory to protect the judges, staff and the public that visits the courthouse. The new lease takes all these concerns into consideration. Given the large number of improvements needed, it is not financially feasible for the Court to conduct them all in one fiscal year. Therefore, in addition to an increase in annual rent, Bloomfield Township has created a "Building Improvement Fund" for the Court's needs. The Court will deposit a fixed amount of \$44,750 into the fund annually, as will Bloomfield Township. Projects will be completed in a chronological order, based on prioritized need and will be subsidized by this account. This fixed cost appears in the "Operating Expense" section of the 2017 and 2018 Budget.

OPERATION & SECURITY

The Court has not invested in capital improvements in over 16 years, and has reached a point where maintenance costs for certain aspects of our operation are exceeding the replacement costs. Recognizing that not all of these needs necessarily fall under the scope of the building lease, the Court anticipates investing in these items though the general fund. All due diligence is exercised in assessing the Court's needs, while operating within the budget and maintaining high standards for fulfilling the Court's obligation to the public. Areas we have deemed the highest priority are technology and security. We anticipate a vast majority of our resources being invested in these areas going forward.

During 2017, the Court has upgraded security cameras and security access at the Court building. The Court intends to further enhance security by installing a secured parking lot for all Court staff and by expanding the Court's entryway to allow for enhanced security checkpoints and additional room for public to enter and exit the building safely.

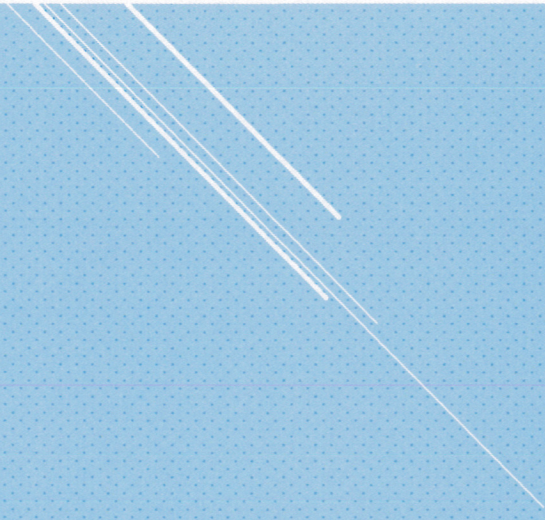
SPECIAL PROGRAMS & SERVICES

- **Cost Of Prosecution** – The law allows for the Court to collect on the cost of prosecution for Operating While Intoxicated (OWI) cases when requested by the prosecutor. Once collected, these funds are reimbursed, in full, directly to the appropriate funding unit.
- **Restitution** – In proceedings involving individual or business victims, the Court collects the restitution from the defendant and forwards it to the crime victim. To date in 2017, the Court forwarded over \$30,000 to individuals/businesses who have been victims of theft, embezzlement, fraud, property destruction, medical injuries, auto damage, etc. Since 2015, the Court has forwarded over \$109,000 to the victims.
- **OAK.gov Credit Card Processing** – The Court utilizes Oakland County's online services to accept credit card payments both within the courthouse and on the Court's website. The Court receives a quarterly distribution from the County for a portion of the profits from the service charges the County collects. In 2017, the Court received over \$14,600.
- **Website** – The Court's website, <http://48thdistrictcourt.us>, is an extremely user-friendly and informative site. Users are able to easily access general information about the Court, as well as print necessary court forms. The Court's website provides convenient and easy access for credit card payments through Oak.gov Credit Card Processing. The website reduces the number of telephone calls received by the clerks and reduces the foot traffic inside the courthouse thus allowing the clerks to utilize their time more efficiently.
- **WWAM & Community Service** – Weekend and Weekday Alternative for Misdemeanants – The WWAM program is an alternative to incarceration where sentenced defendants use their skills to help community groups by performing work on a supervised crew. In addition to WWAM, appropriate defendants are sentenced to perform other acts of community service benefiting local non-profit groups such as food banks, soup kitchens, shelters, hospitals, schools, etc.
- **Probation Oversight Program** – The Court has an intensive Probation Oversight program for alcohol and drug related offenses that includes treatment and aggressive testing requirements. The judge sentences individuals to participate, which requires them to abstain from drug and alcohol use, and participate in random drug and alcohol testing. Individuals are referred to outside drug and alcohol treatment facilities.
- **Serving the Community** – In addition to serving as judges at the 48th District Court, each individual judge strives to use the Court as a tool to educate our young people about making positive choices regarding drug and alcohol use and criminal activity.

- Judge Marc Barron presides over the “*Teen Court*” program, which allows high school students from local schools to take an active role in the Court process by handling actual juvenile cases. The students act as lawyers and jurors and decide the penalty on juvenile cases presented by the Prosecutor’s Office, while Judge Barron advises and sentences the individual.
- Judge Diane D’Agostini’s “Order in the Court” program has hosted thousands of students through field trips to the Court where she educates the young visitors about the Court process and making responsible decisions. She also speaks at local high schools about the law and penalties in addition to taking the Court to local high schools.
- Judge Kimberly Small implemented her “Critical Life Choices” and “*Cool to be Clean*” programs, a combination of court proceedings and a multi-media interactive presentation designed to help our youth make wise decisions. To date, she has shared her programs with over 20,000 students.

SECTION 2

Case Activity



STATE OF MICHIGAN 48TH JUDICIAL DISTRICT

Case Activity Comparison All case types, including Civil

<i>Case Type</i>	NEW CASES 2015	NEW CASES 2016	YR-TO-DATE CASES JAN-SEPT 2017	PROJECTED CASES JAN-DEC 2017	PROJECTED VARIANCE % 2016-2017
Traffic Offenses	28,406	28,188	20,934	26,753	-5.09%
Civil Infraction Traffic Misdemeanor Traffic Parking					
Drunk Driving	490	352	306	395	12.09%
Felony					
Ordinance					
Statute					
Criminal & Non-Traffic Offenses	1,785	1,398	1,079	1,366	-2.26%
Non-Traffic Misdem.					
Non-Traffic Civil Inf.					
Felony					
Civil Cases	4,166	4,016	3,090	4,130	2.83%
General Civil					
Small Claims					
Landlord/Tenant					
Total	34,847	33,954	25,409	32,643	-3.86%

STATE OF MICHIGAN
48TH JUDICIAL DISTRICT

Case Activity - Actual & Projected for 2017
All case types, including Civil

<i>Community</i>	ACTUAL NEW CASES 2015	ACTUAL NEW CASES 2016	ACTUAL NEW CASES JAN-SEPT 2017	PROJECTED NEW CASES JAN-DEC 2017	PROJECTED VARIANCE % 2016 vs 2017
Bloomfield Township	12,889	12,767	8,812	11,269	-11.73%
Birmingham	7,619	7,550	6,239	7,642	1.22%
West Bloomfield	7,124	6,576	4,510	5,954	-9.46%
Bloomfield Hills	2,407	2,808	2,338	3,152	12.24%
Keego Harbor	979	1,137	1,069	1,408	23.87%
Orchard Lake	2,386	1,906	1,383	1,705	-10.54%
Sylvan Lake	1,120	950	795	1,006	5.86%
Other	323	260	263	507	94.84%
Total cases from communities	34,847	33,954	25,409	32,643	-3.86%

STATE OF MICHIGAN
48TH JUDICIAL DISTRICT

Funding Unit Caseload Percentages
Actual & Projected for 2017

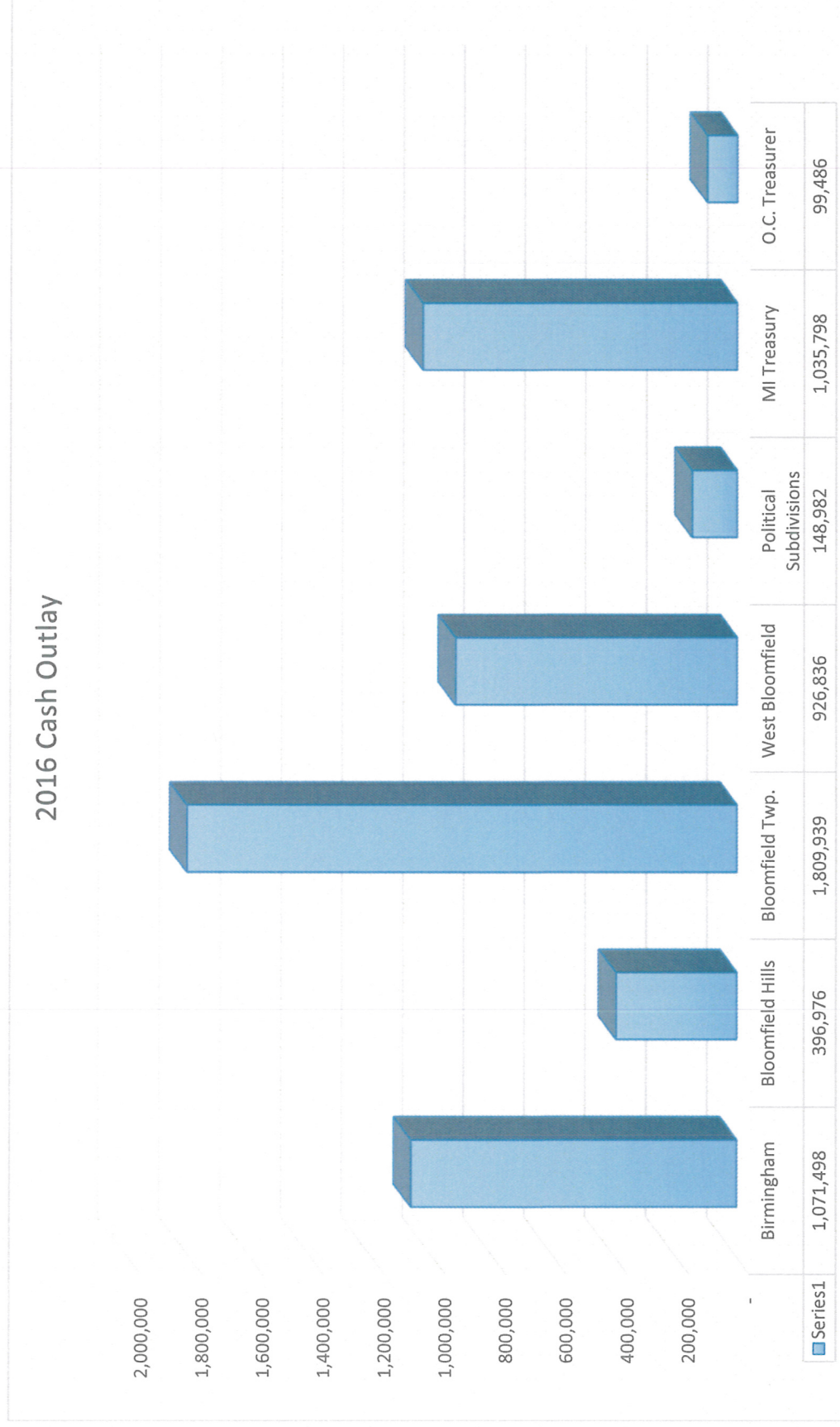
<i>Community</i>	ACTUAL CASES 2015		ACTUAL CASES 2016		PROJECTED CASES 2017	
	%		%		%	
Bloomfield Township	42.91%		42.99%		40.22%	
Birmingham	25.36%		25.42%		27.28%	
West Bloomfield	23.72%		22.14%		21.25%	
Bloomfield Hills	8.01%		9.45%		11.25%	

SECTION 3

Cash & Distributions

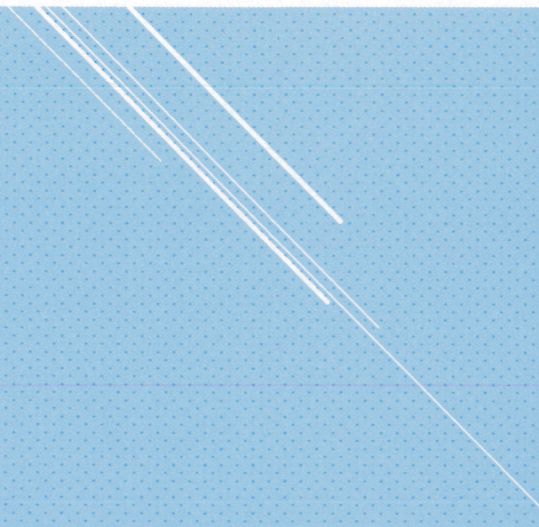


STATE OF MICHIGAN 48TH JUDICIAL DISTRICT



SECTION 4

Expenditures



STATE OF MICHIGAN
48TH JUDICIAL DISTRICT

2017 Budgeted Expenditure Summary

	2016 ACTUAL	2017 BUDGET	2018 BUDGET REQUEST	2017 BUDGET TO 2018 BUDGET
Salaries	\$ 1,761,008	\$ 1,743,000	\$ 1,777,860	2.00%
Benefits	1,048,633	1,115,000	1,144,400	2.64%
Operations	1,100,867	1,279,060	1,295,060	1.25%
Professional Fees	110,822	99,500	130,600	31.26%
Court Expenses	174,973	212,000	212,000	0.00%
Equipment & Capital	51,220	106,000	111,000	4.72%
Total Expenditures	\$ 4,247,523	\$ 4,554,560	\$ 4,670,920	2.55%

STATE OF MICHIGAN
48TH JUDICIAL DISTRICT

2017 Benefit Expense

	2016 ACTUAL	2017 BUDGET	2018 BUDGET REQUEST	2017 BUDGET TO 2018 BUDGET
Pension	\$ 258,600	\$ 240,000	\$ 244,800	2.00%
Medical Insurance	625,851	705,000	726,150	3.00%
Other Post -Employment Benefits (OPEB)	55,000	55,000	55,000	0.00%
Dental, Life, Disability Insurance	109,182	115,000	118,450	3.00%
Total Expenditures	<u>\$ 1,048,633</u>	<u>\$ 1,115,000</u>	<u>\$ 1,144,400</u>	<u>2.64%</u>

STATE OF MICHIGAN
48TH JUDICIAL DISTRICT

2017 Operating Expenses

	2016 ACTUAL	2017 BUDGET	2018 BUDGET REQUEST	2017 BUDGET TO 2018 BUDGET
Payroll Taxes & ESC	\$ 135,605	\$ 135,000	\$ 135,000	0.00%
Information Systems	71,295	95,000	95,000	0.00%
Office Supplies	50,768	60,000	55,000	-8.33%
Postage	29,932	20,000	31,000	55.00%
Insurance	66,715	70,000	80,000	14.29%
Utilities	89,597	90,000	90,000	0.00%
Telephone	14,943	20,000	20,000	0.00%
Rent	538,996	584,310	584,310	0.00%
Building Capital Improvement Fund		44,750	44,750	0.00%
Building Maintenance	103,016	160,000	160,000	0.00%
Total Expenditures	<u>\$ 1,100,867</u>	<u>\$ 1,279,060</u>	<u>\$ 1,295,060</u>	<u>1.25%</u>

STATE OF MICHIGAN
48TH JUDICIAL DISTRICT

2017 Professional Fees

	2016 ACTUAL	2017 BUDGET	2018 BUDGET REQUEST	2017 BUDGET TO 2018 BUDGET
Auditors	\$ 19,135	\$ 22,000	\$ 22,000	0.00%
Magistrates	55,825	58,000	60,000	3.45%
Consultants & Other Professional Services	35,862	19,500	48,600	149.23%
Totals	<u>\$ 110,822</u>	<u>\$ 99,500</u>	<u>\$ 130,600</u>	<u>31.26%</u>

STATE OF MICHIGAN 48TH JUDICIAL DISTRICT

2017 Court Expenses

	2016 ACTUAL	2017 BUDGET	2018 BUDGET REQUEST	2017 BUDGET TO 2018 BUDGET
Jury & Witness Fees	\$ 4,305	\$ 12,000	\$ 12,000	0.00%
Assigned Counsel	63,042	65,000	65,000	0.00%
Education/Library	9,795	10,000	10,000	0.00%
Court Security	97,831	125,000	125,000	0.00%
Total Expenditures	<u>\$ 174,973</u>	<u>\$ 212,000</u>	<u>\$ 212,000</u>	<u>0.00%</u>

STATE OF MICHIGAN
48TH JUDICIAL DISTRICT

2017 Equipment & Capital Expense

	2016 ACTUAL	2017 BUDGET	2018 BUDGET REQUEST	2017 BUDGET TO 2018 BUDGET
Equipment Rental	\$ 7,474	\$ 10,000	\$ 11,000	10.00%
Equipment Maintenance	26,949	21,000	25,000	19.05%
Capital	16,797	75,000	75,000	0.00%
	<u>\$ 51,220</u>	<u>\$ 106,000</u>	<u>\$ 111,000</u>	<u>4.72%</u>

DATE: December 6, 2017

TO: Joseph A. Valentine, City Manager

FROM: Sean Campbell, Assistant City Planner

APPROVED BY: Jana Ecker, Planning Director

SUBJECT: Proposed Sculpture Loan – Windswept by Gary Kulak

Introduction

On October 23, 2017, City Staff received an application from Gary Kulak to loan his artwork to the City for public display. The artwork titled *Windswept*, is a cardinal red steel chair that stands 8' x 6' x 27' (L x W x H) and weighs 1,200 lbs. At this time, the artist is proposing the triangular open space formed by three pathways in Barnum Park as the location of the piece. In early October 2017, a circular concrete pad was poured at Barnum Park to accommodate rotating art sculptures. The artist has indicated that *Windswept* will be a 5 year loan.

The subject sculpture has been exhibited in Grand Rapids, MI and Knoxville, TN. The artist explains that the work signifies the human spirit as if looking through a doorway (AKA the Barnum Elementary School entry portal) into a space and space looking back at you. The work creates a positive message of pride when viewed as a gesture moving upward. Further, the work was created for this site and will serve as a guardian and spirit for the park.

At this time, the artist's application and supplemental materials have been routed to all relevant City Departments for review. Provided below is a summary of their comments, concerns, and/or questions.

Building Dept.**Applicable Building Codes:**

- **2015 Michigan Building Code.** Applies to all buildings other than those regulated by the *Michigan Residential Code*

Review Comments:

1. The sculpture must be anchored down per engineer's specifications and all applicable building codes and ordinances.

Engineering Dept.

On November 1, 2017: I need detailed information on how the chair is attached to the concrete, then I can have it reviewed by a structural engineer.

On November 6, 2017 (after receiving response from

	artist): We are all set with approval of the chair from a structural standpoint.
Fire Dept.	<i>No concerns.</i>
Planning Dept.	<i>No concerns.</i>
Police Dept.	<p>On November 1, 2017: From a police perspective, I am concerned about the height of the chair. Specifically, I am concerned that teenagers will attempt to climb the chair in order to have their picture taken sitting on it. I do not know if this has been an issue in other locations where the chair has been in place, but some investigation on the issue is warranted.</p> <p>On November 6, 2017 (after receiving response from artist): While I appreciate Mr. Kulak's thoughts, I will defer judgment on the issue to the Public Arts Board. In his own words, Mr. Kulak stated, "That it would be the responsibility of Public Services to monitor the park as they currently do for security purposes." I agree with him and that is why I raised the issue in the first place. If the Public Arts Board moves forward, signage would be absolutely required. Fencing the artwork in should also be considered if the project moves forward. The level of risk moving forward will be decided by the Public Arts Board and the City Commission.</p>
Dept. of Public Services	The artist shall be responsible for the installation and all associated costs, including costs to repair damage to the park. The artist shall provide and install a "No Climbing" sign. Installation contingent upon required Insurances.

In an email response (see attached) to the above comments, Mr. Kulak clarified how the sculpture will be attached to the concrete pad. As he explained, each leg will be directly secured to the pad with a 4-1/2" x 6" Tapcon galvanized anchor, stating that this is what was used in other installations. This information was passed onto and subsequently approved for safety by the City's structural engineer. To address the second issue that was raised by the Police Chief, he explained that while he cannot guarantee the behavior of individuals, it has typically been the practice to provide a "No Climbing" sign and to monitor the park, as the Department of Public Services currently does. Further, if attempts to scale the sculpture become an issue, Vaseline can be applied between 8' and 10' high on the legs to prevent climbing of the sculpture. The Police Chief deferred judgement on the issue to the Public Arts Board and City Commission.

Lastly, the application was forwarded to the Cultural Council of Birmingham Bloomfield (the "Council") for review. The President has stated that the Council approves of the application and will commit the funds to insure the sculpture at the proposed location if it receives City Commission approval.

On November 14, 2017, the Parks and Recreation Board reviewed Mr. Kulak's application for *Windswept*. The Board voted 5 – 2 to recommend approval of the application to the City

Commission with the condition that liability insurance be obtained for the loan. It has been determined that the Cultural Council will procure and maintain commercial general liability insurance with limits no less than \$2,000,000, as has been the case with all of its loans to the City.

Additionally, on November 15, 2017, Mr. Kulak's proposed loan was reviewed by the Public Arts Board and was unanimously recommended for approval to the City Commission.

At this time, the artist and all relevant parties on behalf of City administration have signed an Access and Maintenance Agreement for the 5-year loan. Please find this document attached for your review, along with photos and other documentation. Draft minutes are not yet available.

SUGGESTED ACTION:

To approve the recommendations of the Public Arts Board and Parks and Recreation Board to accept a 5 year loan of the sculpture, Windswept , by Gary Kulak, and to approve the proposed location for installation in the triangular open space in Barnum Park;

AND

To approve the Access and Maintenance Agreement with Gary Kulak and further to direct the Mayor and City Clerk to sign the agreement on behalf of the City;

OR

To decline the 5 year loan of the sculpture, Windswept, by Gary Kulak.



Cultural Council of Birmingham Bloomfield
P.O. Box 465 Birmingham, MI. 48012

APPLICATION FOR ART IN PUBLIC SPACES

APPLICANT NAME Gary Kulak Sculpture LLC

DAYTIME PHONE 248-515-1044 EMAIL gkulak@cranbrook.edu

DONOR, OWNER, OR AGENT (DEALER) Gary Kulak

ARTIST (first and last) or PROJECT NAME Gary Kulak

TITLE WINDSWEPT

DATE OF ARTWORK 2014 MEDIUM/TECHNIQUE Fabricated Steel with Powder coat finish

PROPOSED ☐ DONATION ☒ LOAN

DESCRIPTION OF ARTWORK Windswept has been exhibited in Grand Rapids, MI and Knoxville, TN. The work is constructed in 1/4"x 3" architectural tubing, 1/4" steel plate and 1/2" steel base plates. The Work is powder coated cardinal red.

HEIGHT	x	WIDTH	x	LENGTH/DEPTH	WEIGHT
27'		6'		8'	1200 lbs.

OBJECT TYPE(S)/MATERIAL steel

DESIGN LOADS (wind load-F=3, dead load-77kN/m³)

INSCRIPTION/FOUNDRY MARKS Work is signed and dated by the artist.

PRESENT LOCATION OF ARTWORK (Birmingham, MI)

CONDITION Excellent

MAINTENANCE REQUIRED none

VALUE \$45,000 ☐ APPRAISED ☒ OWNER'S STATED VALUE

FOOTING/FOUNDATION REQUIREMENTS

minimum 8' diameter circle x 16" depth

NARRATIVE/RATIONALE FOR GIFT/LOAN/TEMPORARY INSTALLATION

This work was proposed for the site at Barnam Park 4 years ago and was approved pending the installation of a concrete pad. The concrete pad has been recently completed and the work is ready to be installed. The neighborhood has supported this project raising some of the funds for the footing. This work signifies the human spirit as if looking through a doorway into space and space looking back at you. The work creates a positive message of Pride when viewed as a gesture moving upward. The work was created for this site and will serve as guardian and spirit for the park.

SIGNATURE



10-19-2017

DATE

*****Submit application together with prints or digital images of artwork, foundation plans, completed Outdoor Sculpture Agreement (if temporary sculpture), and a vitae or resume of the artist to:**

City of Birmingham

Attn: City Clerk – c/o Public Arts Board
151 Martin St.

P.O. Box 3001
Birmingham, MI 48012

PAB Action (Office use only)

Date Received: _____

Presented for Public Arts Board discussion: _____

Board Action: ☐ Recommended for approval ☐ Not recommended for approval

Insurance: ☐ Provided by CCBB ☐ Provided by City ☐ Other _____

Recommendation(s)/Action Taken _____

Routing and dates approved (Office use only):

Y N

☐ ☐ Planning _____

☐ ☐ Engineering _____

☐ ☐ Public Safety (Police/Fire) _____

☐ ☐ Parks and Recreation _____

☐ Approved by CCBB _____

☐ Approved by City Commission _____

Y N

☐ ☐ Building _____

☐ ☐ Other _____

☐ ☐ Other _____

Site Location _____

(If artwork is to be permanently donated, the City of Birmingham has the right to relocate and /or remove the artwork from public display. If permanently donated, the City of Birmingham may provide the required insurance. If artwork is to be on temporary loan, the CCBB may provide required insurance.)

GARY KULAK

1240 Wagner Ave.
Bloomfield Hills, MI 48302
Mobile (248) 515-1044
Work (248) 645-3447

EDUCATION:

1983 MFA – Hunter College, New York, NY

1975 BFA – Cranbrook Academy of Art, Bloomfield Hills, MI

PROFESSIONAL EXPERIENCE:

1976-present Gary Kulak Sculpture LLC, Birmingham, MI

2005-present Artist in Residence/Head Department of Fine Arts, Cranbrook-Kingswood, Bloomfield Hills, MI

SELECTED EXHIBITIONS:

2017 Harbor Walk Sculpture Exhibition, Kenosha, WI
2017 Sculptfusion, Michigan City, IN
2017 Castlewood Downs Sculpture Exhibition, Lexington, KY
2017 "Metamorphic Resonance" Pietrasanta, Italy
2017 The Digital Stone Project, Garfagnana Inovazione, Gramolazza, Italy
2017 "Sculpture Walk", Springfield, MO
2017 CSE, Chicago Sculpture Exhibition, Chicago IL
2016 ISC Small Sculpture Exhibition, August Wilson Center, Pittsburgh, PA
2016 "100 Sculptors", Ella Sharpe Museum, Jackson, MI
2016 Opening Exhibition, Works...A Gallery, Chattanooga, TN
2016 CSE, Chicago Sculpture Exhibition, Chicago, IL
2016 "Outdoor Sculpture Exhibition" Valparaiso, IN
2016 "100 Sculptors" Ella Sharp Museum, Jackson, MI
2016 Knoxville "Art in Public Places" Knoxville TN
2016 N'Namdi Contemporary, Miami, FL
2015 CSI Themes in Contemporary Sculpture, University of Wisconsin- Eau Claire
2015 Small Sculpture Exhibition, ISC, Phoenix, AZ
2015 Outdoor Sculpture Exhibition, Adrian, Michigan
2015 "isday", 4-24-2015, Gary Kulak Sculpture LLC
2015 "Art in Public Places", Knoxville
2015 Chicago Sculpture Exhibit, Chicago, IL
2014 "Chicago Parks Exhibition", Palmer Park, Chicago, IL
2014 "ArtPrize", BOB, Grand Rapids, MI
2014 "Small Sculpture Exhibit", ISC, New Orleans, LA
2014 "Michigan Legacy Artpark" Thompsonville, MI
2014 "Detroit Riverfest", Detroit Riverfront, Detroit, MI
2014 "Chicago Sculpture Exhibit", Lincoln Park, Chicago, IL
2014 Krasl Art Center, "10th Biennial Sculpture Exhibition"
2013 N'Namdi Contemporary, Miami, FL
2013 "Art Fusion Miami", Miami, FL
2013 "Small Sculpture Exhibition", ISC, Miami, FL
2013 "Chicago Boulevard Exhibition", Chicago Parks Department, Chicago, IL
2013 "Large Scale Work", Bridgeport Art Center, Chicago, IL
2012 "Art Basel Miami", N' Namdi Contemporary Art, Miami, FL
2012 "Small Sculpture Exhibition" ISC, Chicago, IL
2012 "Art Expo Chicago", CSI, Navy Pier, Chicago, IL
2012 "International Sculpture Exhibition", Grant Park, Chicago, IL
2012 "80 Years of the Detroit Artist Market" Detroit Historical Museum, Detroit MI

SELECTED PUBLIC COLLECTIONS:

Smithsonian Institute, Washington, DC	Detroit Institute of Art, Detroit, MI
Cranbrook Museum of Art, Bloomfield Hills, MI	Kmart Corporation, Troy, MI
Holtzman/Silverman Co., Southfield, MI	AT&T, Southfield, MI
IBM Corporation, Southfield, MI	Progressive Corporation, Cleveland, OH
Royal Maccabees Insurance Co., Charlotte, SC	City of Mt. Clemens, MI
Grand Valley State University, Allendale, MI	Elm Development Inc., Chicago, IL
Forbes-Cohen/Nemer Assoc., Southfield, MI	Michigan Legacy Art Park, Thompsonville, MI
City of Royal Oak, MI	Village of Skokie, IL



Sean Campbell <scampbell@bhamgov.org>

Public Art Submission

7 messages

Gary Kulak <grkulak@gmail.com>

Mon, Oct 23, 2017 at 7:41 PM

To: scampbell@bhamgov.org

I have been asked to email this to you because Cherilynn Brown's email is not on the web site.
Could you please see this gets delivered?

respectfully submitted,

Gary Kulak

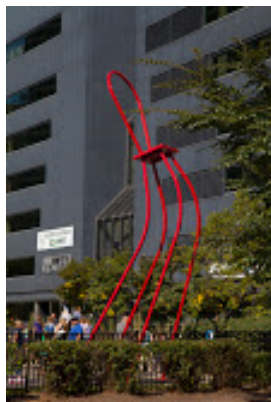


Virus-free. www.avast.com

4 attachments



1Windswept copy.jpg
1083K



1Windswept2 copy.jpg
1310K



Kulak Resume-2017 short.doc
31K



UPDATED APPLICATION FOR DISPLAY OF ARTWORK ON PUBLIC PROPERTY - 6-20-

17.pdf
914K

Sean Campbell <scampbell@bhamgov.org>
To: Gary Kulak <grkulak@gmail.com>

Tue, Oct 24, 2017 at 9:44 AM

Gary,

I will be sure to process your application and get it onto the next Public Arts Board agenda for their review. They are scheduled to meet again on Wednesday, November 15 at 6:30 PM.

Thank you for your continued interest in this loan.

Best,

Sean

[Quoted text hidden]

--

Sean Campbell
Assistant Planner
City of Birmingham
[\(248\) 530-1855](tel:(248)530-1855)

Sean Campbell <scampbell@bhamgov.org>
To: Gary Kulak <grkulak@gmail.com>

Tue, Oct 31, 2017 at 4:03 PM

Gary,

Is this going to be a 5 year loan, as previously discussed? Once I know this, I can have our City Attorney re-write the Access and Maintenance Agreement for you to sign.

Thanks,

[Quoted text hidden]

Gary Kulak <grkulak@gmail.com>

Tue, Oct 31, 2017 at 4:12 PM

To: Sean Campbell <scampbell@bhamgov.org>, Barbara Heller <bheller@dia.org>

Sean, That is the plan unless the work is purchased. In that case I would like the opportunity to either change the status to permanent or if purchased by another to remove the work. It is my intent to have it stay.

Gary

Sent from my iPhone

[Quoted text hidden]

Sean Campbell <scampbell@bhamgov.org>
To: Gary Kulak <grkulak@gmail.com>
Cc: Barbara Heller <bheller@dia.org>

Fri, Nov 3, 2017 at 2:19 PM

Gary,

At this point, the City does not have the wherewithal to purchase sculptures outright. That being said, during the life of a 5 year loan, things could change and funding could become available, whether it comes from city tax dollars or through private fundraising. No guarantees of course, but a 5-year loan would leave these possibilities open, as it would give the sculpture time to make an impression on the park. In addition, I spoke to Laurie Tennent from CCBB and she said they would be able to take care of the insurance if the sculpture is approved by City Commission.

While I have your attention, I have also received departmental comments from Fire, Engineering, and Police. Their comments are as follows:

Fire Department: No concerns from fire.

Police Chief: From a police prospective, I am concerned about the height of the chair. Specifically, I am concerned that teenagers will attempt to climb the chair in order to have their picture taken sitting on it. I do not know if this has been an issue in other locations where the chair has been in place, but some investigation on the issue is warranted.

Engineering Director: I need detailed information on how the chair is attached to the concrete, then I can have it reviewed by a structural engineer.

Still waiting on Department of Public Services, but it is my understanding that they have no concerns. I understand the concern about people scaling the sculpture was raised years ago at the outset of your original sculpture, but that is only a concern and not reason to warrant a rejection of your application. That decision is up to the City Commission. However, you will need to address the engineering department's concerns in order to move forward.

Once these concerns are addressed in writing, the next steps will be to take the sculpture to Parks and Recreation Board on November 15, Public Arts Board November 16, and then City Commission on a date to be determined.

As always, let me know if you have any questions.

[Quoted text hidden]

Gary Kulak <grkulak@gmail.com>
To: Sean Campbell <scampbell@bhamgov.org>
Cc: Barbara Heller <bheller@dia.org>

Fri, Nov 3, 2017 at 3:01 PM

Hi Sean,

I wanted to respond to the engineering. Each leg has 4-1/2"x6" Tapcon galvanized anchors direct into the concrete. This has been used in the other installations and is more than sufficient for the work.

In response to the police chief. This work has been exhibited in Grand Rapids and Knoxville, TN and climbing was not an issue. I cannot guarantee the behavior of individuals. It would be the responsibility of Public Services to monitor the park as they currently do for security purposes. Signage should be installed, as should be the case for all public works, that climbing works of Art/private property is not permitted and violators will be prosecuted. This is what we do in other cities. This is best practice in the field of Public Art.

If it does become an issue Vaseline can be applied between 8' and 10' High. That has been used on some works of art in some cities. This is effective but in most cases not usually necessary. It

depends on the character of the community and the residents that live there.

I agree with your comments on the loan/purchase possibility. That is for the future. So in closing plan on a 5 yr loan.

Sent from my iPhone

[Quoted text hidden]

Sean Campbell <scampbell@bhamgov.org>
To: Gary Kulak <grkulak@gmail.com>

Mon, Nov 6, 2017 at 1:52 PM

Thank you for addressing these issues. I will send your responses over to the respective department heads and get back to you if there are any further concerns.

Best,

[Quoted text hidden]

**SCULPTURE INSTALLATION
AND MAINTENANCE AGREEMENT**

This Sculpture Installation and Maintenance Agreement ("Agreement") is entered into on this ____ day of _____, by and between the **CITY OF BIRMINGHAM**, a Michigan municipal corporation ("City"), whose address is 151 Martin Street, Birmingham, Michigan, 48009, and **GARY KULAK SCULPTURE LLC** ("Owner"), a Birmingham resident whose address is 1427 Humphrey Avenue, Birmingham, Michigan, 48009.

Recitals

Owner is artist, Gary Kulak Sculpture LLC. Owner desires to install and maintain his "Windswept" sculpture, a rendition of which is shown on Exhibit A, attached hereto, in the triangle area at Barnum Park (northeast section). The City has agreed to permit Owner to install and maintain the sculpture at Barnum Park, subject to the terms and conditions set forth in this Agreement.

Accordingly, the parties agree as follows:

Agreement

1. Installation of Sculpture. Owner shall, at his expense, install the sculpture at Barnum Park and restore the park grounds to its prior condition upon removal.
2. Maintenance and Conservation of Sculpture. Owner shall be responsible for all maintenance and conservation of the sculpture, at his sole expense, for the duration of the loan. In the event the sculpture is damaged, Owner shall, at his sole expense, promptly repair the sculpture, or Owner may, in his sole discretion, instead remove the sculpture pursuant to Section 4 below.

3. Term. The sculpture shall be loaned to the City for a five (5) year term, during which term only the City may require its removal at any time and for any reason.

4. Ownership of the Sculpture. Owner shall retain ownership of the sculpture and may, in accordance with the terms and conditions of this Agreement, remove the sculpture from Barnum Park after the initial five (5) year term for any reason. In such event, the Owner shall provide the City with written notice, sixty (60) days prior to removal.

5. Removal of Sculpture. When the sculpture is removed from Barnum Park, for any reason, Owner shall, at his sole expense, restore the grounds to its prior condition, as requested by the City.

6. Casualty Insurance for Sculpture. Owner may, in his discretion, purchase casualty insurance for the sculpture insuring the value of the sculpture for Owner's benefit.

7. Commercial General Liability Insurance. Owner shall procure and maintain Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$2,000,000.00 per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. The Commercial General Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: "The City of Birmingham, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof." This coverage shall be primary to any coverage that may be available to the additional insured, whether any other available coverage be primary, contributing or excess. The Commercial General Liability Insurance, as described above, shall also include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to: City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham,

Michigan, 48012.” Owner shall provide the City at the time this Agreement is returned for execution, Certificates of Insurance. If the above coverage expires during the term of this Agreement, Owner shall deliver a renewal certificate to the City at least ten (10) days prior to the expiration date.

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

9. Cultural Council to Insure Sculpture. The Cultural Council of Birmingham Bloomfield shall also insure the sculpture and indemnify the City under its existing Outdoor Sculpture Agreement with the City.

10. Binding on Successors and Assigns. All covenants, agreements, provisions and conditions of this Agreement shall be binding on and inure to the benefit of the parties hereto, their respective personal representatives, successors and assigns.

11. No Waiver. No waiver of any covenant or condition contained in this Agreement, or of any breach of any such covenant or condition, shall constitute a waiver of any subsequent breach of such covenant or condition by either party, or justify or authorize the nonobservance on any other occasion of the same or any other covenant or condition hereof of either party.

12. Interpretation. This Agreement shall be construed in accordance with the laws of the State of Michigan. Whenever the contents of any provision shall require it, the singular number shall be held to include the plural number and vice versa. The neuter gender includes the masculine and the feminine.

13. Entire Agreement. This Agreement contains the entire agreement of the parties hereto with respect to the installation and maintenance of the sculpture described above, and this Agreement may not be amended or modified, in whole or in part, except by an instrument in writing signed by the parties hereto, their respective successors or assigns.

14. Termination of Agreement. This Agreement shall automatically terminate upon removal of the sculpture from Barnum Park in compliance with Section 4 of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

OWNER: Gary Kulak Sculpture LLC


By: 
Gary Kulak

CITY OF BIRMINGHAM


By: _____
Andrew M. Harris, Mayor

By: _____
Cherilynn Mynsberge, City Clerk


APPROVED:




Joseph A. Valentine, City Manager
(As to Substance)



Jana Ecker, Planning Director
(Approved as to Substance)

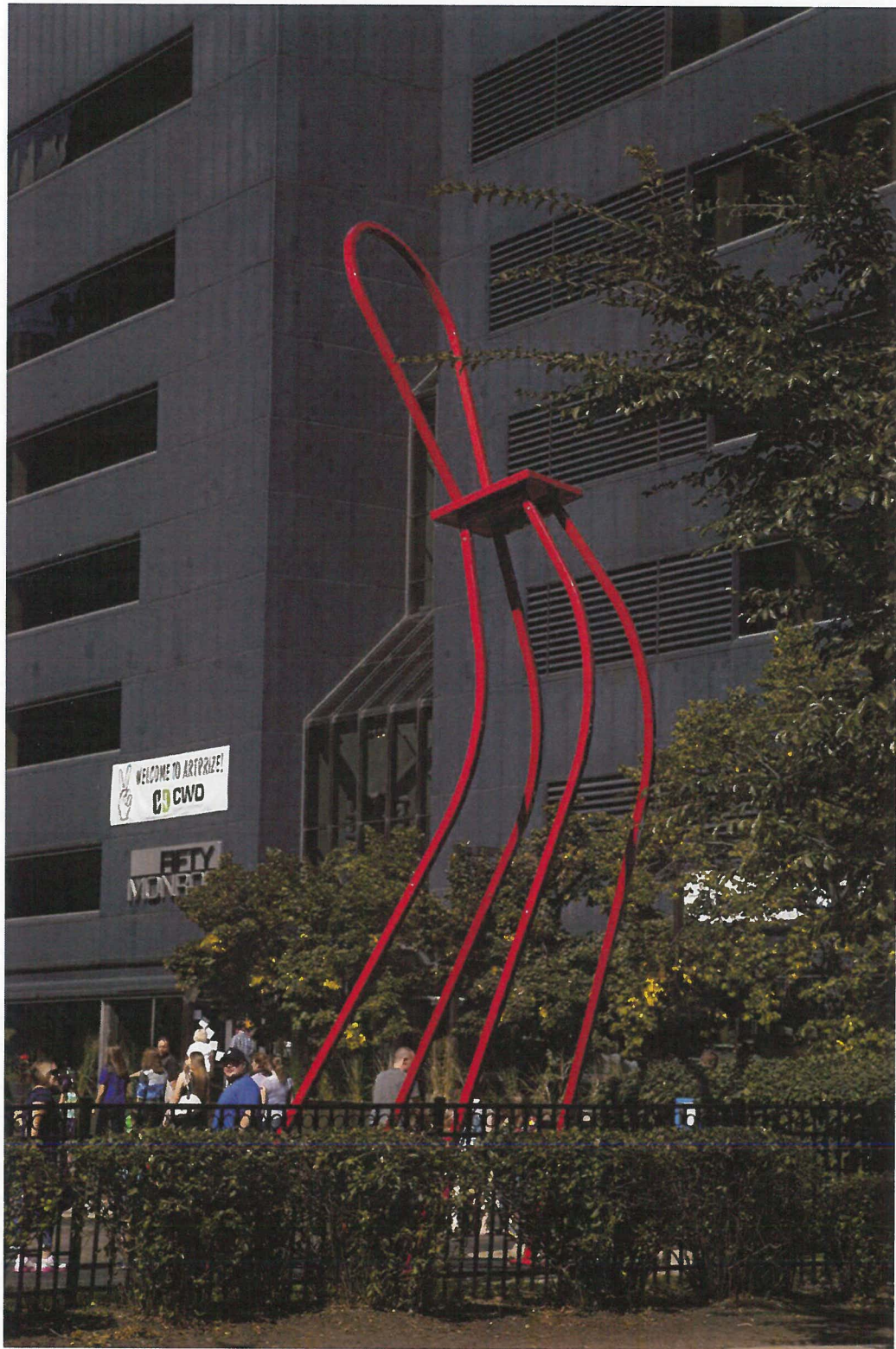


Timothy J. Currier
(As to Form)

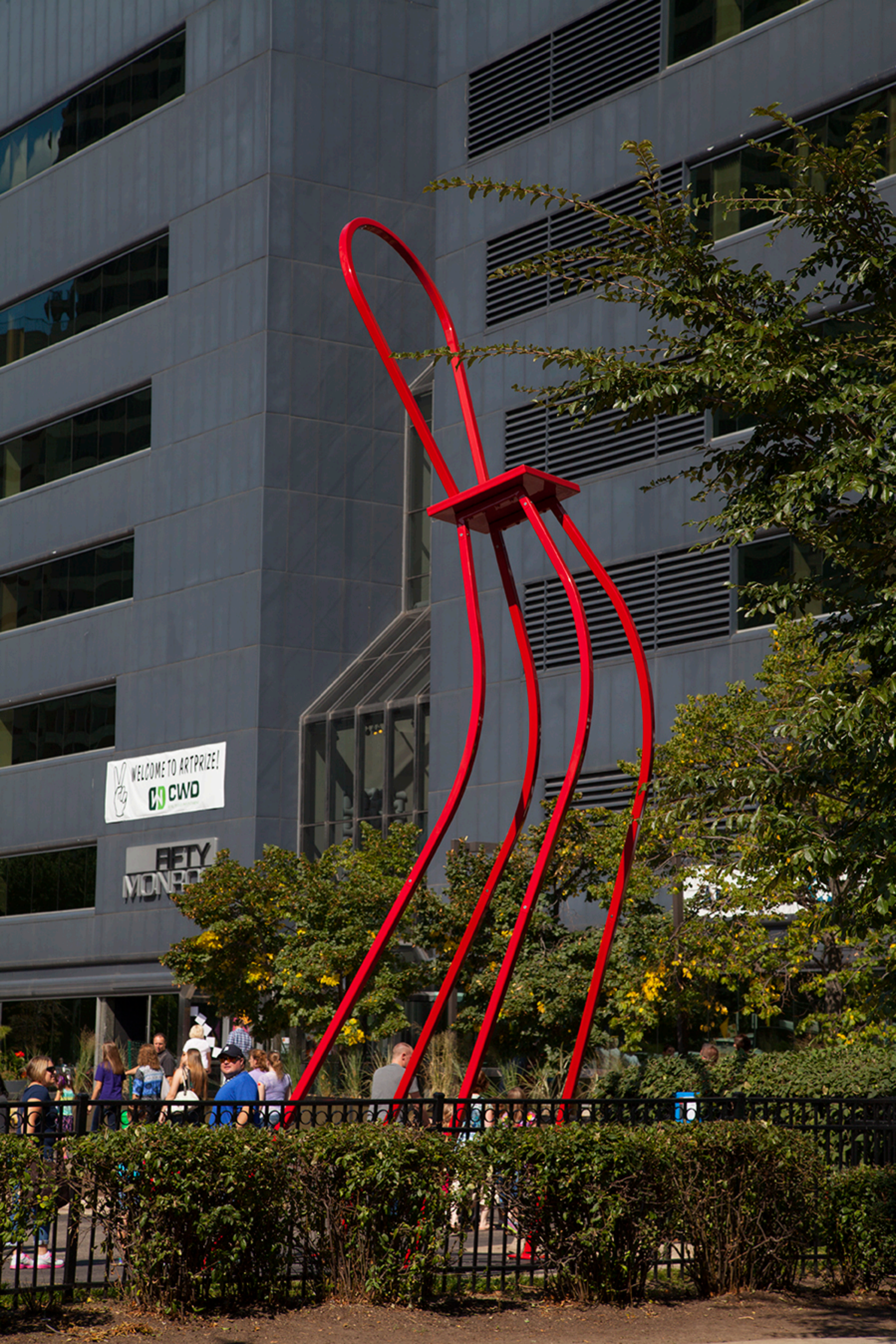


Mark Gerber, Director of Finance
(Approved as to Financial Obligation)

EXHIBIT A







WELCOME TO ARTPRIZE!
CWD

FIFTY
MONTE

Proposed Location of Circular Concrete Pad

Barnum Park, Birmingham, MI





DATE: December 5, 2017

TO: Joseph A. Valentine, City Manager

FROM: J. Cherilynn Mynsberge, City Clerk

SUBJECT: 2018 Annual Review of Fee Schedule

The fee required to be paid and the amount of any bond required to be posted, or insurance required to be carried, to obtain any license to engage in the operation, conduct or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of the Birmingham City Code is set by the City Commission through the Schedule of Fees, Charges, Bonds and Insurance.

The fee schedule has been reviewed by each department to determine whether amendments are needed to cover the cost for service and processing. The following revisions are proposed.

CITY CLERK

The City Clerk's Office has proposed the following change:

- Remove Taxicabs (Chapter 122). State law has removed local jurisdictions from the licensing process.

BUILDING DEPARTMENT

The plan review process for new homes, additions, accessory structures and impervious surfaces require site plan and drainage review in accordance with Chapter 22 of the City Code. The fees for these reviews are listed in the Community Development Dept. section of the fee schedule under the heading Site Evaluation. These fees have remained the same for several years and the Engineering Department is requesting they be increased to cover actual costs.

Site Evaluation

- New house fees are proposed to increase from \$150.00 to \$200.00 for a total increase of \$50.00 per review.
- The fee for additions, accessory structures and impervious surfaces is also proposed to increase \$25.00 from \$75.00 to \$100.00 per review. A text change is also proposed here to include impervious surfaces as mentioned in the City Code.

SUGGESTED RESOLUTION:

To amend the Schedule of Fees, Charges, Bonds and Insurance, City Clerk's section, and Community Development Department section, as stated in the report.

CHANGE CODES AS LISTED ON FEE SCHEDULE

- | | |
|----|---------------------------------------------------------|
| A. | Fee has remained the same for many years |
| B. | Proposed fee covers current costs |
| C. | Pass through costs that reflects actual cost of service |
| D. | Fee consistent with neighboring communities |
| E. | New fee |
| F. | Increase to cover normal inflationary increase |
| G. | No longer provide this service |
| H. | Other |



FEES, CHARGES, BONDS, INSURANCE

The fee required to be paid and the amount of any bond required to be posted, or insurance required to be carried, to obtain any license to engage in the operation, conduct or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of the Code of the City of Birmingham code shall be as hereinafter provided. These fees may be amended by resolution of the City Commission.

Adopted by Resolution #02-18-10 by the Birmingham City Commission at a regular meeting held February 8, 2010, effective February 14, 2010.

A handwritten signature in cursive script that reads "Nancy M. Weiss".

City Clerk

<u>DATE AMENDED</u>	<u>RESOLUTION NUMBER</u>	<u>SECTION</u>
2/22/2010	02-30-10	Police - Parking Offenses and Fines
3/8/2010	03-44-10	Engineering - Schedule of Parking Fees
3/8/2010	03-48-10	Fire - EMS Transportation Fees
3/22/2010	03-37-10	Community Development - Vacant Property Registration Fee
5/10/2010	05-118-10	DPS - Water; Finance - Sewer Service Rates
6/14/2010	06-150-10	Engineering - Bidding Document Fee and Private Building Sewer Investigation Program Fee
6/28/2010	06-172-10	DPS - Sewer Lateral Fee
2/14/2011	02-38-11	Clerk - Voter Information Fees, Valet Parking Fee Museum - Research Fee Police - Non-metered zone, Precious Metal Dealer Fee
3/21/2011	03-72-11	DPS - Annual Dog Park Pass
4/11/2011	04-89-11	Clerk - Vendor and Peddler Fees
5/23/2011	05-141-11	DPS & Finance - Water/Sewer Rates
6/27/2011	06-172-11	DPS - Wedding Ceremony Fees
7/25/2011	07-190-11	DPS - Water and Sewer Connection Fees
3/19/2012	03-74-12	Clerk - Alcoholic Beverages for Consumption on the Premises Fee, Animal License Fee, Annual Licenses Criminal Background Check Fee, Frozen Confection Vendor Insurance Requirements Community Development - Lot Division Fee, Temporary Use Permit Fee, Zoning Ordinance Fees, Zoning Compliance Fees DPS - Water and Sewer Connection Fees, Wedding Rental (Parks) Fee Fire - EMS Transport Service Fee, Fire Code Operational Permits
6/11/2012	06-163-12	DPS - Water; Finance - Sewer Service Rates
9/10/2012	09-257-12	Museum - Allen House Event Request
12/17/2012	12-356-12	Clerk - Cemetery Fees
3/18/2013	03-100-13	DPS - Water and Sewer Connection Fees Community Development - Contractor Registration Fees, Bond Range
5/20/2013	05-163-13	DPS & Finance - Water/Sewer Rates (effective 7/1/13)
7/8/2013	07-203-13	Clerk - Special Event Fees
7/22/2013	07-211-13	DPS - Water/Sewer Connection Fees
12/16/2013	12-356-13	DPS - Water Meter Opt Out Plan Fees
4/28/2014	04-98-14	Community Development - Lot Division Fees, Mechanical & Refrigeration Permit Fees, Zoning Ordinance Fees Fire - EMS Transport Fees, Water Fee, Permit Fee, DPS - Frozen Water Line Fee, Water & Sewer Connection Fees, Water Disconnection Fee Police - Investigation Fees
5/19/2014	05-118-14	DPS - Water; Finance - Sewer Service Rates (effective 7/1/14)
7/28/2014	07-187-14	DPS - Grass & Noxious Weeds Civil Infraction
3/30/2015	03-63-15	Clerk - background check fees, DPS - Refuse Collection & Water and Sewer Connection fees, Fire - Hydrant Use fees
4/27/2015	04-86-15	Engineering - Monthly Parking Permit Rates (effective 7/1/15)
5/18/2015	05-112-15	DPS - Water; Finance - Sewer Service Rates (effective 7/1/15)
8/10/2015	08-174-15	Clerk - Cemetery Fees
9/10/2015	09-191-15	Police - Pedicabs & Quadricycle Fees

3/28/2016	03-99-16	Fire - BLS Transportation & Loaded Mile Fees, move Hydrant Fees to DPS section. Building - swimming pool & replacement window bonds & lawn sprinkler and water heater update	
6/6/2016	06-183-16	Engineering - Daily Parking Rate at all parking structures (effective 7/1/16)	
6/27/2016	06-203-16	DPS - Water; Finance - Sewer Service Rates (effective 7/1/16)	
8/8/2016	08-252-16	Community Development - Lot Division Fee for Combination of Platted Lot	
12/5/2016	12-364-16	Engineering (DPS) Trench maintenance fee;	
12/5/2016	12-364-16	Community Development -Text change; Vents and Exhaust Fans (under 1500 C.F.M.) fee change	
12/12/2016	12-376-16	Fire Department - Non-electronic reporting Administrative fee	
2/27/2017	02-50-17	Engineering - Storm Water Utility Fees & Credits	
5/22/2017	05-140-17	Engineering-\$.50 increase in all parking meter rates; Police Daily Meter Bag Fee; City Clerk-Outdoor Dining Café Platform Fees, Removal/restoration of parking meter housings, valet parking Bag Meter Fee	
6/26/2017	06-180-17	DPW & Finance - Water/Sewer Rate Changes for 2017-2018	

STANDARD INSURANCE REQUIREMENTS

Where insurance is required to be carried to make application for a permit or license, the applicant shall procure and maintain the following coverages and limits unless otherwise specified in this

Workers' compensation insurance. Workers' compensation insurance, including employers' liability coverage, in accordance with all applicable statutes of the state.

Commercial general liability (CGL) insurance. Commercial general liability insurance on an "occurrence basis," with limits of liability not less than \$1,000,000 per occurrence combined single limit, personal injury, bodily injury and property damage. Coverage shall include broad form general liability extensions or equivalent.

Motor vehicle liability insurance. Motor vehicle liability insurance, including all applicable no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit bodily injury and property damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

Additional insured. Commercial general liability insurance and motor vehicle liability insurance as described above shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage be primary,

Professional liability. Professional liability insurance with limits of not less than \$1,000,000 per claim if providing service that is customarily subject to this type of coverage.

Cancellation notice. Thirty days advance written notice of insurance cancellation, non-renewal and/or reduction or material change in coverage shall be provided to the city. Notice of cancellation, material change or reduction shall be attached to the certificate of insurance, or otherwise evidenced as in effect under the policy listed.

Proof of insurance coverage. The city shall be provided with certificates of insurance evidencing the coverages outlined above.

Expiration. If any of the above coverages expire, renewal certificates and/or policies must be provided to the city at least ten days prior to the expiration date.

Acceptability of insurance company. All coverages shall be with insurance carriers licensed to do business in the state. All coverages shall be with carriers acceptable to the city.

FEE SCHEDULE

CITY CLERK'S OFFICE	EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Alcoholic beverages for consumption on the premises</u>				
Initial fee	\$	1,500.00		
Annual renewal	\$	350.00		
Transfer fee	\$	1,500.00		
Annual criminal background check - per person (to be provided by applicant using the Michigan State Police ICHAT system)				
<u>Animals (18-1)</u>				
Stray animal fines: See Police				
Pet dog and cat licenses:				
license for one year or less	\$	5.00		
license for two years	\$	10.00		
license for three years	\$	12.00		
license obtained 30 days after expiration	\$	20.00		
Kennels:				
Annual fee	\$	300.00		
Plus for each dog in excess of ten	\$	10.00		
<u>Auctions (See Initial Merchants)</u>				
<u>Bicycle Rental Agencies (122-26) annual fee</u>	\$	5.00		
Insurance: Motor vehicle liability insurance conforming with Michigan Vehicle Code § 520: \$20,000 per person/\$40,000 per accident for bodily injury claims/\$10,000 for property damage per occurrence.				
<u>Charitable Solicitations (38-1)</u>		No charge		
Annual criminal background check - per person (to be provided by applicant using the Michigan State Police ICHAT system)				
<u>Child Care Facilities (58-106)</u>				
Annual criminal background check - per person (to be provided by applicant using the Michigan State Police ICHAT system)				
Child Care Center annual fee	\$	150.00		
Initial investigation fee	\$	100.00		
Day care home, family annual fee	\$	100.00		
Initial investigation fee	\$	100.00		
Day care home, group annual fee	\$	100.00		
Initial investigation fee	\$	100.00		
<u>Christmas Tree Sales (26-88)</u>				
December 1 through December 25 - non-profit corporations and merchants assessed for personal property				
All others	\$	100.00		
Deposit for clean up of lot (forfeited if not cleaned up by January 1st.)				
	\$	300.00		
<u>Dancing Schools (26-201)</u>				
Investigation and annual fee	\$	50.00		
<u>Day Care (See Child Care Facilities)</u>				
<u>Electronic Video Game (14-106)</u>				
Each game, annual fee (subject to additional fees and requirements for regulated use)				
	\$	50.00		
<u>FOIA fees - See public records policy (attached)</u>				

CITY CLERK'S OFFICE		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Fumigation (58-141)</u>					
Fumigation Contractor, annual fee		\$	50.00		
Fumigation permit, per event		\$	25.00		
Insurance (58-144): Standard insurance requirements plus environmental impairment/pollution liability coverage					
<u>Garage Public (54-26) - Annual Fee</u>		\$	50.00		
<u>Going out of Business (State Law)</u>					
Up to 30 days		\$	50.00		
Limit two renewals, each		\$	50.00		
<u>Greenwood Cemetery (126-26)</u>					
Grave space accommodating one full burial or three cremations		\$	3,000.00		
Additional Rights of Burial for cremated remains, each		\$	750.00		
Grave space accommodating two cremated remains			2,000.00		
Grave space accommodating one cremated remains			1,000.00		
Administrative fee for transfer of grave ownership		\$	150.00		
Interment and disinterment fees:					
Cremation		\$	750.00		
Full Burial		\$	1,200.00		
Foundation charges for markers & monuments:					
Foundation Installment - per linear foot		\$	125.00		
Marker or monument resets:					
Foundation installation charge as per above schedule, plus an hourly charge for removal of old foundation					
Weekend, holiday, and overtime interments. This fee in addition to the normal interment fee charged during regular working hours.		\$	400.00		
<u>Horse Drawn Carriages (122-71)</u>					
Company, annual fee		\$	50.00		
Carriage, each vehicle annual fee		\$	50.00		
Insurance: Standard insurance requirement, with coverage to include premises liability; personal injury liability; products liability; and horse or horses liability. (122-75)					
<u>Hotels/Motels annual fee</u>		\$	75.00		
1-50 Rooms		\$	300.00		
50+ Rooms		\$	500.00		
<u>Initial Merchants: (All types including transfers)</u>		\$	100.00		
<u>Kennels (See Animals)</u>					
<u>Lumberyard annual fee</u>		\$	50.00		
<u>Marriage Ceremony Fee</u>		\$	10.00		
<u>Mechanical Amusement Device each device annual fee</u>		\$	50.00		
(Subject to additional fees and requirements for regulated use.)					
<u>Motor vehicle rentals (122-26)</u>					
Annual fee		\$	50.00		
Insurance: Motor vehicle liability insurance conforming with Michigan Vehicle Code § 520: \$20,000 per person/\$40,000 per accident for bodily injury claims/\$10,000 for property damage per occurrence.					
<u>Open Parking Stations annual licenses (26-428)</u>					
Lots accommodating 25 cars or less		\$	100.00		
Lots accommodating 26-50 cars		\$	125.00		

CITY CLERK'S OFFICE		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
Lots accommodating 51-75 cars		\$	150.00		
Lots accommodating 76 cars or more		\$	200.00		
<u>Outdoor Amusements (14-161)</u>					
Annual fee		\$	25.00		
Surety bond or cash deposit		\$	1,000.00		
<u>Outdoor Dining license annual fee</u>		\$	200.00		
Additional flat fee for off-season		\$	200.00		
(subject to additional fees for use of city right of way)					
Insurance:					
<i>Workers' Compensation Insurance</i> , including Employer's Liability Insurance, in accordance with all acceptable statutes of the State of Michigan.					
<i>Commercial General Liability Insurance</i> on an occurrence basis with the limits of liability of not less than \$1,000,000 per occurrence and aggregate of \$2,000,000 for combined single limit personal injury and property damage, and shall include independent contractor's coverage and broad form general liability coverages.					
Liquor Liability Insurance (if liquor is to be served) on an occurrence basis with limits of liability of not less than \$1,000,000 per occurrence.					
<i>Additional Insured:</i> Commercial General Liability Insurance (and Liquor Liability, if applicable) shall name the City of Birmingham as additional insured for all activities connected with this Agreement and shall include an endorsement stating the following as: "Additional Insureds: The City of Birmingham , all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and their board members, including employees and volunteers thereof. This coverage shall be primary to the additional insureds, and not contributing with any other insurance or similar protection available to the additional insured, whether said other available coverage be primary, contributory or excess, The authorized representative of the insurance carrier acknowledges that it has read the insurance provisions of the agreement between the City of Birmingham and the insured."					
<i>Cancellation Notice</i> , Thirty (30) days advance written notice of cancellation, non-renewal, reduction of material change in coverage, will be provided to the City of Birmingham by the insurance carrier.					
<i>Proof of Insurance Coverage</i> . The city shall be provided with certificates of insurance evidencing the coverages outlined above.					
<i>Acceptability of insurance company</i> . All coverages shall be with insurance carriers licensed to do business in the state. All coverages shall be with carriers acceptable to the city.					
<u>Outdoor Dining Café Platform Meter Fees - Seasonal</u>					
\$1.00 Per Hour Meter Areas		\$	2,280.00		
\$1.50 Per Hour Meter Areas		\$	3,420.00		
Removal of parking meter housing and/or posts - minimum fee (cost)		\$	88.29		
Removal of parking meter housing and/or posts - 1 meter space (cost)		\$	264.87		
Removal of parking meter housing and/or posts - 2 meter spaces (cost)		\$	441.45		
<u>Outdoor Dining Café Platform Meter Fees - Pro-Rated</u>					
\$1.00 Per Hour Meter Areas (per space, per day)		\$	12.00		
\$1.50 Per Hour Meter Areas (per space, per day)		\$	18.00		

CITY CLERK'S OFFICE		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Passports</u>					
Acceptance of passport application		\$	25.00		
Two passport photos		\$	10.00		
<u>Pawnshops</u>					
Annual licensing fee		\$	500.00		
Annual criminal background check - per person (to be provided by applicant using the Michigan State Police ICHAT system)					
<u>Peddlers and Commercial Vendors (Chapter 26)</u>					
Annual criminal background check - per person (to be provided by applicant using the Michigan State Police ICHAT system)					
Special Event and School Vendor/Athletic Vendor in City Park					
Application Fee (per event/application)		\$	50.00		
Daily Fee (per day/location)		\$	10.00		
50% discount for Birmingham licensed merchants					
Frozen Confection Vendor					
Application Fee		\$	80.00		
Amendment to the Application		\$	26.00		
Annual License Fee		\$	500.00		
Insurance: Standard Insurance Requirements					
Peddling					
Application Fee (per event/application)		\$	50.00		
Amendment to the Application		\$	16.00		
Daily Fee Option (per day/location)		\$	10.00		
Yearly Fee Option (calendar year)		\$	1,825.00		
<u>Poolroom, each billiard or pool table annual fee</u>		\$	50.00		
(subject to additional fees for regulated use)					
<u>Refuse Collector: (Chapter 90)</u>					
Annual fee first truck		\$	150.00		
Each additional truck		\$	75.00		
Insurance: Proof of workers compensation coverage, motor vehicle liability insurance and the VIN number of each vehicle must be provided to the city prior to obtaining a license.					
<u>Regulated Uses not otherwise listed Chapter 26:</u>					
Application fee		\$	1,000.00		
Annual licensing fee		\$	200.00		
<u>Rollerskating rinks annual fee (Chapter 14)</u>		\$	50.00		
<u>Special Events (98-140) non-refundable application fee</u>					
Annual Application fee		\$	165.00		
First Time Event Application fee		\$	200.00		
Additional permit fees as determined by administrative staff due two weeks prior to event with insurance documents.					
Insurance: Standard insurance requirements					

CITY CLERK'S OFFICE		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Taxicabs (Chapter 122)</u>				G	JCM
Company, annual fee		\$ 50.00			
Taxicab, each vehicle annual fee		\$ 50.00			
Standby taxicab, each annual fee		\$ 25.00			
Taxicab driver annual fee		\$ 50.00			
Insurance: Workers compensation insurance, including employers' liability coverage, in accordance with all applicable statutes of the state.					
Motor vehicle liability insurance, including state no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit bodily injury and property damage. Coverage shall include all owned, non-owned and hired vehicles.					
Cancellation notice. Thirty (30) days advance written notice of insurance cancellation, nonrenewal, reduction and/or material change in coverage must be provided to the city. Notice of cancellation, material change or reduction must be attached to the certificate of insurance, or otherwise evidenced as in effect under the policy listed.					
Proof of insurance. Certificates of insurance for the coverage required herein shall be provided to the city clerk.					
Acceptability of insurance company. All coverages shall be with insurance carriers licensed to do business in the state. All coverages shall be with carriers acceptable to the city.					
<u>Telecommunications</u>					
Application fee		\$ 500.00			
Annual maintenance fee as determined by the Metro Authority pursuant to Act 48 of the Public Acts of 2002					
<u>Theatres annual fee 14.26</u>		\$ 50.00			
<u>Valet Parking</u>					
Annual criminal background check - per person (to be provided by applicant using the Michigan State Police ICHAT system)					
Initial application fee		\$ 1,000.00			
Annual license fee		\$ 500.00			
One Day Valet Permit fee		\$ 50.00			
Valet parking card deposit, per card		\$ 20.00			
Fees per car:					
1-100 cars, pre-paying for six months in advance, per month		\$ 500.00			
101-200 cars, pre-paying for six months in advance, per month		\$ 750.00			
201 and above cars, pre-paying for six months in advance, per month		\$ 1,000.00			
<u>Valet Parking Meter Bag Fees - (Monthly)</u>		\$ 216.00			
Insurance: Workers' compensation insurance, including employers' liability coverage, in accordance with all applicable statutes of the state.					
Garage liability insurance with limits of liability of not less than \$1,000,000 per occurrence; or commercial general liability insurance endorsed to provide the equivalent of this coverage.					
Garage keepers legal liability insurance with limits of liability of not less than \$100,000.00 per occurrence; or commercial general liability insurance endorsed to provide the equivalent of this coverage.					
Additional insured. Garage liability and garage keepers legal liability insurance, as described above, shall name the city as additional insured for all activities connected with the valet parking service and					

CITY CLERK'S OFFICE		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<p>shall include an endorsement stating the following as "additional insured": the city, all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and their board members, including employees and volunteers thereof. This coverage shall be primary to the additional insureds, and not contributing with any other insurance or similar protection available to the additional insured, whether said other available coverage be primary, contributing or excess.</p> <p>Cancellation notice. Thirty (30) days advance written notice of insurance cancellation, nonrenewal, and/or reduction in material change in coverage must be provided to the city. Notice of cancellation material change or reduction must be attached to the certificate of insurance, or otherwise evidenced as in effect under the policy listed.</p> <p>Proof of insurance coverage. The following certificates and policies shall be provided to the city:</p> <ol style="list-style-type: none"> 1. Two copies of certificate of insurance for workers' compensation insurance. 2. Two copies of certificate of insurance for garage liability insurance. 3. Two copies of certificate of insurance for garage keepers legal liability insurance. 4. If so requested, certified copies of all policies mentioned above will be furnished. <p>Expiration. If any of the above coverages expire, renewal certificates and/or policies must be provided to the city at least ten days prior to the expiration date.</p> <p>Acceptability of insurance company. All coverages shall be with insurance carriers licensed to do business in the state. All coverages shall be with carriers acceptable to the city.</p>					
<u>Voter Information</u>					
Daily Absentee Voter List		\$	15.00		
Voter Information List		\$	5.00		

FEE SCHEDULE

COMMUNITY DEVELOPMENT DEPT.	EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Administrative approval (Planning Department)</u>	\$	100.00		
<u>Brownfield Developments</u>				
Application fee non-refundable and non-reimbursable	\$	1,500.00		
Outside consultant fees reimbursement: Where a review of applications, plans, construction documents, Brownfield development documents or any other documents is performed by outside consultants engaged by the city, a review fee shall be charged at 1.05 times the actual cost. Payment shall be in advance of the review based on estimated cost.				
<u>Building Permits (Chapter 22)</u>				
(a) Building permit fees: The building permit fee is determined from the total construction value as shown in the most recent edition of the ICC Building Evaluation Data Square foot construction costs. For all use groups except one and two family residential, the minimum square foot construction cost is 100% of the value shown in construction costs table; for renovations the minimum square foot construction costs is 50% of the value shown in the table. For residential one and two family structures, the minimum square foot construction cost is \$125.				
(b) Total Construction Valuation: Permit fees are computed at \$85.00 for the first \$1,000 of construction valuation; \$10.00 for each additional \$1,000 (or fraction thereof) up to \$100,000 of construction valuation; and \$15.00 for each additional \$1,000 (or fraction thereof) over \$100,000 of construction valuation.				
(c) Refunds: Refunds of any permit fees are subject to a minimum of 25 percent for administrative services with no construction work commencing. After construction has started, fees will be refunded proportionately as determined by the building official. Any permit fee for construction that is 75 percent or more completed will not be refunded.				
(d) Plan examination fees: When a plan is required to be submitted, a plan review fee must be paid at the time of submitting plans and specifications for review. The review fee shall be \$85.00 for projects up to \$10,000 in construction value; all other plan examination fees shall be computed as shown below:				
Construction value up to \$10,000	\$	85.00		
		Construction value multiplied by 0.0020 \$150.00 minimum		
Construction Value from \$10,001 to \$500,000		\$1,000 plus construction value multiplied by 0.0010		
Construction Value over \$500,000				
The building plan review fee shall be multiplied by 1.25 when MEAP reviews are required.				
An administrative fee equal to the permit fee may be charged in addition to the permit fee, when work is started and/or completed without first obtaining the permit. Plan review fees are not refundable.				
(e) Construction Bonds In addition to the required building permit fee, a cash bond must be posted at the time the permit is issued in accordance with the following schedule:				

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
Construction value between \$0-\$10,000	\$	100.00			
Construction value between \$10,001-\$50,000	\$	200.00			
Construction value between \$50,001-\$100,000	\$	300.00			
Construction value between \$100,001-\$500,000	\$	500.00			
Construction value of \$500,001 and up	\$	1,000.00			
<u>Swimming Pools</u>	\$	1,000.00			
<u>Window Permits</u>	\$	500.00			
Upon satisfactory completion of all final inspections required, and the issuance of a certificate of occupancy, if applicable, the construction bond will be returned upon request without interest.					
(f) A reinspection fee may be required by the building official	\$	50.00			
(g) Bonding requirements for a temporary certificate of occupancy: When a temporary certificate of occupancy is issued prior to completion of the entire work covered by the permit, a cash bond shall be posted in an amount as determined by the building official up to \$10,000 for residential dwellings and \$100,000 for commercial buildings or spaces based on the cost of completing all remaining and outstanding work.					
(h) Bonding requirements for maintenance and replacements costs of public right-of-way facilities: A bond shall be posted prior to the issuance of a building permit for new construction in the amount of \$5,000 to assure that the public right-of-way is properly maintained at all times during construction. This includes the replacement of city sidewalk, curb and gutter, and the re-establishment of green space in the public right-of-way.					
<u>Board of Building Trades Appeals</u>					
Single family residential	\$	310.00			
All other construction	\$	510.00			
<u>Contractor Annual Registration Fees</u>					
Building Contractor	\$	25.00			
Electrical Contractor	\$	25.00			
Mechanical Contractor	\$	5.00			
Plumbing Contractor	\$	15.00			
<u>Cross Connections Inspections/Re-Inspections (114-122)</u>					
Fee	\$	50.00			
Plus, a per hour charge, to be charged at 1/4 hour increments, per city employee or city representative for the time spent on such inspections or re-inspections concerning a particular water consumer.					
Device test report review, per report	\$	10.00			
<u>Demolition of Buildings</u>					
Less than 3,000 cubic feet	\$	125.00			
3,000 to 50,000 cubic feet	\$	200.00			
More than 50,000 cubic feet	\$	300.00			
Performance cash bond:					
Minimum (as determined by the building official)	\$	100.00			
Maximum (as determined by the building official)	\$	50,000.00			
<u>Electrical Installation (Chapter 22)</u>					
Base fee	\$	50.00			
Reinspection Fee	\$	50.00			
120 volt or 277 volt first circuit	\$	15.00			
120 volt or 277 volt each additional circuit	\$	8.00			
Each 208V, 240V, 480V branch circuits	\$	20.00			
First 25 lights, receptacles and switches	\$	20.00			
Each additional set of 20	\$	15.00			
First sign	\$	50.00			
Feeders/Buss Ducts:					
First 100 feet	\$	25.00			
Over 100 feet	\$	15.00			

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
Commercial fire alarms:					
Fire alarm panel		\$	30.00		
Each alarm device		\$	10.00		
Residential smoke detectors up to 8 units, 120 volts		\$	20.00		
Low voltage smoke alarm with panel		\$	50.00		
Residential smoke alarm system less than 50 volts with panel		\$	50.00		
Services or transformers:					
30 AMP to 200 AMP		\$	35.00		
201 AMP to 400 AMP		\$	50.00		
Over 401 AMP		\$	100.00		
A/C Interrupt service		\$	20.00		
Temporary service up to 200 AMP		\$	40.00		
Sub panel: Sidewalk inspection req:					
Each additional sign		\$	20.00		
Each residential A/C		\$	35.00		
Furnace/unit heaters		\$	20.00		
Pools/hot tubs/spas		\$	50.00		
Appliances/disposal/dishwashers		\$	10.00		
Commercial HVAC:					
5 ton or less ach		\$	50.00		
Over 5 ton each		\$	75.00		
Motors - Commercial only:					
1/4 HP up to 10 HP each		\$	25.00		
Over 10 HP to 30 HP each		\$	40.00		
Over 30 HP each		\$	60.00		
New house construction minimum of four inspections requires					
An administrative fee equal to the permit fee may be charged in addition to the permit fee when work is started and/or completed without first obtaining the permit.					
<u>Equipment installation permit fee</u>		\$	10.00		
<u>Final site inspection fee (Planning Dept.)</u>		\$	100.00		
<u>Housing:</u>					
Housing Board of Appeals Fee:					
Residential dwelling unit		\$	310.00		
Other - Commercial		\$	510.00		
<u>Housing Inspections Owner Authorized:</u>					
One and two-family dwellings:					
Building structure fee per dwelling unit		\$	200.00		
Electrical fee per dwelling unit		\$	100.00		
Plumbing fee per dwelling unit		\$	100.00		
Heating and refrigeration fee per dwelling unit		\$	100.00		
<u>Landlord Licenses (See Rental Properties)</u>					
<u>Lot Division (Chapter 102):</u>					
Fee per parcel created from each platted or unplatted lot (lot splits)		\$	200.00		
Boundary Adjustment for single family dwelling:					
Separation of platted lots (fee per each lot)		\$	200.00		
Combination of platted lots (fee per each lot)		\$	200.00		

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Massage Permits (26-251):</u>					
Investigation fee to operate massage facility (subject to additional fees for regulated use)	\$	250.00			
Investigation fee to perform massage service	\$	25.00			
Change of location (subject to additional fees for regulated use)	\$	100.00			
<u>Mechanical Permits:</u>					
Base Fee	\$	50.00			
Gas/oil furnace/boilers, etc:					
100,000 BTU or less	\$	60.00			
Over 100,000	\$	70.00			
Over 500,000	\$	80.00			
Ductwork	\$	50.00			
V.A.V. boxes (variable air volume) each	\$	30.00			
Humidified or air cleaner	\$	30.00			
Mfg, fireplace (gas or solid fuel), stoves (solid fuel) includes chimney	\$	30.00			
Gas or oil space heaters	\$	30.00			
Automatic flue damper	\$	25.00			
as part of furnace	\$	10.00			
Gas piping - first two openings	\$	30.00			
additional openings each	\$	5.00			
Air handling systems:					
Vents & Exhaust Fans:					
Under 1,500 c.f.m. each	\$	15.00			
1,500 to 10,000 c.f.m. each	\$	35.00			
Over 10,000 c.f.m. each	\$	55.00			
Heat Pumps:					
To 50,000 BTU	\$	30.00			
To 200,000 BTU	\$	40.00			
To 500,000 BTU	\$	50.00			
Over 500,000 BTU	\$	75.00			
Fire Suppression Systems:					
Standpipe systems:					
2-1/2" thru 4"	\$	50.00			
Over 4"	\$	70.00			
Fire pumps & connections	\$	75.00			
Fire sprinkler system:					
First head up to 20 heads	\$	50.00			
Each additional head	\$	3.00			
Hood and duct fire suppression systems:					
Each establishment system- minimum	\$	75.00			
Each additional system at same establishment	\$	30.00			
Refrigeration:					
Self contained refrigeration systems	\$	40.00			
Remote refrigeration systems:					
Up to 10 HP	\$	50.00			
10 HP up to 50 HP	\$	70.00			
Over 50 HP	\$	95.00			
Water heater	\$	30.00			
Chimney liner	\$	20.00			
Hydronic Floor Heat:					
Up to 2,000 square feet	\$	50.00			
Over 2,000 square feet	\$	60.00			

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
Geo Thermal:					
Up to 100,000 BTU	\$	75.00			
Over 100,000 BTU	\$	90.00			
Additional reinspection	\$	50.00			
Reinspection fee	\$	50.00			
An administrative fee equal to the permit fee may be charged in addition to the permit fee, when work is started and/or completed without first obtaining the permit.					
<u>Newsracks (90-160)</u>					
Review fee for each newsrack box	\$	50.00			
Annual registration for each newsrack box	\$	50.00			
<u>Plumbing Permits</u>					
Base Fee	\$	50.00			
Automatic washer	\$	15.00			
Backflow preventer	\$	25.00			
Bathtub	\$	15.00			
Catchbasin	\$	50.00			
Dental Chair	\$	15.00			
Dishwasher	\$	20.00			
Drains to 6 inches	\$	25.00			
Drains over 6 inches	\$	40.00			
Drinking fountain	\$	15.00			
Floor drain	\$	15.00			
Garbage disposal	\$	15.00			
Grease trap	\$	30.00			
Hose bibbs	\$	15.00			
Humidifier	\$	15.00			
Inside drain (weep tile)	\$	15.00			
Laundry tray	\$	15.00			
Lavatory	\$	15.00			
Lawn sprinkler - including Backflow Device	\$	50.00			
Miscellaneous equipment	\$	15.00			
Reinspection fee	\$	50.00			
Roof sump	\$	15.00			
Safe waste	\$	15.00			
Sewers to 6 inches	\$	50.00			
Sewers to 8 inches	\$	60.00			
Sewers to 10 inches	\$	75.00			
Sewers to 12 inches	\$	100.00			
Sewers over 13 inches	\$	100.00			
Shower trap	\$	15.00			
Stacks, conductors	\$	15.00			
Stand pipe	\$	15.00			
Sump w. pump	\$	30.00			
Urinal	\$	15.00			
Water closet	\$	15.00			
Water distribution:					
3/4 inch	\$	30.00			
1 inch	\$	30.00			
1 1/4 inch and 1 1/2 inch	\$	35.00			
2 inches	\$	45.00			
3 inches	\$	60.00			

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
4 inches	\$	70.00			
Over 4 inches	\$	75.00			
Water heater	\$	30.00			
Water service:					
1 inch	\$	65.00			
1 1/2 inch	\$	65.00			
2 inches	\$	65.00			
Over 2 inches	\$	125.00			
Additional inspection	\$	50.00			
Reinspections	\$	50.00			
An administrative fee equal to the permit fee may be charged in addition to the permit fee, when work is started and/or completed without first obtaining the permit.					
<u>Production filming fees 114-168:</u>					
Permit application fee (non-refundable):					
Motion picture, television, or video on private property only	\$	125.00			
Motion picture, television, or video on public property	\$	225.00			
Still photography only on private property	\$	50.00			
Still photography only on public property	\$	100.00			
Additional fee for expedited processing if less than normal processing time is required. (Late application processed at the discretion of the city manager or his/her designee)	\$	150.00			
Daily public property use fee (from prep to clean-up time):					
Motion picture, television, or video, per day	\$	75.00			
Public property location holding - per day	\$	75.00			
On-street base camp - per day (if approved)	\$	25.00			
Parking space rental - per day		current rate			
Extended hours of permitted filming activity:					
Any film permitted activity beyond 7:00 a.m. to 7:00 p.m. or driving scenes on major, minor, or neighborhood roads requiring special barricades, noticing, and/or public safety personnel (hourly rates for staff time to be calculated and charged separately).	\$	75.00			
Security deposit:					
A refundable security deposit may be required to cover any unanticipated city staff costs, clean-up costs, refund fees to user groups affected by the film permit activities, and/or other expenses not included/anticipated in the initial film permit fee calculation.	\$	500.00			
Staff costs:					
Monitoring fee for additional police, fire, ordinance enforcement, public works, recreation and parks, or other staff as determined by the city manager or his/her designee; fee will be estimated based on hours needed and scheduled. Staff time to be based on most current city overtime rate schedule and calculated and paid in advance of film permit activities.					
Insurance: (Sec 14-172 (5) (6) (8) Standard insurance requirement plus limits of liability of not less than \$5,000,000 per occurrence in the event motor vehicles, aircraft, helicopters, explosives or pyrotechnics are used in the activity. Also, the permittee shall execute a hold-harmless agreement as provided by the city prior to the issuance of any permit.					
<u>Rental Properties</u>					
Fee for rented or leased premises:					
First unit	\$	125.00			
For properties containing more than one unit:					
Add, per additional unit or common/exterior area, to the one-unit fee	\$	40.00			
Additional re-inspection fee for rental properties requiring additional inspections, plus \$25.00 for each additional unit beyond the first unit.	\$	75.00			
The fee shall be increased by 50 percent for any application received more than 30 days after the required renewal date.					
<u>Signs (Chapter 86)</u>					

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
Construction	\$	50.00			
Temporary - non-residential zone districts - permit per 30 square feet or fraction 86-133	\$	50.00			
Temporary - churches in residential zone districts 86-70	\$	25.00			
Marquee and roof annual fee	\$	200.00			
Others:					
Permit per square foot	\$	2.00			
Minimum	\$	100.00			
Inspection fee every three years	\$	50.00			
Removal fee 86-59 86-111	\$	50.00			
Sign impound fee, per sign	\$	25.00			
Sign inspection bonds per required inspection	\$	200.00			
<u>Sign Erectors (Chapter 86)</u>					
Original license	\$	25.00			
Renewal - annual fee	\$	15.00			
Bond	\$	5,000.00			
<u>Sign Removal: Failure to comply with notice to remove, daily fine to commence on 31st day after notice to remove is issued.</u>	\$	25.00			
<u>Site Evaluation</u>					
New house	\$	150.00	\$ 200.00	A	BRJ
Addition, and accessory structure and impervious surfaces	\$	75.00	\$ 100.00	A	BRJ
<u>Special Land Use Permits (See Zoning)</u>					
<u>Subdivision plats (Chapter 102)</u>					
Tentative preliminary plat approval					
Fee		\$2,500.00			
Plus per lot		\$10.00			
Final preliminary plat approval					
Fee		\$1,000.00			
<u>Temporary Structure (Tents, Canopies, etc)</u>					
Original permit	\$	100.00			
Renewal	\$	25.00			
Plan checking fee	\$	50.00			
Temporary Use Permit	\$	100.00			
<u>Vacant Property Registration Fee</u>					
Residential	\$	100.00			
Commercial	\$	100.00			
Safety and maintenance inspection	\$	75.00			
Administrative costs: Inspector per hour	\$	55.00			
Support staff per hour	\$	45.00			
Sanctions, remedies, penalties:					
First offense	\$	150.00			
Second offense and any other subsequent offense	\$	500.00			

COMMUNITY DEVELOPMENT DEPT.		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Zoning Ordinance Fees</u>					
Board of Appeals					
Single family residential	\$	310.00			
All others	\$	510.00			
Community Impact Review	\$	2,050.00			
Design review fee	\$	350.00			
Historic district review					
Single family residential district	\$	-			
All other zone districts	\$	350.00			
Public notice signs for land development applications					
Fee	\$	50.00			
Deposit	\$	100.00			
Site Plan Review					
R-4 through R-8 zone districts fee	\$	850.00			
Plus, per dwelling unit affected by minor construction or minor site plan changes, as determined by the planning director	\$	50.00			
Or, plus, for each dwelling unit in the entire complex for all other site plan changes, as determined by the planning director	\$	50.00			
Non-residential districts fee	\$	1,050.00			
Plus per acre or fraction thereof	\$	50.00			
Special Land Use Permits					
*Special land use	\$	800.00			
Plus, site plan review	\$	1,050.00			
Plus, design review	\$	350.00			
Plus, publish of legal notice	\$	450.00			
Annual renewal fee	\$	200.00			
Temporary Use Permit	\$	100.00			
Zoning Compliance Letters	\$	50.00			
Zoning Compliance Permit Fees					
Accessory Structures Under 200 Square Feet	\$	125.00			
Fence Permit - <i>Single Family Zoned Districts</i>	\$	50.00			
Impervious Surface (driveway, patio, etc.) <i>Single Family Zoned Districts</i>	\$	125.00			
Zoning Ordinance Interpretation (Formal Report)					
One & two family zone districts		\$125.00			
All other zone districts		\$175.00			
THE FEES FOR DESIGN REVIEW, SITE PLAN REVIEW, HISTORIC DISTRICT REVIEW AND SPECIAL LAND USE PERMITS SHALL BE DOUBLE THE LISTED AMOUNTS IN THE EVENT THE PROPOSED PROJECT IS COMMENCED PRIOR TO FILING OF AN APPLICATION FOR REVIEW BY THE CITY.					
* Special Land Use permit fees may be waived at the discretion of the City Manager where an amendment is sought by the applicant to change the name of the establishment, or remove parties from the permit when it involves a liquor license associated SLUP and the establishment is not in operation.					

FEE SCHEDULE

DEPARTMENT OF PUBLIC SERVICES	EXISTING FEES	PROPOSED FEE	CHANGE CODE	Staff
<u>Dog Park Annual Pass:</u>				
Resident	\$ 50.00			
Non-Resident	\$ 200.00			
<u>Golf Course Fees - Adjusted annually by resolution of City Commission with recommendation of Parks and Recreation Board</u>				
<u>Grass & Weed Violations (118-66 to 118-68)</u>				
Cutting charge for properties less than or equal to 50 feet wide	\$ 135.00			
Cutting charge for properties greater than 50 feet wide	\$ 200.00			
Municipal Civil Infraction Fine (in addition to cutting charge):				
First Offense	\$ 50.00			
Second Offense	\$ 100.00			
Third Offense	\$ 200.00			
All violations after the third offense in a calendar year	\$ 200.00			
<u>Hydrant Use</u>				
Deposit (if required as determined by Fire Chief)	\$ 100.00			
Permit Fee	\$ 160.00			
Water Charge	\$ 64.75			
Includes 5000 gallons at standard charge. Water charge in excess of 5000 gallons will be charged at double rate \$25.90 per thousand gallons.				
This rate may be revised every year effective July 1st.	\$ 25.90			
<u>Hydrant Repair</u>				
To be calculated by DPS, Will include labor, equipment, material				
<u>Ice Arena Fees - Annual evaluation at budget</u>				
<u>Leisure Activity Pass:</u>				
First year	\$ 15.00			
Revalidate/Replace for subsequent seasons	\$ 10.00			
<u>Recycle Bins</u>		current cost		
<u>Refuse collection charges (Chapter 90) Fill-A-Dump</u>	\$ 300.00			
<u>Snow Removal from Sidewalks (98-66 - 98-68) - minimum charge</u>	\$ 100.00			
<u>Tree Preservation (Chapter 118)</u>				
Registration for tree service business	\$ 100.00			
Sanctions, remedies, penalties:				
First offense, per tree	\$ 500.00			
Second offense, per tree	\$ 1,000.00			
<u>Water</u>				
Customer requested service, emergency, 2 hr. minimum plus equipment and materials if applicable	\$ 200.00			
Meter department service fee, plus equipment and materials if applicable	\$ 80.00			
Meter department service fee for no show appointment	\$ 40.00			
Final meter reading without 24 hour notice	\$ 150.00			
Stop box construction deposit (includes \$100 inspection \$400 refundable	\$ 500.00			
Curb box and lid repair (done by city)	\$ 500.00			
Opt Out Plan Meter Reading Fee	\$ 12.02			
Frozen water service line thaw - first visit	no charge			
	time & material			
Frozen water service line thaw - second visit and beyond (\$200 minimum)	(\$200 minimum)			
<u>Water</u>				
Additional charge for water used:				
For each 1,000 gallons or part thereof	\$ 4.62			
Service of notice of intent to discontinue service for non-payment of charges (114-303)	\$ 50.00			
Meter department service fee	\$ 80.00			
Meter department service fee for no show appointment	\$ 40.00			
Final meter reading without 24 hour notice	\$ 150.00			
Stop box construction deposit (includes \$100 inspection \$400 refundable)	\$ 500.00			

DEPARTMENT OF PUBLIC SERVICES		EXISTING FEES	PROPOSED FEE	CHANGE CODE	Staff
Curb box and lid repair (done by city)		\$	500.00		
<u>Water Rates</u>					
Meter Size					
5/8" Quarterly fixed charge		\$	5.00		
5/8" Monthly fixed charge		\$	1.67		
1" Quarterly fixed charge		\$	8.00		
1" Monthly fixed charge		\$	2.67		
1 1/2" Quarterly fixed charge		\$	12.00		
1 1/2" Monthly fixed charge		\$	4.00		
2" Quarterly fixed charge		\$	16.00		
2" Monthly fixed charge		\$	5.33		
3" Quarterly fixed charge		\$	24.00		
3" Monthly fixed charge		\$	8.00		
4" Quarterly fixed charge		\$	32.00		
4" Monthly fixed charge		\$	10.67		
6" Quarterly fixed charge		\$	48.00		
6" Monthly fixed charge		\$	16.00		
8" Quarterly fixed charge		\$	64.00		
8" Monthly fixed charge		\$	21.33		
Special charges to the city					
Annual charge for fire hydrants		\$	18.50		
Annual charge for drinking fountains		\$	20.00		
<u>Water & Sewer Connections (Chapter 114):</u>					
Water Service Only - Single Trench					
Easement 1":					
Service Install		\$	1,790.00		
Water Meter, MTU, Brass Meter Spuds, and Trip		\$	657.00		
Water for Construction		\$	50.00		
Total		\$	2,497.00		
Easement 1 1/2":					
Service Install		\$	2,010.00		
Water Meter, MTU, Brass Meter Flanges, and Trip		\$	1,850.00		
Water for Construction		\$	70.00		
Total		\$	3,930.00		
Easement 2":					
Service Install		\$	2,210.00		
Water Meter, MTU, Brass Meter Flanges, and Trip		\$	2,060.00		
Water for Construction		\$	95.00		
Total		\$	4,365.00		
All Paved Surfaces 1":					
Service Install		\$	3,950.00		
Water Meter, MTU, Brass Meter Spuds, and Trip		\$	657.00		
Water for Construction		\$	50.00		
Total		\$	4,657.00		
All Paved Surfaces 1 1/2":					
Service Install		\$	4,270.00		
Water Meter, MTU, Brass Meter Flanges, and Trip		\$	1,850.00		
Water for Construction		\$	70.00		
Total		\$	6,190.00		
All Paved Surfaces 2":					
Service Install		\$	4,630.00		
Water Meter, MTU, Brass Meter Flanges, and Trip		\$	2,060.00		
Water for Construction		\$	95.00		
Total		\$	6,785.00		

DEPARTMENT OF PUBLIC SERVICES	EXISTING FEES	PROPOSED FEE	CHANGE CODE	Staff
Water for construction rates on larger services:				
3"	\$	120.00		
4"	\$	190.00		
6"	\$	330.00		
8"	\$	465.00		
(Prices on water services over 2" in size will be determined by (DPS) on a time and material basis. A deposit will be made for the estimated cost as determined by DPS.)				
5/8" meter	\$	120.00		
1" meter	\$	180.00		
1 1/2" meter	\$	1,320.00		
2" meter	\$	1,525.00		
(Price to be obtained from meter department for any water meter larger than 2")				
Meter Transceiver Unit (MTU)	\$	135.00		
1" Brass Meter Spuds	\$	22.00		
1.5" Brass Meter Flanges	\$	75.00		
2" Brass Meter Flanges	\$	80.00		
Inspection fee when trenching not done by DPS per service	\$	400.00		
Water disconnection fee:				
Water service disconnection at property line if service will be reused (1" or larger copper water services only)	\$	1,000.00		
2" service or smaller	\$	1,850.00		
4" service or greater to be determined individually by the DPS				
Fees for trench maintenance	\$	800.00		
Refundable deposit	\$	1,000.00		
Wedding Rental (Parks)	\$	100.00		
Shain Park (weekdays/weekends)				
Resident	\$	200.00		
Non-Resident	\$	400.00		
Security Deposit	\$	100.00		
Birmingham Historical Museum Park (John West Hunter Park) (weekdays/weekends)				
Resident	\$	200.00		
Non-Resident	\$	400.00		
Security Deposit	\$	100.00		
All other City Parks (weekdays/weekends)				
Resident	\$	70.00		
Non-Resident	\$	140.00		
Security Deposit	\$	50.00		
Well Permit	\$	100.00		

FEE SCHEDULE

ENGINEERING		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Bidding Document Fee</u>					
Large Set - Paper Copy		\$ 50.00			
Small Set - Paper Copy		\$ 30.00			
CD Copy (any size)		\$ 15.00			
(Copy fee waived for Plan Room and Advertising Services)					
<u>Cable Communications Permit (30-133 (j))</u>					
Cable Franchise Insurance: Standard Insurance requirements plus excess liability insurance (or umbrella policy) on an "occurrence basis", with limits of liability not less than \$5,000,000 per occurrence; and indemnification provisions (see Section 30-190)					
<u>Curb Closings (See Streets & Sidewalks)</u>					
<u>Driveways (See Streets & Sidewalks)</u>					
<u>Parking Meters</u>					
High Demand (Areas Inside Central Core of Business District)		\$ 1.50	per hour		
Lower Demand (Areas Outside Central Core of Business District)		\$ 1.00	per hour		
<u>Parking Structures</u>		Pierce			
Less than 2 hours		free			
Less than 3 hours		\$ 2.00			
Less than 4 hours		\$ 4.00			
Less than 5 hours		\$ 6.00			
Less than 6 hours		\$ 8.00			
Over 6 hours		\$ 10.00			
Over 7 hours		\$ 10.00			
Over 8 hours		\$ 10.00			
Maximum Fee After 10:00PM		\$ 5.00			
Permit Parking		\$ 65.00			
<u>Parking Structure Permit Parking Activation Fee</u>					
Deposit (any cards returned after six-months not eligible for refund)		\$ 20.00			
Activation fee per AVI card		\$ 30.00			
Returned checks		\$ 30.00			
<u>Permit Parking At Meters</u>					
Lot 6 - Regular		\$ 150.00			
Lot 6 - Restricted		\$ 90.00			
Ann St. North		\$ 165.00			
Ann St. South		\$ 120.00			
South Old Woodward		\$ 120.00			
<u>Private Building Sewer Investigation Program</u>					
Single Family Residential Property					
Security Deposit (refundable)		\$ 300.00			
Non-Single Family Residential Property					
Application Fee		\$ 300.00			
Security Deposit (refundable)		\$ 300.00			
<u>Sidewalks (See Streets & Sidewalks)</u>					
<u>Soil erosion and sediment control permit fees:</u>					
Less than 1 acre site		\$ 50.00			
1-2 acre site		\$ 100.00			
2-3 acre site		\$ 150.00			
The permit fee shall increase for every acre or portion thereof					
in excess of the above examples.					
Inspection desposits:					
Less than 1 acre site		\$ 1,560.00			
1-2 acre site		\$ 3,120.00			
2-3 acre site		\$ 4,680.00			
The inspection deposit shall increase \$1,560.00 per additional acre or portion thereof in excess of the above examples.					

ENGINEERING			EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Soil Filling Permit (Chapter 50)</u>						
Application fee			\$	600.00		
Permit fee, per cubic yard			\$	0.20		
<u>Stormwater runoff (Chapter 114)</u>						
Permit per acre of affected area			\$	100.00		
Minimum			\$	50.00		
<u>Storm Water Utility Fee Related Charges</u>						
Storm Water Utility Fee Credit Application or Renewal			\$	50.00		
Low Impact Development Determination			\$	50.00		
Storm Water Utility Appeals Board Application			\$	50.00		
<u>Storm Water Utility Fee - Credit Schedule</u>						
<u>CREDIT</u>	<u>APPLIES TO</u>	<u>ANNUAL VALUE</u>	<u>RENEWAL PERIOD</u>			
<u>Rain Barrels</u>	SFR/Non-SFR	\$15	2 years			
<u>Rain Garden/Bio-Swale</u>	SFR.Non-SFR	\$20 *	5 years			
<u>Infiltration Trench/Dry Well</u>	SFR/Non-SFR	\$25 *	5 years			
<u>Cistern</u>	SFR/Non-SFR	\$25 *	10 years			
<u>Pervious Pavement</u>	SFR/Non-SFR	\$10 (200-300 Sq. Ft.) \$20 (300-400 Sq. Ft.) \$30 (>400 Sq. Ft.)	10 years			
<u>Disconnect Footing Drain</u>	SFR/Non-SFR	\$40	10 years			
<u>LID Building Measures</u>	Non-SFR	ESWU reduction	N/A			
<u>LID Site Measures</u>	Non-SFR	ESWU reduction	N/A			
<u>Enhanced Retention</u>	Non-SFR	ESWU reduction	N/A			
Those credits marked with an asterisk (*) will be multiplied by the relative size of the parcel the improvement makes on the property, provided that the improvement truly captures at least 50% of the impervious area that is draining directly to the sewer system, according to the following schedule:						
	<u>SFR CLASS</u>	<u>CREDIT MULTIPLICATION FACTOR</u>				
	Classes A & B	1				
	Class C	1.6				
	Class D	2.4				
	Class E	3.2				
	Class F	4.6				
<u>Streets & Sidewalks:</u>						
There shall be a minimum charge of \$50.00 for all curb closing, curb, cuts, driveways and sidewalk permits.			\$	85.00		
Curb closings (98-91):						
	Permit per linear foot		\$	3.00		
	Minimum		\$	30.00		
Curb cuts (98-91):						
	Permit per linear foot		\$	3.00		
	Minimum		\$	30.00		
Driveways (98-91):						
	Permit		\$	30.00		
Sidewalks (98-57):						
	Permit, per square foot		\$	0.40		
	Minimum		\$	20.00		
Excavations (98-26):						
	Permit		\$	50.00		
	Plus deposit to be determined by city engineer to cover estimated cost of possible city expenses, minimum					
Moving buildings (98-3 - 98-28):						
	Permit		\$	50.00		
	Plus deposit to be determined by city engineer to cover					

ENGINEERING		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
Obstructions (98-26):	estimated cost of possible city expenses, minimum	\$ 1,000.00			
	harmless				
	agreement				
	Permit	\$ 50.00			
	Plus deposit to be determined by city engineer to cover				
	estimated cost of possible city expenses, minimum	\$ 1,000.00			

FEE SCHEDULE

FINANCE DEPARTMENT

FINANCE DEPARTMENT			EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Sewer Service Rates (Chapter 114)</u>						
For each 1,000 gallons or part thereof			\$	7.38		
<u>Storm Water Utility Fee (Chapter 114)</u>						
Property Type	SFR Class	Average Runoff Potential	ESWU			
Single-Family Residential, 0-125 acres or less	Class A	3,166	0.7			
Single-Family Residential, 0-126 acres - 0.250 acres	Class B	4,317	1			
Single-Family Residential, 0.251 acres - 0.500 acres	Class C	6,716	1.6			
Single-Family Residential, 0.501 acres - 0.750 acres	Class D	10,552	2.4			
Single-Family Residential, 0.751 acres-1,000 acres	Class E	13,094	3.2			
Single-Family Residential, 1,001 acres or larger	Class F	20,496	4.6			
<u>Non-Single Family ESWU.</u> The						
storm water utility fee for non-single family lots shall equal the number						
ESWU'S for a given lot, multiplied by the annual rate established by the City						
Commission per ESWU per year. The formula for determining the number of						
ESWU'S per non-single family lot shall be calculated from the amount of						
pervious and impervious lot area as follows:						
Number of ESWU'S = "0.15 (TA-1A + 0.90 (IA)"/4317 s.f./ESWU						
where TA=total area of each lot (reported in square feet);						
IA=impervious area of each lot (reported in square feet).						
Evergreen-Farmington Sewage Disposal District:						
For each Equivalent Storm Water Unit (ESWU)						
Quarterly fixed fee				\$46.00		
Monthly fixed fee				\$15.33		
South Oakland County (GWK) Sewage Disposal District:						
For each Equivalent Storm Water Unit (EWSU)						
Quarterly fixed fee				\$60.00		
Monthly fixed fee				\$20.00		
<u>Industrial Surcharge (Chapter 114)</u>						
An industrial surcharge shall be levied against industrial and commercial						
customers contributing sewage to the system with concentrations of						
pollutants exceeding the levels described as follows:						
Amounts of Industrial Surcharge - Total Charge per pound of excess pollutants						
	Biochemical oxygen demand (BOD), over 275 mg/l		\$	0.487		
	Total suspended solids (TSS), over 350 mg/l		\$	0.494		
	Phosphorus (P), over 12 mg/l		\$	7.282		
	Fats, oils, grease (FOG) over 100 mg/l		\$	0.469		
<u>Industrial Waste Control IWC (Chapter 114)</u>						
An industrial waste control charge shall be levied against all non-residential						
properties, in accordance with rates established by resolution.						
Meter Size - Quarterly Charge						
	5/8"		\$	17.04		
	3/4"		\$	25.56		
	1"		\$	42.60		
	1 1/2"		\$	93.72		
	2"		\$	136.32		
	3"		\$	247.08		
	4"		\$	340.80		
	6"		\$	511.20		
	8"		\$	852.00		
	10"		\$	1,192.80		
	12"		\$	1,363.20		
	14"		\$	1,704.00		
	16"		\$	2,044.80		
	18"		\$	2,385.60		
	20"		\$	2,726.40		
	24"		\$	3,067.20		
	30"		\$	3,408.00		
	36"		\$	3,748.80		
	48"		\$	4,089.60		
Effective July 1, 2017						

FEE SCHEDULE

FIRE DEPARTMENT

	EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>EMS Transport Service Fees (Chapter 54)</u>				
ALS Emergency Transport II	\$ 750.00			
ALS Emergency Transport I	\$ 575.00			
ALS Non-Emergency Transport	\$ 575.00			
BLS Emergency Transport	\$ 475.00			
BLS Non-Emergency Transport	\$ 450.00			
Loaded Mile (scene to hospital fee per mile)	\$ 13.00			
<u>Fire Code Operational Permits</u>				
As listed in the International Fire Code	\$ 50.00			
<u>Hydrant Use & Hydrant Repair - See DPS</u>				
<u>Open Fires Permit (includes inspection)</u>	\$ 50.00			
<u>Pyrotechnics displays Permit</u>	\$ 50.00			
<u>Administrative Fee-Non-electronic reporting (inspections/testing/maintenance)</u>	\$ 50.00			

FEE SCHEDULE

MUSEUM		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Limited Use Fee</u>					
Cleaning Deposit, returnable		100.00			
2 hrs. of approved private use - Allen House, first floor only, with event specific rider and agreement		550.00			
Insurance: Standard Insurance Requirements and Hold Harmless Agreement					
<u>Research Requests</u>					
First hour		\$ 25.00			
Each additional hour		\$ 15.00			

FEE SCHEDULE

POLICE DEPARTMENT		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
*Alcohol:					
Specially Designated Distributor		\$	500.00		
Specially Designated Merchant		\$	500.00		
<u>False Alarm fees (74-31):</u>					
First false alarm per calendar year			no charge		
All subsequent false alarms per calendar year		\$	50.00		
<u>Fingerprints</u>					
Full set of fingerprints; said fee shall be in addition to any license or permit fee which requires fingerprints to be taken and/or submitted to the Michigan State Police or the Federal Bureau of Investigation		\$	10.00		
<u>Meter Bags - Daily Fee</u>		\$	18.00		
<u>Outdoor Dining Café Platform Meter Fees</u>					
(See City Clerk's Office Fee Schedule)					
<u>Parking Permits (110-136 - 110-150)</u>					
Residential parking permit per household (includes 2 resident and 3 visitor permits for a two-year period)		\$	8.00		
<u>Parking Offenses & Fines (If paid before 10 days/If paid after 10 days)</u>					
Expired meter: first seven offenses in calendar			\$10/20		
Expired meter: eight offenses or more in calendar year			\$30/40		
Overtime in non-metered zone			\$10/20		
Overtime in a time zone: less than 2 hours			\$15/25		
Overtime in a time zone: 2 hours or longer			\$30/40		
Stopping, standing or parking where prohibited			\$30/40		
Parking over the meter line			\$10/20		
Back into parking lot space			\$10/20		
Keys in ignition or ignition unlocked			\$30/40		
Other illegal parking			\$30/40		
No parking here to corner			\$30/40		
Handicap zone			\$100/125		
Violation of snow emergency parking ordinance			\$50/75		
Illegal parking in permit area			\$30/40		
Illegal parking on private property			\$30/45		

FEE SCHEDULE

POLICE DEPARTMENT		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Pedi-cabs & Commercial Quadricycles</u>					
Annual Application Fee		\$	50.00		
<p><i>Insurance: The owner of every pedicab or commercial quadricycle shall procure and file with the city clerk a liability insurance policy or similar proof of insurance issued by an insurance company authorized to do business in the state. The amount of such liability insurance for each pedicab or commercial quadricycle shall be as follows: An amount of not less than \$2,000,000 because of bodily injury to or death of any one person; in an amount of \$2,000,000 because of bodily injury of two or more persons in any one accident; in an amount of not less than \$2,000,000 in medical coverage for each passenger. Such policy of insurance may be in the form of a separate policy for each pedicab or commercial quadricycle, or may be in the fleet policy covering all pedicabs or commercial quadricycles operated by such owner; provided, however, that such a policy provide for the same amount of liability for each pedicab or commercial quadricycle operated. Provided further, such policy shall name the City of Birmingham as an additional insured, and no such policy as required above may be cancelled until the expiration of 30 days after notice of intent to cancel has been given in writing to the city clerk of the City by registered mail or personal delivery of such notice and a provision to that effect is made a part of such policy.</i></p>					
<u>Precious Metals Dealers 26-161</u>					
Annual License Fee		\$	500.00		
Annual criminal background check - per person (to be provided by applicant using the Michigan State Police ICHAT system)					
<u>Preliminary breath test (PBT) each</u>		\$	10.00		
<u>Stray Animal Fines:</u>					
Licensed pet properly immunized first offense		\$	25.00		
Second offense within twelve month period		\$	50.00		
<u>Vehicle Identification Number Inspection Fee</u>		\$	25.00		
<u>Vehicle Impounding Fee</u>		\$	25.00		
<u>Vehicle Inspection Fee</u>		\$	25.00		
<p>*Fee for liquor license inspection may be waived at the discretion of the City Manager where an applicant seeks to change the liquor license by the removal of a licensee from the license and the licensed establishment is not in operation.</p>					

FEE SCHEDULE

TREASURER'S OFFICE		EXISTING FEE	PROPOSED FEE	CHANGE CODE	Staff
<u>Returned Check fees (15.1 - 15.3)</u>	\$	25.00			
<u>Treasurer's certificate</u>	\$	10.00			

CITY OF BIRMINGHAM
PUBLIC RECORDS POLICY

1. The City of Birmingham shall make public records available to the general public in accordance with the Freedom of Information Act (FOIA) and Article VIII, Sections 2-311 through 2-316.
2. The city clerk shall be designated the FOIA coordinator. The clerk may designate others to fulfill FOIA requests, but shall keep copies of requests according to the Records Retention and Disposal Schedule.
3. The FOIA Coordinator shall make available a standard form for requests for public records. There is no requirement under FOIA for lists or reports to be created.
4. Copying of public records shall only be done by city employees or may be reproduced by an outside source as arranged by the FOIA coordinator or his or her designee.
5. Copies of public records shall be charged at \$0.10 each sheet of paper 8.5" x 11" and 8.5" x 14", using double-sided printing when available.
6. Maps and plans shall be distributed as follows:

11" x 17"	\$5.00
24" x 36"	\$10.00
26" x 36"	\$13.00
36" x 42"	\$15.00
7. The building department does not release copies of interior plans of houses or commercial buildings without written approval of the owner.
8. Copies of the annual budget shall be sold for \$93.00 plus mailing costs. Copies of the annual audit, CAFR, shall be sold for \$64.00 plus mailing costs. As duplicating costs vary for these documents from year to year based on volume, charges will be adjusted accordingly.
9. All agendas will be posted on the city's website. Background material will be made available for public review at the respective department counter where the document is prepared. Upon request, commission agendas will be provided free of charge to the Birmingham homeowners associations representing residents of the City.
10. Requests for computer generated lists or documents shall be made available in accordance with FOIA and the city code. Costs for such documents shall be determined according to the departmental costs to produce such records.

11. Records of fire investigations shall be available to the public after the investigation has been completed. Copies of fire incident reports shall be sold for \$5.00 for each copy plus current mailing costs.
12. Copies of standard records from the police department, including dispatch cards, incident reports and accident reports shall be sold for \$5.00. Police Department letters of clearance will be prepared for \$10.00.
13. Copies of standard police video (booking room, in-car, and security) shall be sold for \$75.00.
14. Copies of standard police audio (9-1-1, telephone, radio) shall be sold for \$50.00.

Adopted by City Commission July 28, 2008, Resolution #07-240-08

Amended: February 14, 2011, Resolution #02-38-11
March 19, 2012, Resolution #03-74-12
August 27, 2012, Resolution #08-249-12
March 18, 2013, Resolution #03-100-13
April 28, 2014, Resolution #04-98-14
March 30, 2015, Resolution #03-63-15
March 28, 2016, Resolution #03-99-16
December 5, 2016, Resolution #12-364-16
December 12, 2016, Resolution #12-383-16



MEMORANDUM

Finance Department

DATE: November 27, 2017

TO: Joseph A. Valentine, City Manager

FROM: Teresa Klobucar, Deputy Treasurer

SUBJECT: Principal Shopping District Special Assessment
District (SAD) 870 Funding Report for Fiscal Year 2017-2018

I hereby report that individual assessments, in the total amount of \$892,427.35 have been computed as the special assessment roll made by me pursuant to Resolution No. 02-205-015 of the City Commission, for the purpose of funding the activities of the Principal Shopping District (PSD) for fiscal years 2015-2016, 2016-2017 and 2017-2018. Said assessment roll, designated Roll No. 870 for fiscal year 2017-2018, was approved and confirmed by the Commission on October 12, 2015.

Special Assessment Roll No. 870 has been heretofore certified in accordance with the requirements of Chapter 94 of the Birmingham City Code and filed with the City Clerk for endorsement and for subsequent collection by the City Treasurer.

DISTRICT 1	TOTAL COST
PARCEL NUMBER	PER PARCEL
19-25-356-013	\$8,626.20
19-25-376-099	\$15,517.00
19-25-377-006	\$15,517.00
19-25-378-008	\$3,958.09
19-25-378-009	\$4,249.03
19-25-378-010	\$3,644.74
19-25-378-011	\$2,293.31
19-25-378-012	\$816.37
19-25-378-014	\$3,488.28
19-25-378-015	\$5,731.86
19-25-378-016	\$3,233.02
19-25-378-094	\$7,375.31
19-25-378-021	\$1,907.33
19-25-378-023	\$15,517.00
19-25-378-026	\$4,414.88
19-25-378-027	\$1,857.63
19-25-378-028	\$3,869.01
19-25-378-029	\$3,291.03
19-25-378-030	\$2,237.33
19-25-378-031	\$2,917.57
19-25-379-007	\$9,616.52
19-25-379-021	\$5,173.97
19-25-379-022	\$5,713.64
19-25-379-023	\$11,016.28
19-25-379-024	\$12,928.52
19-25-453-010	\$15,517.00
19-25-453-011	\$15,517.00
19-25-454-005	\$4,830.83
19-25-454-006	\$1,449.00
19-25-454-007	\$1,449.00
19-25-454-008	\$1,060.62
19-25-454-009	\$1,676.40
19-25-455-002	\$2,395.98
19-25-455-015	\$8,196.20
19-25-455-016	\$9,694.59
19-25-455-017	\$13,549.41
19-25-456-001	\$4,892.85
19-25-456-002	\$2,947.16
19-25-456-007	\$2,051.17
19-25-456-009	\$4,217.12
19-25-456-010	\$1,397.25
19-25-456-011	\$983.25
19-25-456-014	\$468.81
19-25-456-017	\$877.35
19-25-456-018	\$1,115.95

19-25-456-019	\$1,488.43
19-25-456-023	\$2,609.31
19-25-456-024	\$2,643.68
19-25-456-027	\$976.15
19-25-456-051	\$244.04
19-25-456-029	\$2,307.48
19-25-456-035	\$5,495.85
19-25-456-039	\$6,996.42
19-25-456-041	\$2,233.87
19-25-456-047	\$867.89
19-25-456-048	\$866.72
19-25-456-049	\$2,006.63
19-36-126-017	\$2,673.49
19-36-126-018	\$10,191.22
19-36-127-004	\$3,135.89
19-36-128-001	\$2,696.45
19-36-128-002	\$1,856.17
19-36-128-003	\$2,928.24
19-36-128-004	\$9,538.05
19-36-128-006	\$1,958.87
19-36-128-009	\$848.70
19-36-128-010	\$1,406.92
19-36-129-001	\$2,017.43
19-36-129-002	\$1,952.43
19-36-129-003	\$2,275.18
19-36-129-004	\$3,334.03
19-36-129-005	\$3,575.77
19-36-129-006	\$1,580.63
19-36-129-016	\$184.27
19-36-129-017	\$184.27
19-36-134-001	\$1,782.36
19-36-134-006	\$15,517.00
19-36-138-001	\$4,674.00
19-36-138-002	\$2,689.83
19-36-138-003	\$8,083.80
19-36-138-007	\$15,517.00
19-36-179-003	\$1,179.90
19-36-179-004	\$2,621.66
19-36-179-025	\$3,025.13
19-36-201-001	\$2,383.87
19-36-201-005	\$1,625.88
19-36-201-006	\$3,199.15
19-36-201-009	\$2,156.63
19-36-201-010	\$2,953.27
19-36-201-011	\$4,654.01
19-36-201-012	\$1,294.46
19-36-201-013	\$4,633.64

19-36-201-014	\$3,839.93
19-36-201-015	\$2,134.69
19-36-201-018	\$2,506.75
19-36-201-019	\$15,517.00
19-36-201-020	\$6,544.44
19-36-201-021	\$3,327.83
19-36-201-022	\$4,002.59
19-36-202-009	\$1,774.28
19-36-202-015	\$15,517.00
19-36-202-016	\$2,959.56
19-36-202-017	\$6,383.56
19-36-202-018	\$15,517.00
19-36-203-011	\$2,312.42
19-36-203-024	\$4,346.71
19-36-204-001	\$1,743.33
19-36-204-006	\$2,130.69
19-36-204-007	\$773.26
19-36-204-014	\$4,123.35
19-36-204-016	\$660.98
19-36-204-021	\$6,037.13
19-36-204-025	\$14,650.00
19-36-205-040	\$5,074.27
19-36-205-043	\$4,909.38
19-36-206-001	\$15,517.00
19-36-206-002	\$5,798.98
19-36-206-005	\$10,363.66
19-36-206-006	\$8,629.75
19-36-206-007	\$9,130.75
19-36-206-008	\$4,465.44
19-36-206-018	\$3,183.86
19-36-206-020	\$6,666.47
19-36-206-021	\$15,035.19
19-36-207-001	\$10,210.95
19-36-207-004	\$869.44
19-36-207-009	\$15,517.00
19-36-208-004	\$2,971.91
19-36-208-015	\$3,193.73
19-36-208-016	\$15,517.00
TOTALS	\$662,121.21

DISTRICT 1 (@ 40% OF RATE) - :

19-36-129-010	\$5,613.04
19-36-132-007	\$4,677.34
TOTALS	\$10,290.38

DISTRICT 1 TOTAL \$672,411.59

DISTRICT 1A	TOTAL COST
PARCEL NUMBER	PER PARCEL
19-25-179-001	\$560.45
19-25-179-002	\$903.90
19-25-327-031	\$863.52
19-25-327-032	\$606.64
19-25-328-005	\$391.01
19-25-328-006	\$469.34
19-25-328-007	\$440.16
19-25-328-008	\$326.79
19-25-328-009	\$449.39
19-25-328-010	\$449.39
19-25-328-014	\$1,455.27
19-25-328-017	\$973.30
19-25-328-018	\$947.42
19-25-328-019	\$665.28
19-25-328-020	\$1,308.50
19-25-328-022	\$395.20
19-25-328-023	\$481.65
19-25-328-024	\$492.48
19-25-328-025	\$413.14
19-25-328-026	\$298.38
19-25-328-027	\$296.40
19-25-328-028	\$296.40
19-25-328-030	\$790.40
19-25-328-031	\$592.80
19-25-328-032	\$296.40
19-25-328-033	\$226.75
19-25-328-034	\$306.28
19-25-328-035	\$345.80
19-25-328-058	\$2,029.85
19-25-328-060	\$1,923.17
19-25-328-061	\$1,583.05
19-25-330-001	\$1,711.54
19-25-330-004	\$1,752.37
19-25-330-009	\$539.91
19-25-460-019	\$3,753.17
19-25-483-019	\$367.48
19-25-483-026	\$650.11
19-25-483-031	\$3,706.78
19-25-483-032	\$15,517.00
19-25-483-033	\$122.02
19-25-483-034	\$148.45
19-25-486-013	\$476.80
19-25-486-014	\$500.18
19-25-486-018	\$4,399.84
19-25-486-019	\$1,369.37

19-25-487-007	\$3,159.48
19-25-487-008	\$350.74
19-25-487-009	\$473.75
19-36-205-026	\$2,608.82
19-36-205-041	\$4,888.63
19-36-208-011	\$711.86
19-36-208-012	\$851.41
19-36-208-017	\$13,785.17
19-36-210-001	\$15,517.00
19-36-210-005	\$1,263.09
19-36-226-003	\$1,321.33
19-36-226-007	\$1,142.97
19-36-226-009	\$783.53
19-36-226-012	\$954.77
19-36-226-013	\$1,033.70
19-36-226-020	\$2,270.77
19-36-226-021	\$126.72
19-36-226-022	\$2,306.74
19-36-227-002	\$3,661.97
19-36-227-003	\$404.10
19-36-227-005	\$607.13
19-36-227-006	\$701.79
19-36-227-007	\$508.08
19-36-227-008	\$1,083.14
19-36-227-024	\$1,866.34
19-36-227-025	\$484.91
19-36-227-028	\$1,193.80
19-36-228-001	\$678.76
19-36-228-002	\$1,073.71
19-36-228-003	\$518.33
19-36-228-004	\$1,285.00
19-36-228-005	\$2,234.63
19-36-230-003	\$3,566.93
19-36-232-001	\$3,541.80
19-36-232-005	\$2,861.01
19-36-233-022	\$1,294.04
19-36-234-002	\$1,257.80
19-36-234-004	\$244.25
19-36-234-007	\$241.68
19-36-253-025	\$735.57
19-36-253-026	\$362.11
19-36-253-028	\$748.17
19-36-253-029	\$816.36
19-36-253-030	\$964.94
19-36-253-034	\$1,715.91
19-36-253-035	\$1,688.99
19-36-278-012	\$1,714.98

19-36-278-013	\$1,287.37
19-36-278-017	\$2,470.00
19-36-278-018	\$1,813.46
19-36-279-004	\$1,430.77
19-36-279-005	\$2,758.73
19-36-279-008	\$5,187.50
19-36-280-002	\$779.78
19-36-281-004	\$622.44
19-36-281-005	\$988.31
19-36-281-017	\$2,082.75
19-36-281-022	\$2,050.10
19-36-281-028	\$1,316.51
19-36-281-029	\$2,601.07
19-36-281-030	\$1,196.82
19-36-281-031	\$2,603.59
19-36-282-005	\$7,950.29
19-36-282-006	\$5,549.30
19-36-283-009	\$1,986.00
19-36-283-014	\$320.12
19-36-283-016	\$3,015.30
19-36-283-019	\$1,287.62
19-36-283-020	\$866.48
19-36-283-021	\$750.14
19-36-283-022	\$1,217.71
19-36-283-024	\$2,187.87
19-36-284-001	\$170.68
19-36-284-002	\$419.16
19-36-284-009	\$1,527.53
19-36-285-001	\$7,464.72
19-36-285-002	\$529.57
19-36-285-006	\$1,308.36
19-36-285-008	\$1,247.83
19-36-285-009	\$865.78
19-36-285-010	\$316.41
19-36-285-012	\$917.88
19-36-285-013	\$1,758.89
TOTALS	\$219,047.08

DISTRICT 1A (@ 40% OF RATE):

19-25-330-008	\$202.68
19-36-230-004	\$766.00
TOTALS	\$968.68

DISTRICT 1A TOTAL: \$220,015.76

GRAND TOTAL (1 & 1A) \$892,427.35